

From: Catherine McNicoll <CatherineMcNicoll@scstatehouse.gov>  
To: Danny Varat <DannyVarat@scstatehouse.gov>  
Date: 10/9/2017 11:08:19 AM  
Subject: RE: a few questions

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1- That article is more than 20 years old. This provides some more updated information on civil forfeiture ([https://www.law.cornell.edu/wex/civil\\_forfeiture](https://www.law.cornell.edu/wex/civil_forfeiture)) at the federal level. This article provides a summary of civil forfeiture in South Carolina ([http://www.postandcourier.com/news/money-property-and-drugs-do-controversial-civil-asset-forfeiture-laws/article\\_0fe3f320-3cba-11e7-bd00-17bfbb574dc5.html](http://www.postandcourier.com/news/money-property-and-drugs-do-controversial-civil-asset-forfeiture-laws/article_0fe3f320-3cba-11e7-bd00-17bfbb574dc5.html)), the overall system does seem to incorporate some due process however there is the underlying concern that by allowing LEAs to keep a substantial portion of the proceeds from forfeitures incentivizes seizing property. There is also a concern that the burden to prove lawful ownership disconnected from illegal activity is placed heavily on the owner of the property. A concern I came across is that the one statute that provides detailed forfeiture procedure is in the illegal drug laws and only applies to crimes relating to drugs. However many other criminal statutes have their own individual forfeiture process or reference the process in the drug laws.

Possible changes:

- Where an owner prevails against the LEA in a forfeiture proceeding the LEA be responsible for attorney's fees.
- Place the proceeds into the general fund to eliminate the conflict of the potential incentive to LEAs. (accompany this with detailed required reports, reports are currently only upon request and records don't seem to be in order)
- For the two above I would say that one or the other but not both should be done.
- Consolidate forfeitures into one law not spread out through the code.
- Require that there at least be a criminal charge (preferably conviction) for forfeiture to be finalized.

This bill was introduced by Reps. Clemmons and Rutherford ([http://www.scstatehouse.gov/sess122\\_2017-2018/bills/3918.htm](http://www.scstatehouse.gov/sess122_2017-2018/bills/3918.htm)) It provides many good ideas for reforming this, though I think it doesn't do the best job at cleaning up the pieces of forfeiture throughout the code. With a law like this those items should be specifically repealed rather than just noting that this law would override those laws.

Please let me know if you would like a more detailed review and suggestions.

2- According to the NIH - No a pharmacist cannot legally dispense it without putting their DEA license in jeopardy and risking federal prosecution. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3875249/>

*Best Regards,*  
*Catherine McNicoll*  
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From: Danny Varat  
Sent: Monday, October 09, 2017 9:07 AM  
To: Catherine McNicoll  
Subject: Fw: a few questions

Please take a look

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From: Kevin L. Bryant  
Sent: Sunday, October 8, 2017 3:20 PM  
To: Danny Varat  
Subject: a few questions

Can you or Catherine work on a few things

1-What can SC do to address this issue? The article below is a federal issue, do we have any similar situations in SC and should it be addressed?

<http://targetfreedom.com/cfr/government-on-the-take/>

2-If/When SC allows any type of medical marijuana, can a SC pharmacist dispense? Would this put the DEA license in jeopardy?