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HOUSE OF REPRESENTATIVES

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STEPHEN OWENS  
74TH DISTRICT

Chairwoman Susan Humphries  
House Committee on Judiciary  
Kansas State Capitol  
300 SW 10<sup>th</sup> Ave.  
Topeka, KS 66612

February 13, 2024

RE: Testimony in **SUPPORT** of HB 2606 – Civil Asset Forfeiture Reform

Chairwoman Humphries & Members of the Committee:

Thank you for the opportunity to testify in favor of HB 2606. I had the distinct honor of Chairing the Special Committee on Civil Asset Forfeiture during the interim session of 2023. There was extensive work by the sub-committee of the Judicial Council, the KBI, the Council of State Governments, our Revisors and Legislative Research to appropriately study and research this topic. I am proud of the work and recommendations that came out of the committee which are represented in this bill. They include:

- Deleting offenses involving controlled substances that apply primarily to a “user” from the list of offenses giving rise to forfeiture;
- Requiring seizing agencies to return property if certain timelines are not met to engage an attorney or otherwise move the case forward;
- Prohibiting pre-forfeiture waivers of rights in property;
- Allowing a proportionality hearing to be requested at any time;
- Requiring a judge to determine there is probable cause supporting forfeiture as a preliminary matter;
- Requiring an automatic stay of discovery in the forfeiture proceeding during a criminal proceeding alleging the same conduct;
- Establishing that a seizing agency can be ordered to pay a prevailing claimant’s attorneys’ fees; and
- Requiring the State to prove property is subject to forfeiture by a “clear and convincing” standard.

The Committee also recommended the following items be further studied by a standing committee of the 2024 Legislature:

- Transfers and federal adoptions;
- The right to a jury trial in forfeiture proceedings;

- The right to counsel in forfeiture proceedings; and
- Where forfeiture proceeds should be directed.

It is my belief that the recommendations adopted by the Special Committee on Civil Asset Forfeiture strike the appropriate balance between protecting the individual liberty / due process rights of Kansan's and ensuring the ill-gotten gains from illegal activity are not benefiting the guilty.

Respectfully Submitted,

*Stephen Owens*

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