

# Alabama advocates hope to reintroduce legislation reforming civil asset forfeiture

By [Gabby Dance](#) March 8, 2019

Innocent until proven guilty is heralded as a rightful standard in the United States criminal justice system, but when it comes to civil asset forfeiture, the standard seemingly flips to the opposite.

Under Alabama's civil asset forfeiture policies, police are able to seize personal property from citizens without a criminal charge or conviction if they find probable cause to believe the property could be connected to a crime.

In order to regain their property, owners not convicted of crimes must go through a court process to prove the property was not connected to a crime. Even then, it may take months or years to receive their property, if they ever get it back.

Because of this, Alabama's civil asset forfeiture laws have been rated among the worst in the nation by the Institute for Justice.

According to Executive Director of Alabama Appleseed Center for Law and Justice Carla Crowder, this practice harms low-income Alabamians who may not have the necessary funds to hire a lawyer. For these people, having money or cars taken away can be extremely detrimental.

“What we found is that a lot of people, even though their money or their property is taken, and they are not convicted of a crime, don't have the

resources to hire an attorney so they don't go to court to challenge that forfeiture," Crowder said. "So, they end up losing a lot of property or their money.'

The practice gained federal popularity during the so-called "War on Drugs" of the 1980s as a means to fight organized crime. However, Crowder said it has evolved to target ordinary citizens with no criminal intentions.

### Advertisement

"You can be someone who doesn't have a bank account, you're driving down the road, you get pulled over in a traffic incident and the police find \$1,500 in the car because you've just cashed a paycheck," Crowder said. "When the officer sees the cash, he or she can take it. The police are taking small amounts of cash and property and not having to prove people were involved in a crime, much less some kind of big, criminal enterprise."

According to a study by the Southern Poverty Law Center, the amount of cash seized in half of Alabama's 1,100 examined civil asset forfeiture cases was under \$1,372.

Government entities in Alabama have historically not been required to report what they have taken or what they have done with the unclaimed property.

"It just should be a given that when the government takes citizen's property, we should know what they're doing with it," Crowder said. "They should have to report what they take, what they keep, how they use it."

According to Crowder, this can potentially lead to abuse by officers, who could take proceeds from federal forfeiture actions for themselves.

"This is an example where police agencies, instead of pursuing fairness and justice, are pursuing profits," Crowder said. "That's just now how the criminal

justice system should work. The system should be designed to keep communities safer and treat people fairly, not for police officers to make a profit off of innocent citizens' property.”

Last year, legislation calling for a criminal conviction to be required in order to seize property, protection of property owners and transparency of the process was introduced by state Sen. Arthur Orr, R-Decatur, and state Rep. Arnold Mooney, R-Birmingham.

This legislative session, advocates are planning to introduce another similar bill.

“We do expect that bill to be filed,” said SPLC staff attorney Emily Early.

The omnibus bill would essentially end the practice of civil asset forfeiture, grouping it into criminal proceedings.

“There would be a requirement of a criminal conviction for any forfeiture of property or proceeds to occur,” Early said.

Civil asset forfeiture reform has been a recent nationwide trend.

A current bill requiring a criminal conviction before the forfeiture of property has gained strong support in the South Carolina legislature, and the Arkansas state Senate recently unanimously approved a bill requiring a criminal conviction before civil asset forfeiture.

The Supreme Court also ruled in late February that people who have lost property through civil asset forfeiture can argue that the amount taken was excessive under the eighth amendment of the Constitution, which bars excessive fines.

“Alabama would not be a first to step out there and reform this practice,

which we believe is a huge governmental overreach and a violation of an individual's due process right," Early said.

Last year's bill gained bipartisan support but ultimately failed to pass due to law enforcement pushback.

"There was significant opposition from law enforcement, unfortunately, in the state of Alabama, particularly prosecutors such as district attorneys who are opposed to ending civil asset forfeiture and believe that civil asset forfeiture is a necessary means to fight crime," Early said. "Our position in introducing the bill that would end civil asset forfeiture ... is that it is completely possible to fight crime and to really get at the higher-level criminal perpetrators without taking away property when there is no sort of crime, charge or conviction."

Though a potential future bill has not been brought into play yet, progress toward accountability with civil asset forfeiture has been made.

Last week, the Alabama Districts Attorneys Association, alongside Mooney, the Alabama Law Enforcement Agency and other public policy groups, began taking steps toward creating a reporting system to keep track of the use of civil asset forfeiture in Alabama.

The Alabama Forfeiture Accountability System will track and compile all state civil asset forfeiture cases, generate reports to lawmakers and state officials and provide information on the use of civil asset forfeitures to the public.

District attorneys across the state started collecting data related to civil asset forfeiture, including filings, pleadings and court rulings, on March 1 to submit to the database.

"This has been a work in progress since last spring, when legislation to create

a data collection and reporting system for civil asset forfeiture system died when time ran out on the legislative session,” said Barry Matson, executive director of the Alabama District Attorneys Association and the state Office of Prosecution Services. “But we continued to work with many groups – from law enforcement and state agencies to policy groups with an interest in asset forfeiture – to voluntarily put the system in place.”

Mooney hopes that this will aid lawmakers in supporting a future bill.

“I can’t overstate the importance to lawmakers of having accurate, reliable information as we look legislatively at civil asset forfeitures,” Mooney said. “This new system will help paint a clearer picture of what is actually going on in the state.”

Though the new database shows progress, the SPLC’s Shay Farley said legislative change is still necessary to ensure the government is protecting individual property and due process rights.

“Increasing government transparency is always a positive step but as they say: ‘the devil is in the details,’” Farley said. “Information about how much revenue is collected in Alabama civil asset forfeiture cases or how those funds are used by the receiving governmental entities throughout the state has always been secret, and it’s not clear this will change in this new system.”