

Presentation of H.469:

Thank you for the time to come and present these bills. Starting with H.469, this bill is a tri-partisan bill that really looks to extend the work that this body did four years ago when we raised the government standard of proof to forfeit property.

In a nutshell, this bill is looking to bring the discussion back to the table so that we can evaluate where we can provide more protection for Vermonters and more transparency overall while still recognizing that asset forfeiture can be a valuable tool for law enforcement in certain situations.

My apologies to this committee, due to the extreme pressure on drafting this session, I didn't have the time to really flesh out and improve this bill as fully as I would have liked to. The bill as written, it looks to have law enforcement in Vermont report to the Treasurer's office regarding asset forfeiture so that the Treasurer can report to this body each year. That report would track and present four main data points: unique instances, type of property, disposition or proceeds of/from that property, and how the proceeds were used. I think this is a great start to the conversation, however, having had some more time since this was introduced to continue to develop this effort, I have a few more bullet points for consideration of the committee to decide to include in the bill.

1. (a) Law enforcement departments and agencies, and other state departments and agencies which have custody of any property subject to forfeiture under this subchapter, or which dispose of such property, shall keep and maintain full and complete records including the following:

- from whom the property was received;
- description of the property, including the exact kinds, quantities, and forms of the property;
- value of the property;
- if the property is deposited in an interest-bearing account, the location of the account and the amount of interest;
- under what authority the property was held or received or disposed;
- to whom the property was delivered;
- the date and manner of destruction or disposition of the property;
- name of the law enforcement agency that seized the property or, if seized by a multijurisdictional task force, the name of the lead agency;
- date of the seizure;
- place of seizure: home, business or traffic stop; and, if a traffic stop on an interstate or state highway, the direction of the traffic flow: eastbound, westbound, southbound or northbound;
- criminal offense alleged that led to the seizure (include whether under state or federal law);
- crime for which suspect was charged (include whether under state or federal law); criminal case number and court in which the case was filed;
- the outcome of suspect's criminal case:

- if forfeiture is sought under federal law, reason for the federal transfer: adoption or joint task force. (If forfeiture is sought under federal law, answers to questions 12-18 may not be available readily and may be skipped);
- forfeiture case number and court in which the case was filed;
- if a property owner filed a claim or counterclaim, who by: the suspect, innocent owner, joint owner or third-party owner;
- method of final forfeiture proceeding: criminal, civil-judicial or civil-administrative;
- date of forfeiture order;
- whether there was a forfeiture settlement agreement: (yes or no);
- value of the property forfeited; or if forfeited under federal law, the amount of proceeds received from the federal government.
- estimate of total costs to the agency (a) to store property in impound lots or evidence rooms, (b) to pay for law enforcement personnel and prosecutors' time and expenses to litigate forfeiture cases and (c) cost to sell or dispose of forfeited property;
- if any property was retained by a law enforcement agency, the purpose for which it is used.

2. The State Treasurer shall submit to the General Assembly a written report summarizing activity in the state, for the preceding fiscal year, the type, approximate value, and disposition of the property seized and the amount of any proceeds received at the state and local levels. Summary data on seizures, forfeitures and receipt of forfeiture proceeds shall be disaggregated by agency. The aggregate report shall also be made available on the State Treasurer's website.

3. The data and reports compiled and prepared under this chapter are public records under Vermont Public Record Law, 1 V.S.A. § 317(b).

Presentation of H.493:

This bill, again is a tri-partisan effort, looks to enunciate clearer protections of Vermonter's rights under the 4th Amendment. In short, the bill sets out a clear delineation that This bill proposes to prohibit any Vermont government entities and law enforcement officers from sharing or assisting the federal government with collecting private electronic communications data unless a warrant is obtained or the person who made the communication consents.

The best analogy for this that I can really think of is that if a local sheriff department had a warrant to go into your house and look for something specific, any federal agency or department would not be able to use that same warrant to go into your house whenever they wanted. It also would keep whatever the local Vermont law enforcement gathered from being passed around without proper due process of the federal entities getting their own warrant to get access to that information.

In an age where going through someone's phone or computer or other electronic data is almost more personal and sensitive than trapeazing through their house, I believe that we have duty to enunciate the rights that Vermonters have and affirm that the feds need to still participate in using due process to gather, assess, use, or hold onto private data.