

Sen. Craig: Reacts to Justice Thomas' statement on civil asset forfeiture

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Madison, Wis. - Today, Senator David Craig (R-Town of Vernon), reacted to [a statement Associate Supreme Court Justice Clarence Thomas attached to a denial of certiorari](#) (on procedural grounds) of a case relating to the practice of civil asset forfeiture. Justice Thomas wrote:

"I am skeptical that this historical practice is capable of sustaining, as a constitutional matter, the contours of modern practice, for two reasons."

The two reasons outlined by Justice Thomas are: "These laws were also narrower with respect to the type of property they encompassed. For example, they typically covered only the instrumentalities of the crime (such as the vessel used to transport the goods), not the derivative proceeds of the crime (such as property purchased with money from the sale of the illegal goods)." And "Second, it is unclear whether courts historically permitted forfeiture actions to proceed civilly in all respects. . . . Whether forfeiture is characterized as civil or criminal carries important implications for a variety of procedural protections, including the right to a jury trial and the proper standard of proof."

Sen. Craig reacted to Justice Thomas statement saying:

"The reasons leading Justice Thomas to cast doubt on modern civil asset forfeiture practices exist under Wisconsin law and shows the urgency with which the Wisconsin Legislature must work to reform our civil asset forfeiture practices. My legislation, Senate Bill 61, would reform this practice to restore the protections

guaranteed by the Constitution. Yesterday, I believe Justice Thomas made clear that we must fix forfeiture if our statute is to endure future judicial review.”

Senator Craig represents the 28th Senate District which is comprised of portions of Waukesha, Walworth, Racine, and Milwaukee Counties.