



## Legislative Testimony

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### **Written Testimony Supporting House Bill 5398, An Act Prohibiting State and Local Law Enforcement Agencies from Providing Certain Property to a Federal Agency for the Purpose of Such Property's Forfeiture**

Senator Martin, Senator Winfield, Representative Lesser, and distinguished members of the Banking Committee:

My name is David McGuire, and I am the executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of House Bill 5398, An Act Prohibiting State and Local Law Enforcement Agencies from Providing Certain Property to a Federal Agency for the Purpose of Such Property's Forfeiture.

The ACLU-CT strongly supports liberty and justice for all. This includes the right to freedom from baseless searches and the right to due process. Yet civil asset forfeiture allows police to take and keep someone's property, often resulting in innocent people being deprived of their property without due process of law. Last year, the Connecticut General Assembly unanimously passed a bill into law that allows Connecticut prosecutors to use civil asset forfeiture to get title to someone's property only after that person has been convicted of a crime, and only if that property is related to that criminal conviction. This was an incredible step forward for liberty and justice. A loophole, however, could allow Connecticut law enforcement to confiscate innocent people's property through the federal asset forfeiture program, called the equitable sharing program.

Under equitable sharing, a state agency can collaborate with the federal government in asset forfeiture in two ways. First, a state agency can ask federal law enforcement agencies to take over a seizure done under state law and then have a U.S. Attorney litigate the forfeiture under federal law. Second, a Connecticut law enforcement agency can participate in a state/federal joint task force that collaborates on seizures and then ask U.S. attorneys to litigate the forfeiture under federal law. Because federal law permits civil asset forfeiture without the conviction required by Connecticut law, Connecticut law enforcement agencies may try to circumvent Connecticut's more protective recently updated civil asset

forfeiture law by using the federal government's program. Additionally, state and local agencies that participate in equitable sharing can receive up to 80% of federal forfeiture profits, which provides a financial incentive for complete runarounds of state protections.

This bill would prohibit Connecticut law enforcement agencies from referring, transferring, or otherwise relinquishing possession of property seized under state law to a federal agency for the purpose of the property's forfeiture, otherwise known as federal adoption. It would also prohibit Connecticut law enforcement agencies working in collaboration with the federal government from accepting payment or distribution of forfeiture proceeds, unless the aggregate value of the property seized in a case exceeds \$100,000, excluding the value of contraband. This threshold would allow Connecticut law enforcement to work with federal officials on large and often complex multi-jurisdictional taskforces.

Closing this loophole would bring Connecticut into line with seven other states and the District of Columbia, which have passed legislation in an effort to halt the circumvention of state asset forfeiture laws by using the federal equitable sharing program. In fact, three other states and the District of Columbia have banned adoption, and many other states place value thresholds on the property that can be transferred to the federal government.

This is a common sense bill with support from a broad coalition of organizations, including the ACLU-CT, the Yankee Institute, and the Institute for Justice. With the federal government ramping up asset forfeiture, it is important for Connecticut to act this session to pass a law to close this loophole and ensure that law enforcement follows the meaningful due process protections the legislature passed last year. I strongly urge this committee to pass House Bill 5398 to protect the people of Connecticut.