



Written by [Joe Wolverton, II, J.D.](#) on February 19, 2018

Alabama Senate Considers Curtailing Civil Asset Forfeiture

The people's representatives in the Alabama State Legislature are considering curtailing the power of the state's law enforcement officers from seizing the property (including the money) of individuals who have not been convicted of any crime.

Some sheriffs and other police agencies do not support this proposal, however. In fact, two law-enforcement officials are so adamant that lawmakers not revoke this power that they have penned an op-ed in opposition to the bill, and in that article they are remarkably frank about how fruitful the civil asset forfeiture policy has been for cops in the Heart of Dixie.



Just how profitable has the program been in Alabama?

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A report published earlier this year revealed that in 2015, Alabama law enforcement seized nearly \$2.2 million! The data was gathered from 14 of the state's 67 counties.

It isn't unexpected, then, that police officials do not want that gravy train derailed. In their op-ed published on February 12 on AL.com, Brian McVeigh, Calhoun County district attorney and president of the Alabama District Attorneys Association, and Dave Sutton, sheriff of Coffee County and president of the Alabama Sheriffs Association, vigorously pleaded for protection of their power to seize people's property without due process.

What is remarkable about the article, though, is the open admission that they currently deny due process to those whose property they seize and that they really like the money it brings in. They write:

Two changes to the state's civil forfeiture law are especially concerning to DAs and law enforcement. One would allow forfeiture only if there is a criminal conviction; the other would require that any proceeds from forfeitures go to the state's General Fund rather than local law enforcement. Though these changes may sound good, they would hurt public safety and make civil forfeiture less fair.

Requiring criminal convictions would result in more criminal charges filed and more people going to prison for lesser crimes. Consider pretrial diversion programs, such as drug court, for example. These programs allow people arrested for nonviolent crimes, including some drug charges, to go into treatment and other programs that keep them out of prison. Participants in these programs are not convicted of a crime, so under the proposed change, the only way to deprive them of their ill-gotten gains would be to prosecute them.

Meanwhile, sending the proceeds of forfeiture to the state's General Fund would result in fewer



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busts of drug and stolen property rings. What incentive would local police and sheriffs have to invest manpower, resources and time in these operations if they don't receive proceeds to cover their costs?

Requiring convictions before seizure? Why should we have to prosecute people before taking their money and property from them?

Two words: due process!

The Alabama Forfeiture Accountability and Integrity Reform Act, SB 213, would make criminal prosecution "the only procedure" whereby property may be seized in Alabama.

Civil forfeiture procedures are based on the premise that a person's property can be complicit in the commission of a crime. This is laughable and legally unreasonable. The Constitution was specifically written to protect citizens from this and all other forms of unreasonable searches and seizures (Fourth Amendment), as well as to place due process protections between the governors and the governed (Fifth Amendment).

The Second and Fifth Amendments are repealed in one reportedly benign, even beneficial, bureaucratic fiat.

When it comes to civil asset forfeiture, the layers of constitutional violations multiply. Americans — who have been denied due process — are subjected to a financially crippling and liberty-depriving process of defending the ownership of their property.

Such tyranny is anathema to the rule of law and the protections bequeathed to us by our Founders.

As with so many of the other ongoing assaults on the vestigial liberty enjoyed by Americans, civil asset forfeiture is justified by its perpetrators as a means of keeping the people safe.

"We are always willing to work with lawmakers to strengthen Alabama's laws to fight crime and protect our citizens," McVeigh and Sutton write in their article.

Should they lose their due process loophole, the pair writes, "The result would be more crime."

What stands out is the fact that less crime doesn't exactly seem to be a priority for the pair, as judged by their own words:

"What incentive would local police and sheriffs have to invest manpower, resources and time in these operations if they don't receive proceeds to cover their costs?"

You read that right. If law enforcement doesn't get to keep seized money, they really aren't interested in bothering to make busts!

Think about another noteworthy aspect of that admission: if they are arresting thieves ("stolen property rings" and "cash derived from the sale of stolen goods"), shouldn't they be returning the property to the rightful owner rather than pocketing the proceeds themselves?

Thankfully, the Alabama Senate may soon pass a proposal to force police to endure the constitutional inconvenience of following the due process path that for centuries has protected the property of Englishmen and Americans.

The Alabama bill is currently pending before the state senate's judiciary committee.



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