



Sen. Margaret Rose Henry  
Chairperson, Senate Judicial & Community Affairs Committee  
Delaware Senate

May 18, 2017

Senator Henry:

I am writing on behalf of the National Coalition for a Civil Right to Counsel (NCCRC) to express support for SB 60, which had been set to be heard on May 10 and which we hope will be heard at the next committee meeting in June. Among other provisions, this bill would eliminate civil forfeiture, require a criminal conviction prior to initiation of a forfeiture proceeding, and guarantee appointment of counsel upon request for indigent defendants in such proceedings. I am a Staff Attorney with the Public Justice Center who serves as the Coordinator of the NCCRC, which is comprised of nearly 300 participants in 38 different states who work to advance the right to counsel in civil cases implicating basic human needs.

Forfeiture proceedings involving litigant defendants often involve basic human needs such as housing or money needed for subsistence living, yet forfeiture often falls in the gap between civil legal services and public defender services, leaving indigent claimants (who in many states are disproportionately people of color) to fend for themselves. While requiring a conviction prior to initiation of the forfeiture proceeding reduces the risk of error, it does not eliminate it, and so we applaud the bill's guarantee of counsel upon request. In enacting SB 60, Delaware would join West Virginia as states guaranteeing the appointment of counsel in forfeiture proceedings. Additionally, bills containing forfeiture right to counsel provisions similar to SB 60 are pending in Massachusetts and at the federal level, demonstrating that more jurisdictions are recognizing the importance of protecting the rights at stake in forfeiture proceedings.

We thank you for this opportunity to provide this testimony.

Sincerely,

John Pollock  
Coordinator, National Coalition for a Civil Right to Counsel