



## Testimony by Allen Gilbert, executive director, ACLU-VT, on S. 102, April 23, 2015

While S. 102 is sometimes known as the “dog-fighting bill,” **the bill’s most significant provisions concern revisions to the state’s drug asset forfeiture laws** (Sections 4-9). Under the bill, Vermont would be expanding the reach of asset forfeiture opportunities -- while governments elsewhere are moving in the opposite direction.

**Abuses of asset forfeiture programs have been widely reported** – in a [six-part series](#) this fall in *The Washington Post* and on YouTube with a satirical [video](#) posted by Last Week Tonight host John Oliver.

**It should be acknowledged that Vermont’s forfeiture program has so far been better than most.** That’s because of two things. First, current Vermont law requires that all forfeiture proceeds go to the state’s general fund. And second, current Vermont law hasn’t allowed forfeitures without a conviction for a drug crime.

**But provisions in S. 102 make important changes that would give Vermont law enforcement broader discretion in applying forfeiture laws.**

- Most troublesome is a new “**administrative forfeiture procedure**” (Section 6), allowing immediate seizure of any property worth \$25,000 or less, with no judicial review unless the target insists on it.
- There’s also a provision that allows police to seize property from someone who **isn’t even charged with a crime** but agrees to “provide information regarding the criminal activity of another person” [Section 5, (a)(2)]. This provision provides law enforcement with a new bargaining tool.
- And the **extension of the scope** of asset forfeiture – to apply not just to drug crimes but to animal-fighting crimes as well (Sections 2-3) – is a troubling sign raising the possibility of further extensions of the forfeiture law in the future.

The Senate Judiciary Committee diluted a request by police that most of the proceeds from a forfeiture be given to the arresting department; this would have created a new financial incentive for police to do drug arrests. The bill as passed by the Senate allows recovery of costs of selling seized property as well as the costs of seizure, storage, and forfeiture expenses. Of the remaining forfeiture sale proceeds, half will go to the Governor’s Criminal Justice and Substance Abuse Cabinet to distribute among law enforcement agencies, public defense lawyers, state’s attorneys and sheriffs, and the Attorney General’s office (Section 8). The other half will go to the general fund. But this opens the door to possible re-allocations down the road. **Police services should not be monetized. All proceeds from forfeiture should continue to go to the general fund.**

Two former directors of the federal asset forfeiture program, John Yoder and Brad Cates, wrote this fall in a *Washington Post* [op-ed](#) that **asset forfeiture “has turned into an evil itself, with the corruption it engendered among government and law enforcement coming to clearly outweigh any benefits.”** Vermont should not do anything that moves us in that direction.