



Senate plan to update forfeiture law faces opposition

Christian M. Wade

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BOSTON — The state Senate is poised to overhaul a controversial state law that allows police to seize money or property they suspect is part of a drug crime, but the plan is facing last-minute pushback from law enforcement agencies.

The practice, called civil asset forfeiture, allows police and prosecutors to take money, homes, cars, boats and other personal possessions belonging to suspects in drug investigations. The state has one of the lowest legal bars in the country to take someone's property as part of a forfeiture case.

Legislation teed up for a vote in the Senate calls for raising the legal standard for forfeiture and requiring more disclosure and reporting on how law enforcement seizes and spends the funds. It would also sweep the proceeds from police seizures into a new fund controlled by the Treasurer's office for distribution to law enforcement.

Law enforcement agencies say while they are open to more transparency in the process, they strongly oppose efforts to take away control of the funds.

“How we would be able to access that money in a timely way, when we all know how long it takes the Legislature to do anything,” Mark Leahy, executive director of the Massachusetts Chiefs of Police Association. “These funds have been crucial to police departments, especially those that participate in federal investigations.”

Senate debate on the bill is set for Wednesday and who gets control over the money will be a major sticking point. A proposed amendment filed by several Democratic lawmakers — including Sen. Barry Finegold, D-Andover — would keep control of the pot of money from seizures under police and state prosecutors.

A previous version of the bill called for sweeping money from police seizures into the state's general fund, which could be used for other budgetary purposes.

That was changed by the Senate Ways and Means Committee, which last week released a new bill that would divert the money to a special trust fund.

But law enforcement agencies oppose that plan as well, and were still in talks with lawmakers a day before the bill was set to be taken up by the Senate.

Senate Minority Leader Bruce Tarr, R-Gloucester, has filed several amendments to the bill, including one that would require the state to develop a plan to determine how much of the

seizure proceeds should be deposited in the new trust fund, and require police departments to be compensated for any loss of revenue.

Civil liberties groups and others have been pushing for years on Beacon Hill to reform the forfeiture law. They have been encouraged by recent progress on the issue with legal challenges pending in state courts and support for bills pending before the Legislature.

Carol Rose, executive director of the ACLU of Massachusetts, said the law is “ripe for reform” and the Senate plan is a “solid foundation” for improving accountability and transparency.

“For decades, law enforcement have used civil asset forfeiture as a way to increase their budgets with little or no oversight and accountability,” she said in a statement. “This process has harmed people and families, particularly communities of color who are already over-policed.”

Under the current proposal, money collected in the trust fund would be spent on jail diversion programs, training for prosecutors and law enforcement officers, and to support violence prevention and substance abuse programs, among other uses.

Law enforcement agencies defend the law, saying it provides crucial funding for police departments across the state to purchase equipment and pay for investigations.

“This money is essential for funding a lot of the more complex investigations,” Leahy said. “Often times, law enforcement needs access to these funds quickly, and our concern is that if they put that money in a separate fund the process of accessing the funds would become very cumbersome and time-consuming.”

Many states have eased their civil forfeiture laws, but in Massachusetts, prosecutors are able to keep seized assets using one of the lowest legal bars in the nation.

Massachusetts police seized cash and property valued at more than \$327 million from 2000 to 2019, including \$24 million in federal seizures that were returned to the state, according to the Institute for Justice, a legal advocacy group.

The forfeiture law has also consistently earned Massachusetts — which is known as the “cradle of liberty” — low grades for personal and economic freedoms.

And the Cato Institute’s “Freedom in the 50 States” report labeled the state’s civil forfeiture law “among the worst in the country” for putting the burden of proof on citizens, giving the proceeds to law enforcement and requiring only probable cause for showing the property is subject to forfeiture.

If the Senate approves the bill, it would still need to pass the House of Representatives before heading to Gov. Charlie Baker’s desk for consideration.