

**JOINT COMMITTEE ON THE JUDICIARY
BILL SUMMARY**

BILL NO. H1851

TITLE: An Act relative to forfeiture reform

SPONSOR: Rep. Jay Livingstone

COSPONSORS: None

HEARING DATE: May 6, 2025

PRIOR HISTORY: H1642 (2023-2024)
H1757 (2021-2022)
H3367 (2019-2020)

SENATE BILL: None

CURRENT LAW: The General Laws permit the forfeiture of property connected to criminal activity. Section 24W of Chapter 90 permits forfeiture of vehicles for drunk driving offenses, Section 47 of Chapter 94C permits forfeiture of property connected to controlled substances crimes and Section 56 of Chapter 265 permits the forfeiture of property related to human trafficking crimes.

In all sections a prosecutor may petition the court to order forfeiture of the property based on a showing of probable cause that the property owner knew or should have known that it was used in violation of the law. The action may be commenced regardless of the value of the property and at any time regardless of the status of related criminal proceedings. There is no right to counsel, even if the property owner is entitled to public representation in a related criminal proceeding. The proceeds obtained through forfeiture proceedings are either under the control of the prosecuting agency in the case or, for controlled substances forfeiture, split between the prosecuting and law enforcement agency involved in the case.

BILL SUMMARY: Section 1 – Repeals Section 47 of Chapter 94C.

Section 2 – Repeals Section 56 of Chapter 265.

Section 3 – Adds a new section to Chapter 280 on civil asset forfeiture that includes: (i) a clear and convincing evidence burden of proof for the prosecution; (ii) defendants are allowed to forfeit property in plea agreements; (iii) defendants may not be held jointly and severally liable; (iv) the mere presence of currency is insufficient probable cause for seizure; (v) seizure of real property requires a court order; (vi) seizure of property grants the Commonwealth provisional ownership, but it does not acquire full control until after the applicable court has issued its final ruling and permits third parties to make ownership claims; (vii) the seizing authority must file a forfeiture clause with the applicable court detailing the seizure and property seized; (viii) the person whose property was seized may at any time file a constitutional claim to the property showing that the seizure is unconstitutionally excessive; (ix) innocent parties, as determined by the court, who have partial or complete ownership over the property in question cannot have their property seized; (x) the seizing authority must turn over the seized property after final adjudication to the Treasurer for auction with the proceeds going to a designated fund. State or local law enforcement are also prohibited from sidestepping the above requirements by giving seized property to the federal government. The bill further introduces a system for returning seized assets to innocent parties.