

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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DAN OSMAN
48TH DISTRICT

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Chairman Patton, Ranking Minority Carmichael, and the members of the Judiciary committee:

Thank you for hearing testimony on my bill HB 2640.

My wife and I don't always see eye to eye politically. It makes for some interesting discussions around the dinner table. But what I can tell you is that when we do agree on something of a political nature, it's big. It gives me a heads up that whatever that idea or concept is, it is shared by a wide variety of people across the political spectrum. The elimination of Civil Asset Forfeiture is one of those ideas.

Have you ever tried to explain what civil asset forfeiture was to someone who'd never heard of it before? I have. I don't care where you are politically, the result is always the same. First their eyes get wide. Then they get shocked. Then they get confused. "How in the world is this allowed?" they ask.

I could tell them about the Comprehensive Crime Control Act of 1984 and how it ramped up seizures across the country and established equitable sharing of funds across law enforcement agencies. I could tell them what happens to the seized funds. It often goes entirely to law enforcement creating a perverse incentive to continue to seize funds.

But I don't need to get into the weeds on the issue. On its surface, people inherently know civil asset forfeiture is wrong.

I haven't yet gotten into the question of what happens to the assets once seized. It is called civil asset forfeiture because it becomes a civil matter. Your property is separated from you. Your property doesn't have rights. Your property doesn't have a presumption of innocence. Your property doesn't have a Constitutional right to counsel. In short...in many instances, your property is gone. It ceases to be your property.

You don't need to be convicted of a crime. You don't even need to be charged with a crime.

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HB 2640 changes all of that. It converts this to a criminal asset forfeiture. First it means that personal property can't be seized unless it's incident to a lawful arrest. They become tied together. Second, it means a court that has jurisdiction over a criminal case also has jurisdiction over the related forfeiture proceeding. This allows for the criminal court to take care of both issues either simultaneously or concurrently, saving both time and resources. Third, it allows defendants to maintain their constitutional right to counsel both for them and their property. Finally, it requires all property seized to go into the state's general fund and not directly to law enforcement.

I want to make it perfectly clear that this bill is not an attempt to defund the police. If a law enforcement agency is lacking in funds to effectively do its job, let's have that conversation. But that conversation is separate from this bill. If making your budget is contingent upon civil asset forfeiture, something has seriously gone wrong with your budget.

This is a concept and legislation that is long overdue for the United States. But, for now, I'll settle on just Kansas. Let us be the example that other states can look to for inspiration and duplication.

Thank you for your time today.

Sincerely

Dan Osman

Representative

District 48