



## **After Supreme Court ruling, how will Alabama press civil asset forfeiture reform**

John Sharp

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A recent U.S. Supreme Court ruling against excessive police seizures has Alabama lawmakers poised to press ahead with civil asset forfeiture reform.

Law enforcement agencies who are influential in conservative Alabama want to get ahead of the reform talks that will begin next month after the Legislature returns to Montgomery on Tuesday to begin their spring session.

A host of law enforcement groups will gather at 2:30 p.m. Thursday for a news conference at the Old House of Representatives Chamber in the state Capitol.

On hand will be state Rep. Arnold Mooney, R-Birmingham, who was one of the co-sponsors on legislation last year that considered reforms such as requiring more transparency on the items seized during arrests.

It's unclear what will be unveiled. A news release Wednesday only promised an announcement of "an important agreement" about the issue.

The system is strongly backed by law enforcement in Alabama who often benefit from keeping seized cash. Law enforcement advocates claim that it's an important crime-fighting tool, as it allows them to remove ill-gotten gains of illegal activity.

In Alabama, a civil court determines if the agency involved in the seizure can keep the property. And that determination can be made even if that person is never convicted or even charged with a crime, a fact that has drawn a heavy dose of criticism and analysis.

The Institute for Justice, in grading states based on their civil asset forfeiture laws, gave Alabama a "D-" largely because it maintains a low bar to forfeit an asset even if no criminal conviction is needed.

The Institute's report also takes Alabama to task for having "no way to measure the extent" which law enforcement agencies use civil asset forfeiture.

Alabama District Attorneys Association executive director Barry Matson told AL.com Tuesday that his organization remains "100 percent" supportive of increased transparency that could include the development of a database to log in the specifics on what is seized, and which agency is responsible.

But Matson said that law enforcement does not support an outright repeal of civil asset forfeitures. A host of lawmakers, including state Sen. Arthur Orr, R-Decatur – who co-sponsored the reform measures last year with Mooney – believe a criminal conviction should be required before law enforcement can seize someone’s property.

"We fully support data collection and the reporting of all seizures and forfeitures," said Matson. "We are committed to working to see that come about."

‘Should be banned’

Reformers have felt emboldened since the unanimous Feb. 13 ruling by the Supreme Court in a case involving a small-time drug offender in Indiana who had his \$42,000 Land Rover seized by police despite claiming that his father’s life insurance policy, not drug money, was used to purchase it

The Supreme Court ruled that the Eighth Amendment, which limits the ability of the federal government to seize property, also applies to the states.

The court’s decision also comes as public opinion is routinely supportive toward reform. A 2016 Cato Institute poll showed a whopping 84 percent opposing civil asset forfeiture.

“The Supreme Court decision applies for Alabama, and there is room for legislative action to make a fairer process for the people,” said Brock Boone, staff attorney with the ACLU of Alabama. “We would say that civil asset forfeitures should be banned, but what (state lawmakers) could do at the least is make it clear that law enforcement abide by the Supreme Court decision. There is no guarantee that it will happen at this point without direction from the Legislature.

Shay Farley, senior policy counsel with the SPLC Action Fund, a nonprofit policy arm of the Southern Poverty Law Center, said her organization is examining the court ruling to determine how people can be protected under it in Alabama.

She said they are also examining what other states may do regarding reform.

In South Carolina, for instance, 71 legislators recently unveiled a bipartisan bill to reform civil asset forfeiture. The issue is a relatively new matter going before South Carolina lawmakers following a report produced by Anderson Independent Mail’s TAKEN investigation and published by The Greenville News showed the state’s climate was filled with unfairness in the seizure of private property.

“Immediately following the publication of that, 71 bipartisan legislators signed on as co-sponsors,” said Farley. “We think that Alabama should pay attention.”

SPLC and the Alabama Appleseed Center for Law and Justice in Montgomery, released a detailed analysis that included powerful testimonies from victims of questionable asset seizures by police. The revelations were included in a report, released in January 2018, titled “Forfeiting Your Rights.”

The report led to a series of negotiations, but it did not produce legislative change. Mooney and Orr’s original bill, which required criminal conviction before private property can be seized, did not advance.

A new measure was formulated and debated that required a database and more transparency. It died during the waning days of last year's legislative session.

'Potential abolishment'

Farley said that this time around, a transparency-only "reporting bill alone is insufficient."

"Yes, people have rights they didn't have before (the Supreme Court's decision)," said Farley.

Some state lawmakers are prepared to return to the negotiating table, which is where they were at about a year ago when discussions were lengthy and involved diverse constituencies that included left-leaning groups like Alabama Appleseed and right-leaning Alabama Policy Institute.

State Sen. Arthur Orr, R-Decatur, who co-sponsored the reform bills along with Mooney, said earlier this week he plans to file legislation this spring to require criminal convictions before any assets are forfeited to the government.

He said requiring more transparency also remains on the table.

State Sen. Cam Ward, R-Alabaster, said the "very basic minimum" legislation is to require a public database be set up so the public can "see what's going on with civil asset forfeiture."

Ward also predicts there will be legislation that will request "a potential abolishment" of the practice altogether.

Ward, who chairs the Alabama Senate Judiciary Committee, which is likely to hear some of the proposals, said that "the Indiana case really highlights the problem."

Matson believes the specifics of the Indiana case do not apply to Alabama. He said that Alabama has laws on the books already that prohibits activity under the excessive fines clause of the Eighth Amendment as well as the Alabama Constitution.

The civil asset forfeiture reform debate could continue what appears to be a rare split between law enforcement and Republicans who dominate the Alabama Legislature.

Aside from gun laws, no one issue in Montgomery has sparked more push back from law enforcement.

"You get a lot of Libertarians who are also involved in the Republican Party," said Mobile County Sheriff Sam Cochran. "And those are the ones pushing for a pull away from the forfeitures and that stuff hurts us."