
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 67

Session of
1995

INTRODUCED BY LEH, ITKIN, THOMAS, FARGO, PISTELLA, D. W. SNYDER,
DeLUCA, GEIST, TRELLO, ARGALL, COLAFELLA, MAITLAND, COLAIZZO,
JAROLIN, CORRIGAN, SATHER, SEMMEL, ARMSTRONG, YOUNGBLOOD,
HERSHEY, PESCI, DEMPSEY, SAYLOR, ROHRER, FLEAGLE, HESS,
HENNESSEY AND CIVERA, FEBRUARY 28, 1995

REFERRED TO COMMITTEE ON INTERGOVERNMENTAL AFFAIRS,
FEBRUARY 28, 1995

A CONCURRENT RESOLUTION

1 Memorializing Congress to remedy defects in Federal forfeiture
2 law.

3 WHEREAS, A multitude of Federal statutes empower the Federal
4 Government to seize the homes, cars, savings accounts and other
5 property of American citizens if the government believes the
6 property was used to facilitate a violation of any one of a wide
7 range of Federal laws; and

8 WHEREAS, The Federal Government can confiscate such property
9 for its own use, as well as the use of participating local
10 police, without the need to prove that the owners were even
11 aware of any connection between their property and any violation
12 of Federal law; and

13 WHEREAS, It has been reported that a substantial number of
14 those who lose their property through a civil forfeiture are
15 never charged with a crime in connection with the activity
16 giving rise to the forfeiture; and

1 WHEREAS, A ten-month investigation by the former Pittsburgh
2 Press has documented over 400 cases of people who were forced to
3 forfeit property or money to Federal authorities without any
4 proof of their involvement or knowledge of the activity leading
5 to the forfeiture of their property; and

6 WHEREAS, The risk of abuse in certain forfeiture actions is
7 magnified by a Federal policy of rewarding informants with 10%
8 of the take; and

9 WHEREAS, The amount deposited in the United States Department
10 of Justice Assets Forfeiture Fund as a result of Federal
11 forfeitures has increased from a mere \$27 million in 1985 to
12 more than half a billion dollars in 1992; and

13 WHEREAS, The Justice Department's recent inventory of
14 confiscated real estate is in excess of 32,400 properties with a
15 value of more than \$1.8 billion; and

16 WHEREAS, The financial stake of government agencies in their
17 own forfeiture decisions raises a substantial concern that
18 budgetary considerations have the potential to improperly
19 influence law enforcement determinations that should only be
20 governed by criminal justice considerations; and

21 WHEREAS, At least one major Federal forfeiture law permits
22 local law enforcement agencies to keep 85% of the proceeds from
23 their seizure of property whenever they use the Federal process
24 under a procedure known as adoptive forfeiture and, thereby,
25 circumvent restrictions in their respective state laws; and

26 WHEREAS, Many middle-income citizens are unable to challenge
27 Federal seizures of their property because they cannot afford to
28 pay the cost of an attorney to fight for their rights and to
29 establish their innocence; and

30 WHEREAS, Certain Federal forfeiture laws contain a number of

1 other unfair and unjust provisions, including:

2 (1) a shift in the burden of proof from the Federal
3 Government to the owner after the property is seized;

4 (2) a steep bonding requirement in order to contest a
5 seizure of property;

6 (3) governmental immunity against liability for damage
7 caused by the negligent handling or storage of seized
8 property; and

9 (4) a restrictive deadline for challenging forfeiture;

10 and

11 WHEREAS, The unsatisfactory state of the current Federal
12 forfeiture procedure is underscored by a series of recent United
13 States Supreme Court decisions which have found a number of
14 Federal enforcement policies to be unconstitutional; and

15 WHEREAS, It is important that Congress carefully review
16 existing forfeiture laws in order to assure that they comport
17 with cherished American values of fairness, due process and the
18 presumption of innocence; therefore be it

19 RESOLVED (the Senate concurring), That the General Assembly
20 of the Commonwealth of Pennsylvania memorialize Congress to
21 seriously consider proposals to remedy any defects in Federal
22 forfeiture laws; and be it further

23 RESOLVED, That Congress adopt remedial legislation to correct
24 any abuses and defects in current Federal forfeiture laws; and
25 be it further

26 RESOLVED, That copies of this resolution be transmitted to
27 the President of the United States, the presiding officers of
28 each house of Congress and to each member of Congress from
29 Pennsylvania.