

Alaska State Legislature House of Representatives

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Session
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SPONSOR STATEMENT

HB 317

“An Act relating to forfeiture to the state; relating to criminal law; amending Rules 3, 4, 11, 12, 16, 32, 32.2, 32.3, 39, 39.1, and 42, Alaska Rules of Criminal Procedure, Rules 501, 801, and 803, Alaska Rules of Evidence, and Rules 202, 209, and 217, Alaska Rules of Appellate Procedure; and providing for an effective date.”

House Bill 317 protects the private property rights of innocent citizens by requiring that Alaska’s revered and dedicated law enforcement agencies, convict individuals of a crime before permanently seizing private property.

Alaska’s “civil asset forfeiture” laws have been reported to be among the worst in the country, allowing private property to be permanently taken from individuals suspected of crimes, even if they are never charged, much less found guilty.

Across the nation, civil asset forfeiture laws have gained notoriety in recent years for rampant abuse and deliberate circumvention of due process. Well-documented cases of policing for profit have sparked a wave of reform nationwide.

In Alaska, local law enforcement only need to show probable cause to seize property. Failure to challenge a seizure within a given timeframe results in an automatic and permanent forfeiture. These problems are compounded by an incentive for law enforcement to seize as much as possible, since 75-100% of the revenues generated from civil forfeitures flow back to the local agency. Moreover, there is no requirement that Alaska authorities collect or report data on their forfeitures.

While assets may be reclaimed, civil asset forfeitures places the burden on individuals to fight the bureaucracy to prove that their assets were not gotten through ill means, or that they did not consent to using their property for an illegal purpose. Civil cases do not provide for free legal assistance, so for individuals that cannot afford private representation, the process is intimidating at best, and ill-fated at worst.

HB 317 would require that an individual be convicted of an actual crime before forfeiture proceedings can take place, and would protect guiltless spouses and family members from property loss as a result of the process. The bill would also impose transparency and accountability for civil asset seizures and reduce financial incentives for abuse, by

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providing that any revenues that do flow back to the state as a result of federalized proceedings, are deposited in the General Fund.

This bill reaffirms our confidence in local law enforcement, as well as the most basic tenets of Constitutional law and values. Convicted criminals will still see the fruits of their crime confiscated by the state, but innocent Alaskans can rest easy knowing they will no longer be deprived of property without due process.