



State Representative Robert McColley
Sponsor Testimony – House Bill 347 – 131st General Assembly
Judiciary Committee – October 6, 2015

Chairman Butler, Vice-Chair Manning and Ranking Member Stinziano, thank you for this opportunity to provide sponsor testimony for House Bill 347. House Bill 347 is a major piece of legislation with bipartisan support that will protect Ohioans' property rights and enact long overdue changes to civil and criminal forfeiture laws under the Revised Code.

Currently, Ohio's civil asset forfeiture law allows for the State to go to court and take property away from its citizens based upon the suspicion that the property was involved in the commission of a crime. There need not be a conviction for the State to take your property. In fact, there need not even be charges filed. A law that permits the State to take your property based on the suspicion of a crime but without actually proving your guilt is an affront to one of our country's most basic principles of justice; that people are innocent until proven guilty.

Let me be clear that we are not alleging this process to be widely abused by prosecutors in the State of Ohio, but the fact that our existing law could allow for the abuse of one's property and Fifth Amendment rights is cause for concern, which is why we introduced this legislation.

This bill would eliminate civil asset forfeiture under state law and only allow for forfeiture under criminal proceedings in which an offender's guilt has been proven beyond a reasonable doubt and a conviction has been handed down. This change is absolutely necessary if we are going to be a government for the people.

This bill would also shift the burden of proof to prosecutors during criminal cases to prove by a preponderance of the evidence that property that is claimed to be owned by third parties to the criminal case is subject to forfeiture. The bill would also raise the burden of proof for the prosecution at the conclusion of a criminal case to prove by clear and convincing evidence that property is subject to forfeiture.

Equally as important, this bill only allows local law enforcement agencies to turn over property to the federal government for forfeiture proceedings if that property's value, minus the value of contraband, exceeds fifty thousand dollars. This important change will largely remove a potential conflict of interest for local law enforcement agencies when seizing cash and property, because if that cash and property is turned over to the federal government under existing laws, about 80% of will come back to the agency that seized it, rather than going into the law enforcement trust fund as the Revised Code requires under state forfeiture.

However, I would also like to state what this law does not do. This law changes in no way the ability for law enforcement to seize evidence in the field. We acknowledge the tough circumstances our police, sheriff deputies, and state troopers are in on a daily basis. It would be overly restrictive if we disabled their ability to make a quick decision in an effort to obtain evidence and stop a suspect. However, when the process reaches our courts of law, we must ensure that justice is served and rights are preserved and that is exactly what this law does.

Thank you, Chairman Butler and the rest of the committee. I would be happy to answer any questions you may have.