

To: The Special Committee on Civil Asset Forfeiture

From: John Goodyear, General Counsel

Date: December 6, 2023

I want to thank the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide written testimony for today's hearing.

Local governments are charged with acting in ways that protect the health, safety, and welfare of the public. Law enforcement entities act under this charge when they take actions meant to reduce the crime in their communities. Civil asset forfeiture is an effective tool used by communities and the state to reduce the ability of criminal actors to profit from their illegal activity. If we are able to remove the instruments and fruits of criminal enterprise, we can limit activity and make our state safer.

In reviewing HB 2380 from last year, there were many proposals that our member cities found to be unworkable. While our members believe the goals of the legislation were laudable, the legislation would have effectively ended civil asset forfeiture. Because our members support the use of forfeiture as a tool in their arsenal to battle criminal activity, we opposed that legislation.

That said, we are not outright opposed to any and all changes to the Civil Asset Forfeiture Act. The League supports efforts to increase transparency and access to justice when they are well-balanced with interest in preserving this crucial tool. I was grateful to serve on the Judicial Council advisory committee that took up these changes and believe that our member cities would be supportive of or neutral on many of the proposed changes. For example, it makes sense to amend the crimes that are subject to forfeiture to remove those crimes only associated with drug use. This method of enforcement is better used when focused on dealers or manufacturers of contraband. Further, we see no issue in prohibiting pre-forfeiture waivers of rights to avoid the appearance of and actual impropriety in enforcement. Finally, the implementation of an additional probable cause hearing at the outset is something we would support or be neutral on as it should better protect the rights of alleged offenders and does not introduce a significant added burden.

There are two recommendations adopted by the committee that our members will want the legislature to consider in more depth before adopting them. First, the committee recommends that threshold amounts be adopted and that assets seized with value under those thresholds not be subject to forfeiture. We are not necessarily opposed to this, we would just ask the legislature to put together a stakeholder group to determine what the appropriate thresholds are for cash and other seized goods. Second, our members will likely be opposed to the fee shifting provisions as proposed. We do not want the provisions to have a complete freezing effect on proceedings and it is the fear of some members that these provisions will do just that.

Thank you again for allowing me to submit testimony and for considering our positions. The League is always happy to weigh in on issues that affect our cities and to help in the crafting and refinement of legislation intended to make our communities stronger. We look forward to working with the Legislature on any proposals that come from the Special Committee.