



**Kansas Association of Chiefs of Police**  
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**Testimony to the Special Committee on Civil Asset Forfeiture**  
**In Opposition to HB2380**  
December 6, 2023

Chairman Owens, Vic Chair Warrant and Committee Members,

This testimony is on behalf of the Kansas Association of Chiefs of Police opposing HB 2380.

The Kansas Association of Chiefs of Police oppose most changes suggested in HB 2380 to the current civil asset forfeiture statute as currently applied by law enforcement in the State of Kansas.

We appreciate the opportunity to voice our concerns about House Bill HB 2380 and its proposed amendments to civil asset forfeiture laws in the State of Kansas. While we acknowledge the importance of addressing potential issues in the existing framework, we believe that the proposed changes will inadvertently undermine law enforcement efforts and public safety.

After reviewing HB 2380 our association had an extensive list of concerns. But, after getting an opportunity to review the Judicial Council Forfeiture Committee Report, many of our concerns were allayed.

The proposal in HB 2380 to require a criminal conviction for civil asset forfeiture might inadvertently protect criminals and hinder law enforcement's ability to disrupt illegal activities effectively. Criminal enterprises, especially those involved in drug trafficking, often operate through intricate, sophisticated networks. These networks are shrewd enough to hold assets in the names of third parties not associated with the criminal activity, thus preventing seizure and forfeiture of those assets through a civil asset forfeiture. Requiring a criminal conviction before seizing assets unquestionably would allow criminals to retain their illegal profits. The criminal will be able to reinvest their illegal assets into more criminal activity. One of the most prevalent criminal activities in Kansas is with illicit drugs that are distributed into our Kansas communities.

The KACP also opposes the 50% successful forfeiture threshold, or any threshold for the assessment of total legal fees mentioned in HB 2380 and the Judicial Council Report. If there is any legal fee assessment, we strongly believe it should be tied to a judicial finding of bad faith by the agency/agencies filing the civil asset forfeiture.

The KACP would also support legislation to remove what is called, "simple possession," from consideration for civil asset forfeiture. It is our belief that civil asset forfeiture for drug crimes should be reserved for crimes where profit is involved.

Any requirement to remit proceeds from civil asset forfeiture to the State General Fund, SGF, will be detrimental to the goal of law enforcement – interrupting criminal activity. Allowing civil asset forfeiture seized funds to stay where they were seized, at the local level, helps law enforcement. The seized funds are used to purchase equipment, used as buy money, used to fund task force operations, etc. The funds are

used to enforce the drug laws in battling the infestation of fentanyl into the illicit drug market. We could also mention the cost of investigations of human trafficking and child sex crimes. We could also talk about the fact that if these operations against the crimes subject to forfeiture do not have forfeiture funds available for those expenses, they would be limited to tax funding, probably resulting in reduced or no funding.

Local law enforcement agencies that expended resources to interrupt the flow of illicit drugs into our state is where the civilly forfeited assets should remain. Again, most civil asset forfeiture cases occur at the local level and do not involve interaction with the state or federal agencies.

The proposal in both HB2380 and in the Judicial Council Report to establish minimum value to be eligible for forfeiture is a concern for law enforcement in Kansas. The minimums that were discussed would mean most low-level street dealers/mules would not be subject to forfeiture. These are the dealers/mules handing the dangerous drugs, including those containing fentanyl, to the end user. In many cases delivering them to children. These are the drug dealers/mules we are most confronted with in our local communities across the state. Additionally, many of these dealers/mules are encountered numerous times by law enforcement. The KACP would like to remind the committee that the purpose of civil asset forfeiture is to help seize assets that have been involved in certain criminal activities. This is to interrupt those criminal activities. The KACP would like to have further discussions with the committee on what the minimums would be.

The KACP understands that shifting proceeds of civil asset forfeiture from law enforcement to the SGF would address the perception of “policing for profit.” The civil asset forfeiture statutes narrowly limit the purposes for which asset forfeiture proceeds can be spent. I can tell you that, in my department, asset forfeiture proceeds are used to provide tools and training that are necessary for law enforcement. The funds are not improperly used.

The KACP is concerned about increasing the burden of proof required to forfeit property, as proposed by HB 2380, will inadvertently work against the interests of justice. While it is important to safeguard individual rights, excessively raising the burden of proof could create obstacles for law enforcement agencies in cases where the immediate seizure of illicit drugs or property is critical to preventing further criminal activities. We ask that no changes be made to increase the burden to more than a preponderance as is the requirement in other civil cases heard by a judge and/or judge and jury.

In conclusion, the members of the Kansas Association of Chiefs of Police recognize the need for thoughtful reforms to the civil asset forfeiture process, we urge the committee to carefully consider the potential impact to the citizens of our state who are not involved, but are negatively impacted, by the illicit drug trade. The changes suggested in HB 2380 will certainly have a negative effect on law enforcement’s ability to impact illegal activity in the State of Kansas. The KACP reiterates that the report from the Judicial Council Forfeiture Committee alleviated many of our concerns.

The Kansas Association of Chiefs of Police would ask the committee to strike the right balance between protecting individual rights and enabling law enforcement to effectively combat criminal activities and enterprises. We would encourage the committee to explore alternative measures that address special interest concerns without compromising the overall goal of ensuring public safety and security for the State of Kansas.

Darrell Atteberry  
Legislative Chair  
Kansas Association of Chiefs of Police