

HB 750 -- ASSET FORFEITURE

SPONSOR: Lovasco

COMMITTEE ACTION: Voted "Do Pass" by the Special Committee on Criminal Justice by a vote of 6 to 4. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 2.

This bill prohibits law enforcement agencies and prosecuting authorities from referring, transferring, or otherwise relinquishing possession of seized property to a federal agency for the purpose of the property's forfeiture under federal law. Law enforcement agencies that participate in a multijurisdictional collaboration must transfer responsibility for the seized property to the state prosecuting authority. If federal law requires transfer of the property to a federal agency, the transferring law enforcement agency is prohibited from accepting payment of any kind or distribution of forfeiture proceeds from the federal agency.

This bill does not restrict a law enforcement agency from acting alone or collaborating with another agency, including a federal agency, to seize contraband or property a law enforcement agency has probable cause to believe is the proceeds or instrument of an offense.

This bill is the same as HB 1776 (2020) and similar to HCS HB 444 (2019).

PROPONENTS: Supporters say that, under civil asset forfeiture, there is a process that allows your property to be charged with a civil lawsuit because it was allegedly used in the commission of a crime. It does not entitle you to due process because the person is not being charged with anything; it is just the property. These laws are designed to fight large drug cartels, theoretically, but when you provide government with overreaching, sweeping powers, a lot of people get hurt. Missouri has a robust process for asset forfeiture. A person has to be charged with a crime first and then the person's property can be charged in a crime. Nationwide, \$5 million has been seized. There is an issue with the federal program that allows local agencies to keep assets from turning a case over to the federal government. People are concerned that this would help cartels. This will provide protections under current Missouri law for innocent people. In these federal programs, they are civil proceedings where the burden is on the person, with the help of an attorney, to prove that the property was not used in a crime. The proposed change will close a loophole that will allow law enforcement agencies to go around strong Missouri law and work with the federal government. That is how

they get their departments funded so it incentivizes them to forfeit to the feds. Federal law does not have the same robust protections as Missouri law. The value of the forfeiture Missouri law enforcement agencies send to the feds is five times the value of assets seized in Missouri, and they want to do that because the federal asset forfeiture program allows them to keep the money.

Testifying for the bill were Representative Lovasco; Institute for Justice; Susan Gibson; American Civil Liberties Union of Missouri; Nancy J Bates; Jan Schumacher; Arthur Rizer; Americans for Prosperity; Jewish Community Relations Council; Michael Bobzin, Criminal Justice Ministry; and Christine Woody and Mallory Rusch, Empower Missouri.

OPPONENTS: Those who oppose the bill say that this is a critical asset in the fight against drugs. There is a lot of traffic going back and forth from St. Charles County. People are not being abused or being stopped for minor traffic offenses. Highway 70 is a major highway for drug trafficking, as is Highway 40.

Testifying against the bill were Arnie C. Dienoff; Kevin Merritt, Missouri Sheriffs United; and St. Charles County.

OTHERS: Others testifying on the bill submitted written testimony, which can be found online.

Testifying on the bill were Mike Wood; and David Edward Roland.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.