



CRIMINAL FORFEITURE PROCESS ACT

BY THE INSTITUTE FOR JUSTICE

Civil forfeiture represents one of the most serious assaults on cash, vehicles and other private property by government today. Prosecutors in most states do not have to charge you, let alone convict you, for you to lose your property. If you do not engage in complex civil litigation to protect your own property, you can lose it. Worst of all, most states allow police, sheriffs and prosecutors to keep most of the forfeited property to supplement their budgets, even if you have done nothing wrong. This undermines the proper separation of powers between the executive branch and the legislature. It is the role of state legislators to raise and appropriate all funds, not law enforcement.

Long-standing policies like civil forfeiture undermine the proper role of law enforcement and fuel the public's distrust.

The Institute for Justice (IJ) is a national public interest, civil liberties law firm. We have advocated for civil forfeiture reform in state legislatures for years and litigate the issue in courts, including the U.S. Supreme Court.

IJ'S CRIMINAL FORFEITURE PROCESS ACT

The Criminal Forfeiture Process Act is a compromise. It balances and reflects:

- › Competing interests expressed in numerous hearings since New Mexico and Maine ended civil forfeiture and replaced it with criminal forfeiture in 2015 and 2021; and
- › Negotiations among stakeholders and findings of study commissions in various states.

IT ADDRESSES THE DUE PROCESS FLAWS OF CIVIL FORFEITURE BY:

- › Ending civil forfeiture and replacing it with criminal forfeiture that follows the defendant's conviction of the underlying crime: §100:19
- › Exempting low dollar amounts of property from seizure and forfeitures: §100:11
- › Creating a prompt post-seizure hearing: §100:16
- › Paying attorney's fees if the property owner prevails: §100:29

IT ADDRESSES CONCERNS RAISED BY OF POLICE, SHERIFFS AND PROSECUTORS BY:

- › Waiving the conviction prerequisite in cases where the suspect abandons property or flees the jurisdiction and is unavailable for prosecution: §100:29
- › Empowering judges to order forfeiture proceeds be used to pay for operational and equipment costs: §100:31 (D)
- › Prohibiting or establishing a minimum dollar amount of the seizure before the U.S. Department of Justice can adopt property seized under state law: §100:34
- › Allowing for federal forfeiture of property seized by joint state/federal task forces above a certain minimum dollar amount: §100:35



View IJ's Criminal Forfeiture Process Act by Scanning the QR Code

The Constitution's Due Process Clause Guarantees the Right Process.