

March 28, 2016

USPS & Electronic Mail

Representative Gabrielle LeDoux, *Chair*, House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801-1182
Email: Representative.Gabrielle.LeDoux@akleg.gov
CC: Representative.Tammie.Wilson@akleg.gov

Re: HB 317 & Civil Asset Forfeiture:

Dear Honorable Representative LeDoux:

Thank you for your continued efforts to fight for the rights and justice for our fellow Alaskans. I am writing this correspondence in support of HB 317 and urge the legislature to pass and implement this important piece of legislation.

As you are aware, civil asset forfeiture incentivizes the government to permanently seize cash, vehicles, real estate, family heirlooms, and other property that is suspected, but not yet found guilty of, being connected to criminal activity. This permanent seizure can occur prior to any criminal charges being filed – it is important to note that civil asset forfeiture is an entirely different process than criminal forfeitures. In criminal forfeitures, an individual is found to be guilty and then, and only then, does that person have assets seized as part of the criminal sentencing. Clearly, we can understand the logic with regards to criminal forfeiture processes, but in the case of civil asset forfeitures, there is an incredible disconnect between logic, due process, and the foundational basis of our judicial system – one is not guilty until proven in a court of law. The practice of civil forfeiture is contrary to our Alaskan values and violates the very structure of our National judicial system.

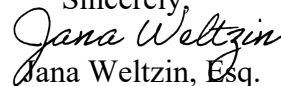
HB 317, in its current form, would protect Alaskans' fundamental property rights as the bill seeks to implement uniform standards for asset forfeitures in Alaska: (1) it would require an individual be convicted of a crime prior to forfeiture; (2) it would protect innocent spouses and family members from losing property they may rely on for shelter and financial support; and (3) it would stop incentivizing the violation of our fundamentally protected due process rights.

Currently, in Alaska, a law enforcement officer only needs to show probable cause in order to seize property – failure to challenge a seizure within a certain timeframe results in an automatic and permanent forfeiture. HB317 would increase the burden of proof required for law enforcement to forfeit assets, and require that assets be returned to their owners if a forfeiture complaint is not filed within 30 days of the seizure. In civil proceedings there is no presumption of innocence and no right to an attorney. Few property owners, especially low-income

individuals, can meet the burdens of civil forfeiture proceedings and often do not challenge seizures of their property because they do not know how or cannot afford to hire an attorney to help them challenge the seizure (often because the seizure of property leaves them illiquid with no funds to defend themselves). HB317 authorizes legal representation in forfeiture proceedings for indigent defendants who have court-appointed counsel in a related criminal matter.

Additionally, many voters are not aware that through the Department of Justice's (DOJ) "equitable sharing" program, state law enforcement can bypass more restrictive state laws and turn over seized assets to the federal government, or they may seize them jointly with federal officers. The property is then subject to federal civil forfeiture law—not state law. Thus, the equitable sharing loophole provides a way for state and local law enforcement to profit from forfeitures that they may not be able to under state law. This type of collusion to deprive Alaskans of their property without due process is unacceptable. Unfortunately, this practice is growing, from 2001 and 2014, federal agencies increased their forfeiture deposits by 485 percent, with over \$5 billion seized in 2014 alone.

HB 317 would institute transparency and accountability in forfeiture proceedings in Alaska and the reform is past due. Again, thank you for continued leadership and passion to fight for Alaskan's rights and quality of life. We urge you and your fellow legislatures to pass this vital piece of legislation.

Sincerely,

Jana Weltzin, Esq.
For the Firm
Principal Owner