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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 7289

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

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender supports House Bill 7289, which seeks to require a criminal conviction before any forfeiture is made under the Uniform Controlled Substances Act.

Civil forfeiture has long been a contentious issue in the criminal justice system. It is not uncommon for an individual who has been charged with a drug offense to have their property seized before the conclusion of their case. If that defendant is later determined to be guilty of the charged offense, all is well; however, it remains a significant problem for the many individuals who are later exonerated of their charges.

In addition, the fast pace of the process often means that a person's assets are seized well before their guilt has been determined. Moreover, the current system incentivizes seizures by ensuring the seizing agencies receive a large portion of the proceeds; in fact, ninety percent of the net proceeds are allotted to state and local law enforcement agencies. This creates an incentive for the agencies to err on the side of seizing assets. In short, this practice undermines due process and property rights, leaving individuals without sufficient recourse to defend their assets.

House Bill 7289 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.

We urge the Judiciary Committee to consider the merits of House Bill 7289 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,


Angela M. Yingling

Legislative Liaison

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