



Written by [Steve Byas](#) on July 16, 2021

Maine Latest State to Abolish Civil Asset Forfeiture

With the signature of Governor Janet Mills on Thursday, Maine became the fourth state in America to abolish civil asset forfeiture, a procedure in which law enforcement seizes property they only suspect is associated with criminal activity, and keep it, even if the person who loses the property has never been convicted of any crime.

Maine has joined Nebraska, New Mexico, and North Carolina in repealing laws allowing civil asset forfeiture.

“Civil forfeiture is one of the most serious assaults on due process and private property rights in America today,” said Lee McGrath, senior legislative counsel for the Institute for Justice, in response to the action of the Maine Legislature and its governor. McGrath said that the law “ends an immense injustice and will ensure that only convicted criminals — and not innocent Mainers — lose their property to forfeiture.”

Proponents of civil asset forfeiture (CAF) argue that it is needed to combat drug trafficking and organized crime, because CAF targets the fruits of their crime. In other words, because the alleged crimes are so serious, such niceties as property rights and due process of law should be ignored. Under this reasoning, considering that murder is very serious, the accused should be presumed guilty, and should have to prove their innocence, rather than the government having to prove their guilt beyond reasonable doubt.

The way governments, whether at the local, state, or federal level, have gotten away with just ignoring due process of law is by contending the case is between the law-enforcement agency and the *asset*, not a citizen. Since the property itself is the defendant, no criminal charge against the owner of the property is needed. This has led to some odd-sounding cases, such as *The State v. \$12,000 Cash*, or *The State v. A 2014 Toyota Camry*.

Once one’s property is seized by police, on mere suspicion of illegality, it can be rather expensive to get it back, if the owner can get it back at all. For example, if a person happens to be carrying a few thousand dollars in cash in his car, and he gets stopped by a deputy sheriff, this could literally result in highway robbery by a law-enforcement officer. The deputy might suspect that the money is from a drug deal. He seizes the money, and now the burden of proof has shifted to the person who had the money taken. Considering that it is fairly difficult to prove a negative, the person rarely gets the money back. And, considering that it takes a good amount of money and time to hire a lawyer and fight to get the property back, many victims just give up.



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There have even been bizarre cases in which, because a drug deal occurred in one unit of an apartment complex, legal authorities have seized the entire complex! (Of course, it is probable that very few apartment complexes in America have never had any illegal activity such as that take place in at least one of their units.)

Because of the sheer injustice of CAF, there has been a movement over the past several years in some states to enact some form of reform of CAF. Unfortunately, some local and state law-enforcement agencies get around these laws through “equitable sharing.” Under this process, local and/or state law enforcement cooperates with *federal* agents, who seize private property without any criminal conviction, and then “share” some of the seized goods with the local authorities.

Maine’s law attempts to close this loophole, by not allowing law enforcement in the state to participate in such schemes.

What does the government do with all of this seized money? Consider the case of Gerald Bryan. As Gothamist.com wrote in 2014, “In the middle of the night in March of 2012, NYPD officers burst into the Bronx home of Gerald Bryan, ransacking his belongings, tearing out light fixtures, punching through walls, and confiscating \$4,800 in cash.”

After the felony drug distribution case against Bryan was dropped for lack of sufficient evidence, Bryan went to get his money back. He was told it was too late — the money had been deposited into the NYPD’s pension fund.

It is obvious that there are incentives to take money and other property from citizens. One can only guess what James Madison and Patrick Henry would have thought of CAF.

Fortunately, states such as Maine are attempting to curb this abuse of power, and it is likely that Madison and Henry would approve.



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