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Does more harm

Reform state's forfeiture laws

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These days it seems like the two major political parties disagree on just about everything, but a closer look at respective party platforms from 2016 reveals one issue that earns bipartisan support: civil asset forfeiture reform.

A recent poll from the Cato Institute found 84 percent of Americans oppose civil asset forfeiture. The worst forfeiture laws exist at the state level, and Arkansas is no exception, earning a grade of "D minus" from the Institute for Justice. The Arkansas Legislature recently considered reforming forfeiture under Senate Bill 727, but ultimately voted to keep existing state forfeiture laws in place.

In the 1970s, legislators unveiled civil asset forfeiture as a special weapon in fighting the war on drugs. Forfeiture enables law enforcement officials to seize money and other valuables they suspect are involved in illegal activity. Policymakers reasoned that by taking the profit out of drugs, crime rates would drop.

Nearly 50 years later, the drug trade is thriving, and forfeiture is under public scrutiny as mounting evidence suggests the questionable legal practice might do more harm than good. Because law enforcement officials get to keep what they seize, they have an undeniable incentive to use forfeiture to their benefit, even at the expense of the innocent and disadvantaged. Even the typically pro-law enforcement Republican Party platform bemoaned that "it has become a tool for unscrupulous law enforcement officials, acting without due process, to profit by destroying the livelihood of innocent individuals."

In Arkansas, property can be seized and forfeited by mere preponderance of evidence, meaning it was "more likely than not" involved in a crime, a much lower standard than "beyond a reasonable doubt," required for criminal convictions. Even worse, no criminal charges are necessary for forfeiture to occur.

Once the property is seized, it is up to the owner to prove its innocence in court. Low-income individuals are at a significant disadvantage when it comes to winning their property back. They

must engage in a lengthy court process and often pay expensive attorney fees to help their case. For many forfeiture victims, the legal battle is more costly than the actual value of their property. It is simply easier (and cheaper) to accept the forfeiture, even if no crime was committed.

In 2015, Arkansas law enforcement officials seized over \$6 million in currency, a figure that does not include the value of seized technology, cars, and jewelry. Statistical analysis I performed with the Arkansas Center for Research in Economics indicates that the majority of seizures occur along Interstate 40 to Arkansas residents, not out-of-state travelers. Further, seizure amounts are significantly higher in counties with larger Hispanic populations, even when controlling for other factors.

Poor state record-keeping makes it difficult to determine how often property owners contest forfeitures in court and whether or not forfeitures are accompanied by criminal charges. Forfeiture can result in big profits for state law enforcement officials, but research suggests it disparately impacts minorities and Arkansas residents. Current forfeiture law makes it easy for officials to abuse their power and use forfeiture as a means of generating revenue.

Despite millions of dollars on the line, Arkansas forfeiture law offers little protection to property owners. The state Senate considered addressing this issue under Senate Bill 727, which reforms civil asset forfeiture by requiring a criminal conviction before forfeiture can occur.

Requiring a criminal conviction lowers the incentive for law enforcement to seize property and makes it less likely for officials to use it for their benefit. Law enforcement officials would still have this drug-war tool, but abuse of innocents would be much less likely.

If SB727 had passed, Arkansas would join a growing number of states, most recently including neighboring Mississippi, in reforming civil asset forfeiture laws. Arkansas forfeiture laws need to be strengthened to protect the property rights of Arkansans, and that's something individuals on any end of the political spectrum should consider.