

New Solutions Campaign

Promoting Fair & Effective Criminal Justice • Strengthening Families & Communities

Drug Policy Alliance strongly supports civil asset forfeiture reform. Civil asset forfeiture laws allow the government to seize cash, cars, real estate or other property suspected of being connected to criminal activity. In civil forfeiture actions, the property itself, rather than an individual, is believed to be connected to a crime. In fact, under federal law, as well as many state laws, including New Jersey, property can be seized and forfeited even when criminal charges are never filed against a property owner.

Civil asset forfeiture raises several concerns over individual civil liberties and property rights. Because civil asset forfeiture occurs within a civil context, none of the constitutional protections that typically apply in a criminal proceeding are provided to property owners, including the “beyond a reasonable doubt” standard of proof, a presumption of innocence, or the right to an attorney. Property owners are forced to navigate a complex legal process to get their property back and, more often than not, owners, especially low-income individuals, choose not to challenge the seizure because it is too cumbersome and expensive to do so.

Civil asset forfeiture laws also create profit incentives for law enforcement. Because agencies are able to keep the proceeds of the seized property once it is forfeited, agencies have increasingly turned to seizures to compensate for budgetary shortfalls. Such perverse incentives can cause law enforcement to over-enforce crimes that carry the possibility of forfeiture, most predominantly minor drug offenses, to the neglect of other, more important law enforcement objectives that actually impact public safety.

Civil asset forfeiture is a complex legal phenomena that is often hidden from public view. Because New Jersey’s civil asset forfeiture reporting laws fail to capture meaningful information on forfeitures, there is a significant data gap in what we know about civil forfeitures in the state. Drug Policy supports currently introduced legislation, S1963 / A3442, which addresses the data gaps by establishing reporting requirements on all law enforcement agencies within New Jersey and S3441 / A4970, which provides enhanced protections for property owners during forfeiture proceedings.

New Jersey is not alone in looking at the issue of civil asset forfeiture. In fact, according to the National Conference of State Legislatures, all fifty states attempted to improve their civil asset forfeiture laws in 2017. A report published in 2016 by the Institute for Justice gave New Jersey a D-grade for its asset forfeiture laws.

Reforming civil asset forfeiture laws is a bipartisan issue. National groups who support the movement for reform include:

- Institute for Justice
- American Civil Liberties Union
- Charles Koch Institute
- The American Center for Law and Justice
- Heritage Foundation
- Drug Policy Alliance
- Justice Fellowship
- Texas Public Policy Foundation

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