



**STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL**

KRIS W. KOBACH
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

**House Committee on Judiciary
Testimony in Support of HB 2606
February 13, 2024**

Chairwoman Humphries and Members of the Committee:

The Attorney General strongly supports asset forfeiture reform as proposed in HB 2606. He recognizes that while forfeiture is an important tool in the law-enforcement toolkit, it is easily abused and requires vigorous oversight to ensure it is used properly. Indeed, one of the first things this administration did upon taking office was to clamp down on asset forfeiture authorizations. We give each new forfeiture case the most stringent review they've ever received at the AG level, and no Special Assistant Attorney General for any state agency is allowed to file a civil asset forfeiture case in any state court without my sign off. In the last year, we've stopped thousands of dollars in unwarranted forfeiture allegations from moving forward.

Civil asset forfeiture has had regular attention from the legislature since 2017. But aside from some minor changes related to reporting in 2018, past bills have bogged down as proponents and opponents withdrew to their castles, pulled up their drawbridges, and shot arrows at each other.

The two committees that looked at the issue during the past few months, however, raised our hopes that a durable compromise can be had. The work of the interim committees (one from the Judicial Council and one from the legislature) was hard, and presumably tiring to those who participated. But the reports of those committees (which are largely the same in their recommendations) provide a solid footing on which to fix some of our asset forfeiture laws and help protect them from abuse.

HB 2606 adopts the recommendations of the interim committees and adds an additional reform that the Attorney General and others worked to build consensus on over the past couple months: raising the evidentiary standard to "clear and convincing evidence."

This is oversimplifying things, but the debate over asset-forfeiture reform has often boiled down to law enforcement and prosecutors on one side, and civil libertarians and defense attorneys on the other.

But the Attorney General stands in a unique position with regard to this split. On the one hand, he oversees one of the state's largest law-enforcement agencies (the KBI) and has a stable of prosecutors on his payroll. But, on the other hand, this Attorney General—perhaps more than any other in recent memory—is acutely aware that the state and federal constitutions place *limits* on government and exist to protect citizens rights. And, as an elected official, he is sworn to preserve and defend those limits and rights. That's why he established a Special Litigation and Constitutional Issues Division that litigates specifically to keep government within its proper bounds. It's why he reinvigorated the office's review of regulations to include stringent analysis of regulatory takings. And it's why he's taken a host of other steps to keep individual rights and limited, constitutional government at the forefront of the office's mission.

This dual role, we believe, gives the Office of the Attorney General unique credibility on both sides of this debate. And that is why we have been working behind the scenes to create and preserve a durable compromise on asset forfeiture reform—ensuring reform proponents that we will support real and consequential changes to our statutes, but also greasing the skids with law enforcement by making sure any changes do not make asset forfeiture practically impossible in those situations where it is truly needed. Tony Mattivi, the Attorney General's KBI director, has been instrumental in crafting such a compromise, and the AG thanks Director Mattivi specifically for his tireless work on this issue.

It is often said that politics is the art of compromise. And when it comes to reforming our asset forfeiture laws, that compromise has been long in coming. But we are glad it is here, and urge the committee to support HB 2606 without amendment.

Daniel E. Burrows

Chief Deputy Attorney General