SENATE RESOLUTION No. 39

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator JOSEPH A. LAGANA
District 38 (Bergen and Passaic)

SYNOPSIS

Urges New Jersey Supreme Court to study reasonableness of lowering court fees in civil asset forfeiture cases.

CURRENT VERSION OF TEXT

As introduced.

A SENATE RESOLUTION respectfully urging the New Jersey Supreme Court to study the reasonableness of court fees in certain civil asset forfeiture cases.

WHEREAS, A civil asset forfeiture proceeding is an action by the government seeking ownership of personal property either used as an instrumentality of a crime or the fruits of criminal activity; and

WHEREAS, New Jersey allows the practice of asset forfeiture when law enforcement officers can meet the "preponderance of evidence" standard that property was used in the commission of a crime as opposed to the "beyond a reasonable doubt" standard, which is necessary to convict a person for a crime; and

WHEREAS, The preponderance of the evidence standard allows property to be seized from claimants regardless of whether they are criminally charged or have had their criminal charges dismissed; and

WHEREAS, Forfeiture proceeds are required to be used solely for law enforcement purposes and are required to be designated for the exclusive use of the law enforcement agency that contributed to the surveillance, investigation, arrest, or prosecution resulting in the forfeiture; and

WHEREAS, Certain civil liberty groups have criticized civil asset forfeiture as an incentive for law enforcement entities to obtain people's personal property for the purpose of funding law enforcement initiatives; and

WHEREAS, The American Civil Liberties Union-New Jersey recently released data from civil asset forfeiture actions in New Jersey from January through May of 2016 revealing that areas with greater minority populations tend to have a higher number of property seizures; and

WHEREAS, According to recent news reports, claimants in civil asset forfeiture proceedings are unable to afford the court fees required to file an action to reclaim their seized property; and

WHEREAS, In particular, New Jersey Advanced Media reported that Hudson County is unique in that it combines numerous unrelated forfeiture claims into a single action thereby requiring multiple claimants to pay higher court filing fees; and

WHEREAS, This news report indicated that, in many cases, the court filing fees cost more than the money seized by law enforcement and, as a result, many people do not defend their rights in a civil action to seek replevin of seized property; and

WHEREAS, This House respectfully urges the New Jersey Supreme Court to study the reasonableness of court fees in certain civil asset forfeiture cases and determine whether the fees in these cases should be lowered and whether the Rules of Court should be promulgated to ensure uniform enforcement among the counties; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey:*

1. The Senate respectfully urges the Supreme Court of New Jersey to study the reasonableness of court fees in certain civil asset forfeiture cases and determine whether the fees in these cases should be lowered and uniformly enforced among the counties.

2. Copies of this resolution, as filed with the Secretary of State, shall be transmitted by the Secretary of the Senate to the Administrative Director of the Office of the Courts.

STATEMENT

This Senate resolution respectfully urges the New Jersey Supreme Court to study the reasonableness of court fees in certain civil asset forfeiture cases and determine whether the fees in these cases should be lowered and whether the Rules of Court should be promulgated to ensure uniform enforcement among the counties.

A civil asset forfeiture proceeding is an action by the government seeking ownership of personal property either used as an instrumentality of a crime or the fruits of criminal activity. According to recent news reports, claimants in civil asset forfeiture proceedings are unable to afford the court fees required to file an action to reclaim their seized property. These news report indicate that, in many cases, the court filing fees cost more than the money seized by law enforcement and, as a result, many people do not defend their rights in a civil action to seek replevin of seized property.