

ASSEMBLY RESOLUTION No. 222

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 28, 2019

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 **AN ASSEMBLY RESOLUTION** respectfully urging the New Jersey
2 Supreme Court to study the reasonableness of court fees in
3 certain civil asset forfeiture cases.
4

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

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

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

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

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

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

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

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

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

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

1 **BE IT RESOLVED** *by the General Assembly of the State of New*
2 *Jersey:*

3

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

8

9 2. Copies of this resolution, as filed with the Secretary of State,
10 shall be transmitted by the Clerk of the General Assembly to the
11 Administrative Director of the Office of the Courts.

12

13

14

STATEMENT

15

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

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