



## Maricopa County Attorney

### Allister Adel

April 30, 2021

Governor Doug Ducey  
State of Arizona  
1700 W. Washington St.  
Phoenix, AZ 85007

Dear Governor Ducey:

I am asking that you veto HB2810 because it is a dangerous and unnecessary piece of legislation. As a border state Arizona is more susceptible to drug cartels, human smuggling operations, and other organized criminal syndicates and this legislation has the potential to invite those large-scale criminal organizations to do business in our community.

This bill reflects a gross misunderstanding of the role civil asset forfeiture plays in keeping our community safe. Civil asset forfeiture is an important and powerful tool, used by law enforcement to efficiently interrupt the money supply of criminal enterprises and quickly recover property for victims of crime.

The power of civil asset forfeiture is that it allows law enforcement to quickly remove the financial benefits of criminal activity, stopping offenders before a full criminal case can be developed and presented.

This bill, by requiring a criminal conviction before assets can be forfeited, gives criminal actors months or years to enjoy the proceeds of their criminal activity and to continue to fund their illicit operations while their criminal cases work their way through the system.

In many situations, while it may be obvious that funds are the product of criminal activity, the criminal syndicate is sophisticated enough to conduct their activities across state or national borders effectively eluding prosecution. Taking their illegally obtained funds hinders their ability to conduct business as usual. This bill removes that valuable tool making Arizona an attractive home for money laundering and other criminal financial transactions.

Contrary to the assertions of some supporting this bill, asset forfeiture in Arizona is currently used with judicial oversight, transparency, and due process for all involved. HB2810 would make Arizona one of only 15 other states that require a criminal conviction for civil asset forfeiture. In addition to the policy shift that makes Arizona an attractive home for criminal activity, I have great concerns relating to the drafting of this bill.

Drafted by special interest lobbyists with little understanding of this area of the law, this legislation is poorly written. It was not drafted as a full replacement of our current laws, rather it was created by inserting new or different provisions into the current law. The result is a nearly incomprehensible statute. For example, the statute would provide that an officer can only seize property if it is "subject to forfeiture." To be "subject to forfeiture," the statute requires a criminal conviction. Thus, the statute allows the State to seize the property *before* a conviction only if the person has *already* been convicted. Legislation with provisions that make no sense should not be signed into law regardless of the merits of the policy goals behind them.

While some have suggested that the same results can be achieved by simply seizing the funds as evidence of a crime, it may be possible to temporarily hold funds or property as evidence but in cases of sophisticated organizations that structure themselves to make criminal prosecution impossible, any seized funds would be returned to the criminals. Currently if a court finds that funds of that nature are the product of criminal activity, they are forfeited to the state, not handed back to the syndicate.

The bill before you is not the product of robust debate and discussion among those knowledgeable in this area. It is a poorly drafted attempt to rush a major policy shift to your desk with little exploration of the harms it will cause. I urge you to reject this legislation.

Sincerely,



Allister Adel  
Maricopa County Attorney

cc: Annie Foster  
Megan Fitzgerald