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ACLU OF RI POSITION: SUPPORT

TESTIMONY IN SUPPORT OF 21-S 732, RELATING TO UNIFORM CONTROLLED SUBSTANCES ACT May 24, 2021

The ACLU of Rhode Island strongly supports this bill's aim to address the fundamental due process problems with civil forfeiture and its blatant unfairness to property owners who are often themselves victims as a result of this process.

Under current law, Rhode Island's law enforcement agencies can confiscate the property of any person suspected of having committed certain offenses, whether or not that person is ever convicted or even charged with a crime. This property can range from cash and cell phones to cars and even homes. Getting that property back is exceedingly difficult, even when the person under suspicion is not ultimately the owner of the property. Owners of the property must prove that their assets were not obtained as the result of criminal activity – a threshold that is virtually impossible for many to meet.

To give just one example under the standards contained in current law, if police pull over a teenager driving down the street and arrests them for a marijuana offense, the officers have the authority to immediately seize and eventually sell the vehicle that the teenager is driving. That the car is registered to the teenager's parent is of no consequence; unless the parent can somehow prove that the car was not purchased with money obtained illegally, that car is gone forever. Whether the teenager is ultimately charged with a crime is also of no consequence.

Since 2014, at least 24 states and Washington, D.C. have restricted their forfeiture laws.¹ Rhode Island is one of only a handful of states where probable cause is all that is necessary for assets to be confiscated, and according to a nationwide study by the Institute for Justice, our state remains one of the worst in the nation in terms of its civil asset forfeiture law.² A 2014 WPRI report found that over \$1.2 million in assets were seized in 306 cases in 2013, but fewer than half of those cases resulted in convictions, and in more than a few dozen cases the charges were dismissed or dropped.

By focusing on criminal forfeiture, this legislation would ensure that there is judicial oversight and that law enforcement agencies cannot confiscate a person's belongings even when they know they cannot make a criminal case against them.

We recognize the bill is extremely detailed and contains some provisions that do not appear to belong in the legislation, and therefore will need some additional work to ensure it accomplishes its goal. But as this legislation commendably seeks to restore due process and allow innocent Rhode Islanders to retain their belongings without the unfair burdens that a civil forfeiture process imposes on them, the ACLU urges the committee to address this important issue.

¹ <https://theappeal.org/understanding-civil-asset-forfeiture-e803c59e633b/>

² <https://ij.org/report/forfeiture-transparency-accountability/>