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Senate Passes Civil Asset Forfeiture Legislation

Bill raises burden of proof required and protects Bay Staters from unreasonable seizure

BOSTON – 7/1/2022 Yesterday the Massachusetts State Senate passed S.2944, *An Act relative to forfeiture reform*, which would raise the burden of proof required for civil asset forfeiture, which allows law enforcement to seize items alleged to have been connected to a crime.

Under current Massachusetts law, individuals who believe that their possessions were wrongly forfeited are required to demonstrate that these items were not involved in a crime or otherwise do not meet the standard required for forfeiture. This puts the burden of proof on the accused, rather than on law enforcement or prosecutors, making it difficult and time-consuming to repossess forfeited items.

Senate Bill 2944, *An Act relative to forfeiture reform*, rectifies this by requiring that law enforcement or prosecutors prove, by a preponderance of the evidence, that property seized is in fact subject to civil asset forfeiture under Massachusetts law. Forfeiture hearings would include accused individuals' legal counsel. The bill also allows forfeiture hearings to be delayed until after the outcome of any related criminal trial, so that if the accused is found to be innocent, seized assets would be returned without delay. This Senate bill also limits the value of items taken in civil asset forfeiture to \$250 or less.

“Massachusetts civil asset forfeiture laws are ranked among the worst in the nation; yesterday, the Senate took steps to change that,” said **Senator Becca Rausch (D-Needham)**. “As a legislative champion of transparency and civil rights, I am proud that my bipartisan bill to enhance transparency and accountability in the civil asset forfeiture process was incorporated into the legislation passed by the Senate. Through collaboration with law enforcement, social justice advocates, and legislative partners, I believe the final bill strikes a good balance between supporting the good work done by our public safety personnel and enhancing forfeiture process to better protect Bay Staters from any unjust confiscation.”

This session, Senator Rausch filed Senate Bill 2105 *An Act relative to civil asset forfeiture data reporting*, a bill to strengthen the data reporting standards and public accountability in the civil asset forfeiture process. This bill received a favorable report from the Joint Committee on State Administration and Regulatory Oversight, and provisions to increase transparency in the civil asset forfeiture process ended up in the final version of Senate Bill 2944.

Having been passed in the Senate, this bill now goes to House of Representatives for further consideration.

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