

OFFICE OF THE PUBLIC DEFENDER

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February 25, 2025

TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 5363

ENTITLED, AN ACT RELATING TO FOOD AND DRUGS – UNIFORM CONTROLLED SUBSTANCES ACT—POWERS OF ENFORCEMENT PERSONNEL— CIVIL FORFEITURE PROCEDURE

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender supports House Bill 5363, which seeks to require a criminal conviction before any forfeiture is made.

Civil forfeiture has long been a contentious issue, often leading to unjust outcomes and disproportionately affecting vulnerable communities. The current system allows law enforcement agencies to seize property suspected of being involved in criminal activity, even if the owner has not been charged with a crime. The system also incentivizes seizures by ensuring the seizing agencies receive a large portion of the proceeds of the seizure. This practice undermines due process and property rights, leaving individuals without sufficient recourse to defend their assets.

House Bill 5363 represents a significant step towards rectifying these injustices by ensuring that forfeiture proceedings are tied to criminal convictions. By requiring a conviction before property can be forfeited, this bill reinforces the principle that individuals are innocent until proven guilty and safeguards them from unwarranted seizures.

Moreover, a forfeiture process that requires a criminal conviction promotes accountability and transparency within the criminal legal system. It aligns forfeiture proceedings with established legal procedures, thereby reducing the potential for abuse and arbitrary seizures.

We urge the Judiciary Committee to consider the merits of House Bill 5363 and advance this important legislation. Requiring a conviction before forfeiture will enhance the integrity of our legal system and ensure that individuals are afforded the due process they deserve.

Sincerely,



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