

# Reform Civil Asset Forfeiture: Support HB 303 (Guzzardi/Harmon)

## Illinois' civil asset forfeiture laws are fundamentally unfair to property owners.

- ▶ After police seize property from a person based on the belief that the property is involved with illegal activity, civil asset forfeiture is the legal process by which the government seeks to permanently take the property away from the person.
- ▶ Civil asset forfeiture occurs outside the criminal court system. The State need not convict you--or any other person--of a crime in order to PERMANENTLY take away your cash, your car, or even your home. Once your property is seized, the burden is essentially on YOU to prove that it should NOT be forfeited to the State. The standard of proof in a forfeiture case is lower than in a criminal case, and you have no right to a court-appointed lawyer.

## Civil asset forfeiture inflicts serious economic harm on people in Illinois.

- ▶ Illinois forfeits an average of over \$30 million of its residents' property on an annual basis. The real total is almost certainly much higher, because many forfeitures are not required to be reported.
- ▶ Losing property exacerbates poverty and harms property owners' innocent children and family members.
- ▶ Vehicles are frequently targeted for forfeiture. But losing one's car even temporarily can negatively impact a person's ability to maintain employment or attend school, obtain food and medical care, care for children, or even attend court proceedings to try to reclaim the seized property.

## HB 303 SA1 comprehensively reforms Illinois' civil forfeiture laws:

- Removes the property owner's burden of proving their innocence; Instead, the burden of proving their guilt will rest with the government. Creates an expedited process for innocent owners to have their cases adjudicated more quickly.
- Increases the government's burden of proof from probable cause to preponderance of the evidence. The government must meet a higher burden (clear and convincing evidence) if the person was found not guilty at trial in a related criminal case, or if the government lost the criminal case at the preliminary stage.
- Requires the government to do more to ensure that the property owner receives notice of the forfeiture proceedings and understands the steps they must take to argue for the return of their property. Eliminates the requirement that property owners must pay a "cost bond" equal to 10% of the value of the seized property before their case can be heard by a judge.
- Exempts small sums of cash from forfeiture, and provides that mere possession of a miniscule amount of drugs will no longer serve as a legal basis for forfeiture.
- Provides for collection of data around seizures of property by police departments and forfeitures by prosecutors, to be publicly reported on the Illinois State Police website. This tool will enable taxpayers and lawmakers to find out how much property is being forfeited and how law enforcement agencies spend the money.

**This agreed bill is the product of extensive negotiations among the ACLU, the Illinois State Bar Association, and Cabrini Green Legal Aid, and the Illinois State's Attorneys Association, the Illinois State Police, the Illinois Association of Chiefs of Police, the Illinois Sheriffs Association, the Chicago Police Department, the Illinois Drug Enforcement Officers Association, and others.**

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