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Oklahoma Lawmaker Fights for Asset Forfeiture Reform

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An Oklahoma state senator is pushing to reform the state's civil asset forfeiture laws to help protect citizens' property rights and civil liberties.

State Sen. Kyle Loveless (R-Oklahoma City) is sponsoring a bill that would reform state laws permitting police and other law enforcement agents to take people's cash and property without first proving a crime has occurred.

Loveless says his bill, Senate Bill 838, would require the government to return property seized from individuals who have not been charged with a crime.

"My legislation requires law enforcement to return seized property within 30 days if the owner has not been charged with a crime subject to forfeiture," Loveless said. "If the owner is charged and convicted, a jury would have to determine there is clear and convincing evidence the property was connected to the crime. It reinstates the simple American ideal of 'innocent until proven guilty.'"

'Profit Motive'

Loveless says current state laws create an economic incentive for law enforcement to use asset forfeiture against citizens.

"As for the profit motive, current Oklahoma law allows agencies to keep and utilize what they seize," Loveless said. "No government agency should be able to grow itself out of the normal budgetary process. My reforms will require properly forfeited property—after [a] conviction and clear convincing evidence the property was involved in the crime [is established]—will be deposited into a newly created revolving fund."

Citizen Oversight

Loveless says citizens and interested parties should have more control over law enforcement agencies' use of forfeiture laws.

“This fund will be overseen by a citizen oversight board made up of citizens and law enforcement agencies, drug courts, and drug treatment facilities,” Loveless said. “This new process will remove the direct profit incentive while still allowing us to fund all aspects of our current drug crisis.”

‘A Common Occurrence’

Adam Bates, a policy analyst for the Cato Institute’s Project on Criminal Justice, says civil asset forfeiture is more common in Oklahoma than many realize.

“A common occurrence is a traffic stop,” Bates said. “The officer pulls you over, says he smells marijuana or has a K-9 unit ‘hit’ on the car, and uses that as a justification to assert that you’re engaged in drug trafficking, and thus your cash and property is subject to seizure.

“This is a common practice along I-40 in Oklahoma,” Bates said. “Drug possession, suspicion of drug possession, or behavior ‘consistent with drug trafficking,’ which can include things as benign as carrying a lot of cash or having out-of-state license plates, are the most common seizure justifications.

“It’s often very difficult for people to get their stuff back, either because of the procedures in place or because the value of the property is less than the value of the time and legal costs of getting it back,” said Bates.