

# LAW, JUSTICE, AND ETHICS

## Resolution LJE-17-36

### **A RESOLUTION SUPPORTING REFORMS TO CIVIL ASSET FORFEITURE TO PROTECT DUE PROCESS AND PROPERTY RIGHTS**

WHEREAS, at the height of the drug war hysteria of the 1980s, state legislatures across the country took action that allowed state and federal law enforcement officers to take property and cash from citizens through a process of civil asset forfeiture without having to prove guilt of a crime;

WHEREAS, since that time, billions of dollars in cash, cars, and homes have been taken through a direct funding mechanism that is completely outside of the legislative appropriations and oversight process;

WHEREAS, asset forfeiture laws in many states provide superior property rights protections, evidentiary standards, and protection for guiltless spouses and family members, in contrast to federal law, which does not require that a person be convicted or even charged with a crime prior to asset forfeiture; nonetheless, state and local law enforcement agencies are permitted to circumvent state law, thus depriving citizens of due process and property rights;

WHEREAS, because there is overlapping jurisdiction in drug-related crimes, state and local law enforcement agencies have substantial incentives to avoid relatively stringent forfeiture laws at the state level by participating in joint federal-state investigations or by transferring assets seized pursuant to state law to federal authorities, a process known as "equitable sharing," in order to take advantage of more lenient federal law, and receive up to 80% of the proceeds from the forfeiture action;

WHEREAS, public outcry from across the political spectrum has been to reign in abuses and reestablish the most basic tenets of constitutional law and values by requiring that, in most cases, a defendant be convicted of an underlying crime before cash or property can be permanently seized, thereby ensuring a more concrete connection between criminal activity and the property to be forfeited; and

WHEREAS, studies have shown that low-income communities, immigrant communities and communities of color have routinely been targets for civil asset forfeiture abuses, thereby perpetuating a distrust of law enforcement.

THEREFORE BE RESOLVED, that the National Black Caucus of State Legislators (NBCSL) recognizes across the United States, the need for state and federal legislation that will reduce abuse of the civil asset forfeiture process, and thereby urges the passage of reform legislation; and

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States; the Vice President of the United States, members of the United States House of Representatives and United States Senate; and other federal and state government officials as appropriate.

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SPONSOR: Senator Holly J. Mitchell (CA)

Committee of Jurisdiction: Law, Justice, and Ethics Policy Committee

Certified by Committee Co-Chair: Representative Reginald Meeks (KY)

Ratified in Plenary Session: Ratification Date is December 3, 2016

Ratification is certified by: Senator Catherine Pugh (MD), President