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Bipartisan bill would revamp Maryland's civil asset forfeiture laws

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Randy Sowers is out about \$28,000 — and he's mad.

Under Maryland's civil asset forfeiture laws, the government can seize property if they suspect someone of a crime, and the Internal Revenue Service suspected Mr. Sowers of money laundering. They showed up at his farm and confiscated tens of thousands of dollars, then told him he was responsible for proving his innocence.

Politicians on both sides of the aisle are fed up with those kinds of moves, and have teamed up to introduce a bill that would only allow seizures of property from someone convicted of a crime.

"That's a very simple thing," state Sen. Michael Hough, Frederick County Republican, said. "You should not, in this country, as an American, lose your house, your property, if you were never convicted of anything."

Mr. Hough joined with state Sen. Jamie Raskin, Montgomery County Democrat, and state Sen. Bobby Zirkin, Baltimore County Democrat, to put an end to indiscriminate police seizure of assets.

They announced the bill at a press conference with Mr. Sowers, the owner of South Mountain Creamery, who said he often does business at farmers' markets and the little store at his farm deals where cash dominates, and where he can take in up to \$15,000 in a weekend selling milk, butter, eggs, yogurt and ice cream.

After a bank teller told him it would be a hassle to deposit more than \$10,000 — the highest deposit anyone can make without declaring it to the government — he and his wife, Karen, broke their deposits up.

But that alerted federal agents under a federal law meant to identify potential money laundering, who showed up at his farm in 2012 and confiscated \$65,000.

Mr. Sowers was not charged with a crime, much less convicted, but he was unable to recover \$28,000 of the seized money.

“Basically, they said if we did fight them, they weren’t going to be satisfied with the \$65,000 that they seized, they were going to go after the whole \$400,000 I deposited in that account the whole summer. You see, that was another incentive, there was just no way I can hire lawyers and get out the rest of \$28,000. I might as well just give them the \$28,000,” he said. “They wanted me to sign something that said I knew I was doing something wrong, but I didn’t sign it.”

Spurred by those kinds of stories, the bipartisan coalition Tuesday said it was time to stop those raids.

“I believe that the state of the law today is blatantly unconstitutional,” Mr. Raskin, a constitutional scholar at American University, said. “It says that the government without arresting you, charging you or convicting you, can seize your private property and then require you to hire a lawyer to go to court to sue and prove that your property is innocent.”

The bill would also require that police departments report the funds that they have seized, and what they choose to spend it on, as well as limit their ability to work with federal agencies, who don’t have strict restrictions on when they can seize assets and what they can spend it on.

The issue brought together the American Civil Liberties Union (ACLU), the U.S. Justice Action Network, the National Association for the Advancement of Colored People (NAACP), the Cato Institute, Right on Crime and the American Legislative Exchange Council.

This bill will likely see a lot of pushback from police departments statewide, retired Gen. Neill Franklin of the Maryland State police said.

“As we move forward, the main opponents are going to be law enforcement, unfortunately,” he said. “The people get this. Once they understand what’s going on here without the two different people, those that don’t know about civil forfeiture and those who do and are up in arms about it. Law enforcement, those who benefit are our prosecutors and our sheriffs mainly who are going to be the ones in opposition to this. I personally, being from that group of folks, I’m appalled because of how they benefit from it and then come to lobby it to maintain the status quo.”

The civil asset forfeiture law was intended to go after drug kingpins, but police have expanded its use.

The new bill would still allow police to seize property, but would make them return it all if the person is not convicted.

The Maryland legislature last year passed a bill to put the burden of proof on the state, rather than the victim of asset forfeiture having to prove their own innocence. Republican Gov. Larry Hogan vetoed that bill, and the legislature will vote on whether to override him this week.