Unlike criminal forfeiture, in which a legal action is brought as part of the crime that a person is charged with, civil forfeiture laws by and large allow assets to be seized by police upon only upon a suspicion of wrongdoing.

In recent years, stories of innocent citizens having cash and other property seized — and facing arduous, uphill battles to reclaim their property — have prompted efforts from entities as disparate as the Charles Koch Institute and the American Civil Liberties Union to modify or repeal civil forfeiture laws.

Those in favor of changing or eliminating them say the best state laws are ones that require the highest legal standards of proof for seizure; extensive reporting of seized assets; that the government prove the property was involved in crimes rather than the citizen having to prove innocence; and that law enforcement retains less (or none) of the forfeited funds, thereby avoiding economic incentives to abuse the system.

Most Midwestern states have low legal standards of proof for law enforcement agencies to seize assets (see table), but three Midwestern states — Michigan (2015), Minnesota (2014) and Nebraska (2016) — have changed their laws recently to help ensure that possession of large amounts of currency or property is not sufficient to prove the property was connected to any criminal activity. Ohio joined them on Jan. 4, when Gov. John Kasich signed HB 347, approved by the legislature in late December.

Minnesota and Nebraska now require a criminal conviction to seize assets related to the crime, and the government must connect property to a crime by “clear and convincing evidence.” Michigan raised its standard of proof from “preponderance of the evidence” to “clear and convincing” before officials can proceed with the forfeiture process.

While a majority of Midwestern states have some reporting requirements, before they changed their laws Nebraska previously had no reporting requirements, and in Michigan, it was optional. Michigan’s requirement began in 2009; now all three states require agencies to report forfeitures to a state entity.

They still allow law enforcement agencies to keep most of the proceeds (Indiana and Wisconsin are the only Midwestern states wherein law enforcement agencies do not receive any of the proceeds from civil forfeitures).

Also, most states participate in a federal forfeiture program known as “equitable sharing” : state and local agencies can move to forfeit property under federal law and receive up to 80 percent of the proceeds.

To curtail equitable sharing, Nebraska’s new law bans state and local agencies from transferring seized cash and property under $25,000. Between 2000 and 2013, Nebraska law enforcement collected more than $48 million in federal forfeiture funds, a report by the Institute for Justice found. Data analysis by the Institute found that in 2013, out of all properties seized under equitable sharing in Nebraska, 78 percent were under $25,000.

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