

Due Process and Individuals Rights

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Background

- Due process has been a discussion since the formation of the union
- The supreme court of the united states interprets the clauses as providing four protections:
 - Procedural due process (in civil and criminal proceedings)
 - Substantive due process
 - A prohibition against vague law
 - As the vehicle for the incorporation of the bill of rights.

Explicating Terms

- Due process – fair treatment through the normal judicial system, especially as A citizen's entitlement.
- Civil forfeiture – laws allow that the government to take cash, cars, homes and other property suspected of being involved in criminal activity. Unlike criminal forfeiture, with civil forfeiture, the property owner doesn't have to be charged with, let alone convicted of, A crime to permanently lose his property.

Method

- Mixed methodological approach
- The use of primary and secondary sources
 - Primary – U.S constitution, state constitution
 - Secondary – articles on the 5th amendment
- Analysis/Comparison
 - Qualitative – court cases
 - Quantitative – reviews of court cases

Thesis

- State and Local Governments are required by law to provide due process and fair treatment to all people arrested and civil forfeiture is in conflict to this objective.

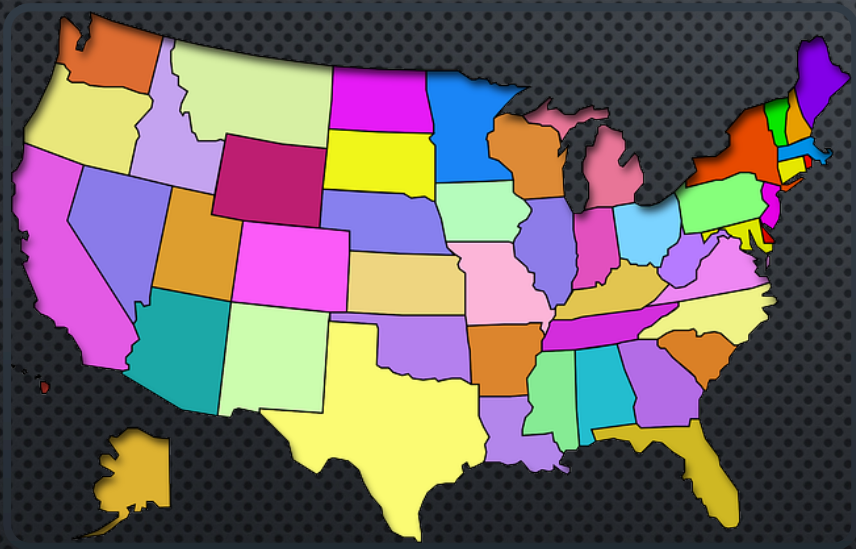
Federal Constitution

5th amendment –

- nor be deprived of life, liberty, or property, without due process of law

14th amendment –

- nor shall any State deprive any person of life, liberty, or property, without due process of law



STATE CONSTITUTIONS

Variability

State	Amendment
West Virginia	“No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers.”
South Carolina	“The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, ...”
Arizona	“No person shall be deprived of life, liberty, or property without due process of law.”
New York	“No person shall be deprived of life, liberty or property without due process of law.”

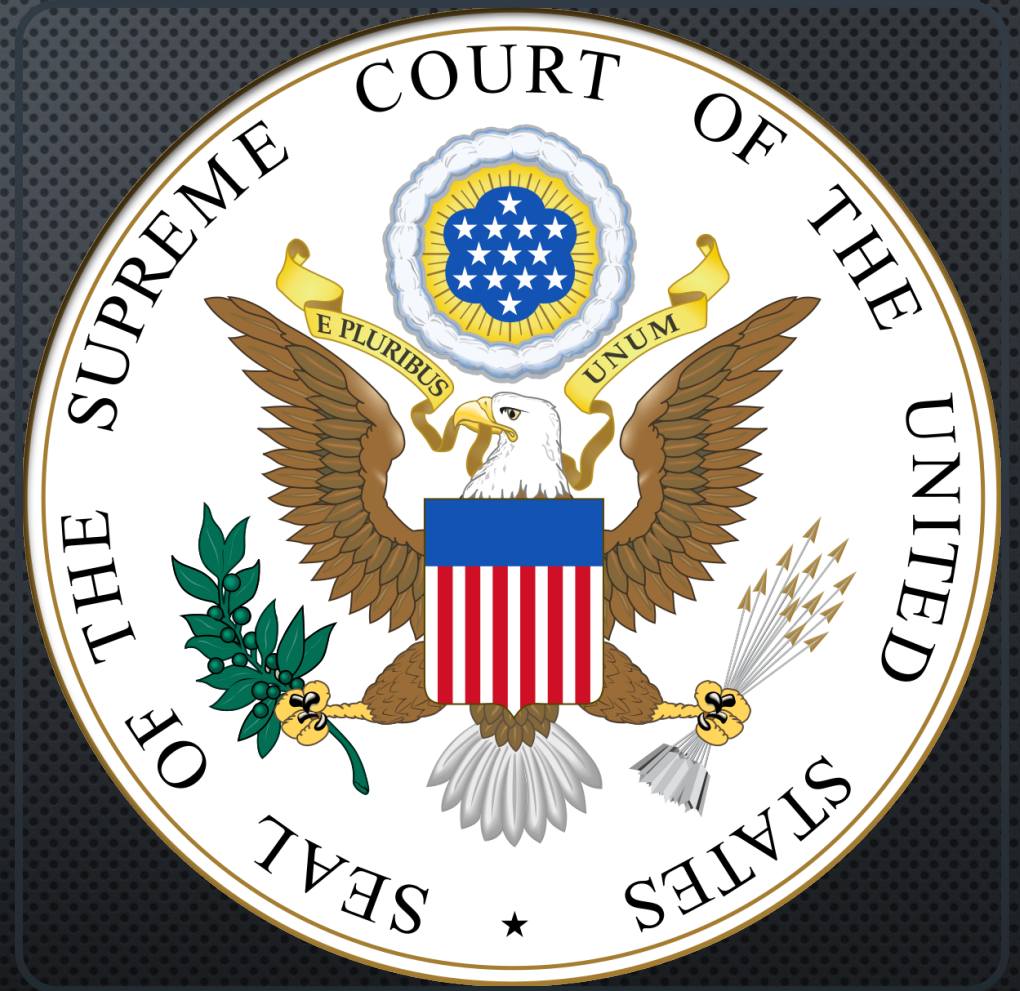
Republican In Nature

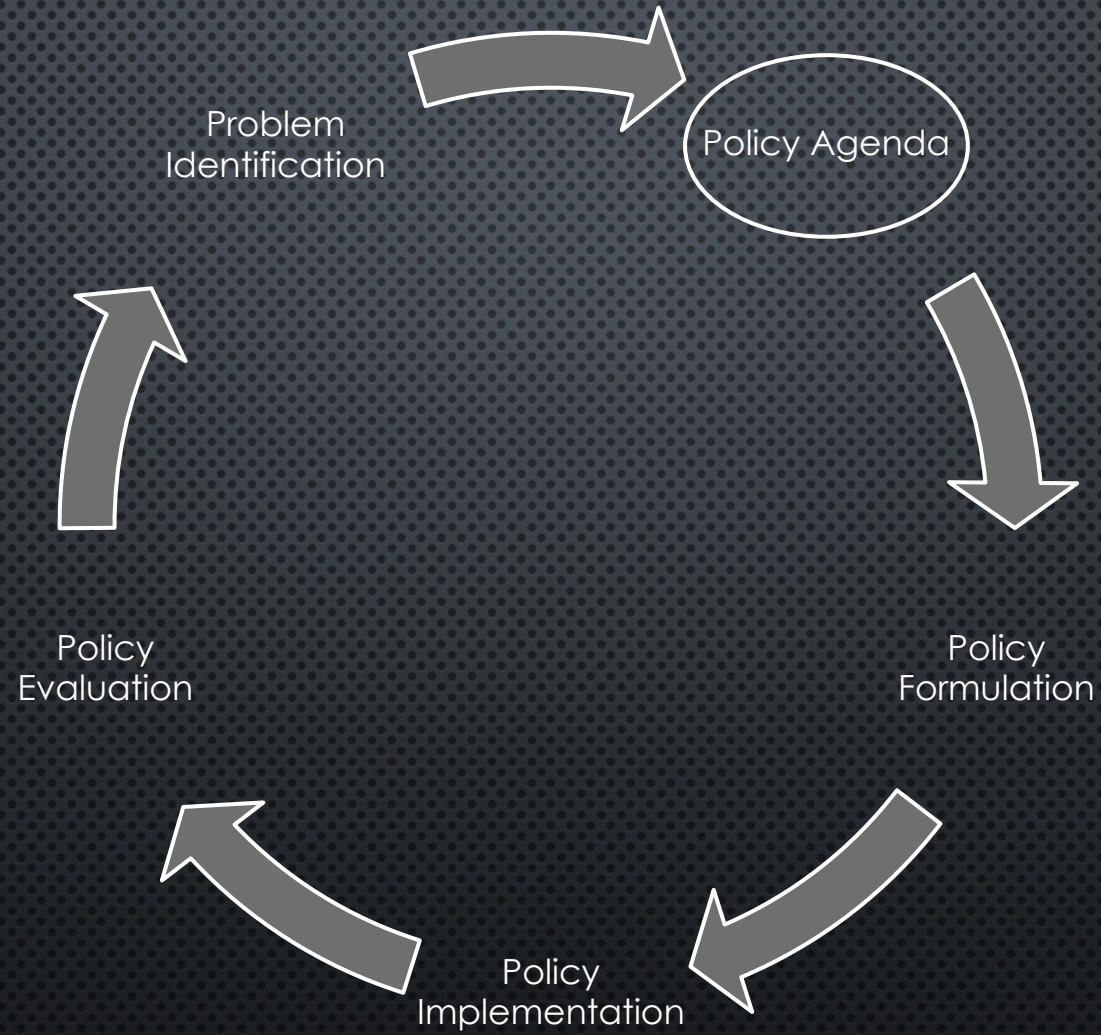
They all satisfy the condition of republican in nature

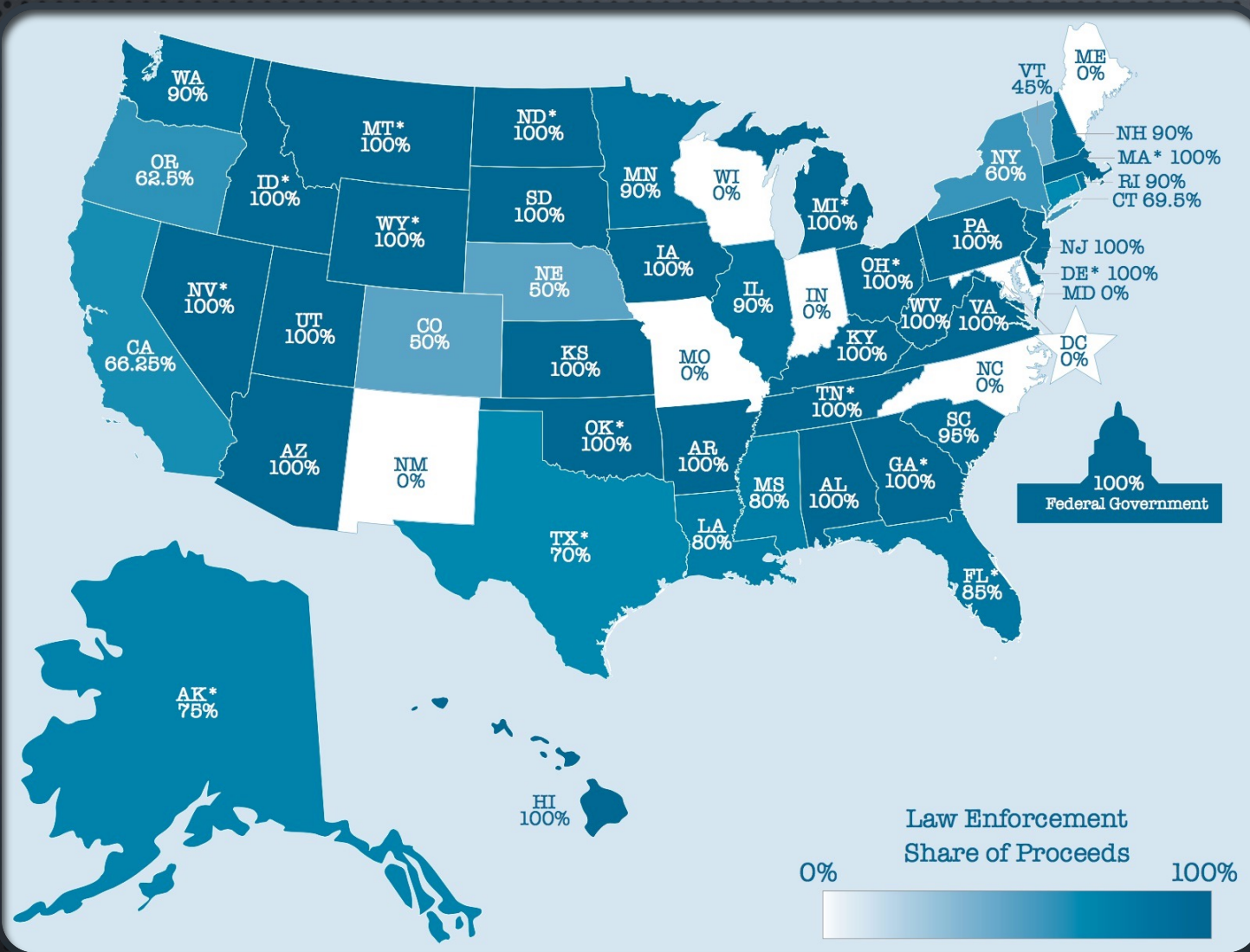
“No person shall be deprived of life, liberty, or property, without due process of law”

The Courts

- Horne v. Polk
 - Caperton v. A. T. Massey Coal Co.
 - Wynehamer v. People
 - South Carolina v. Travis Lee Green



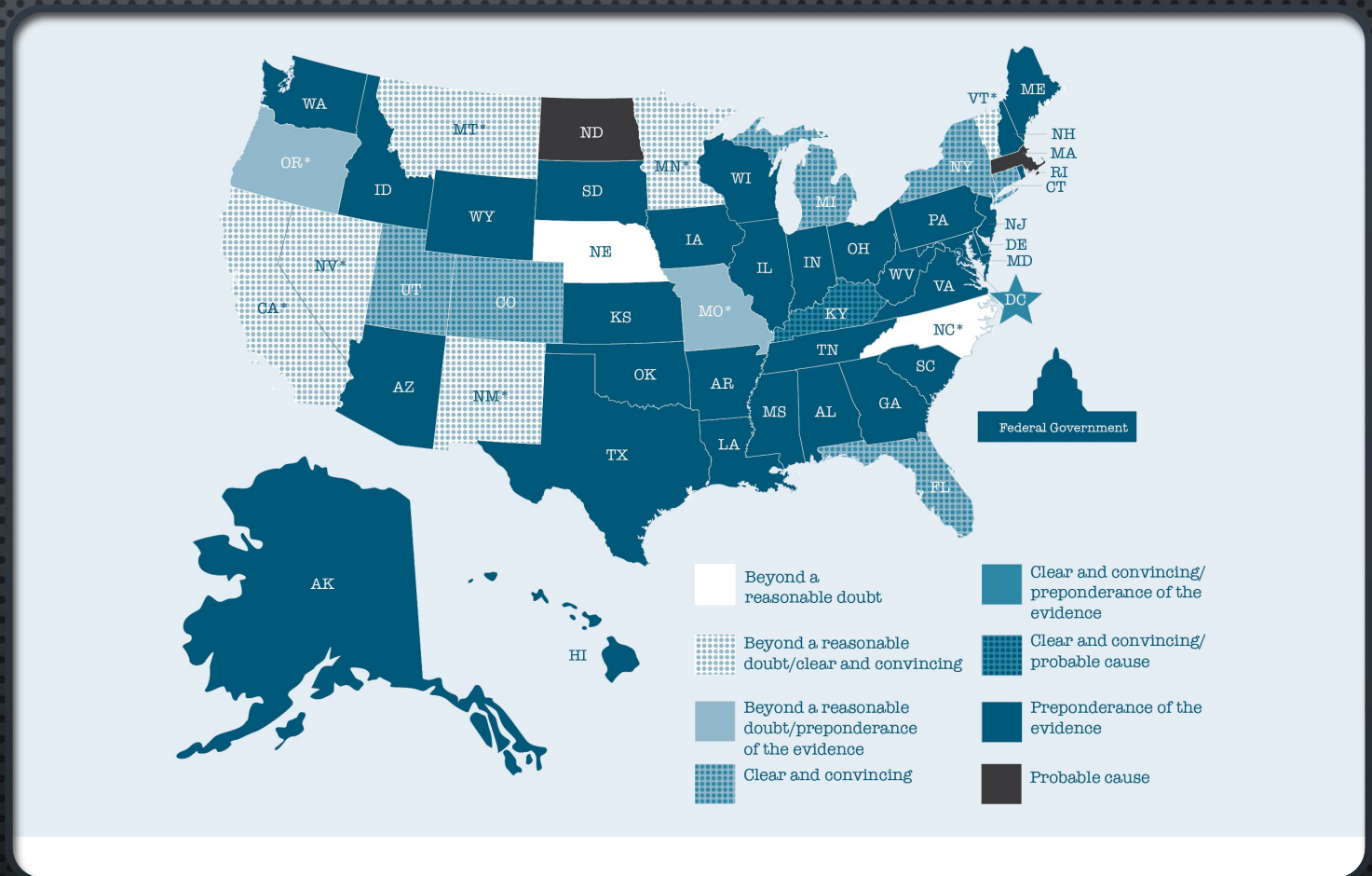




What are the States doing?

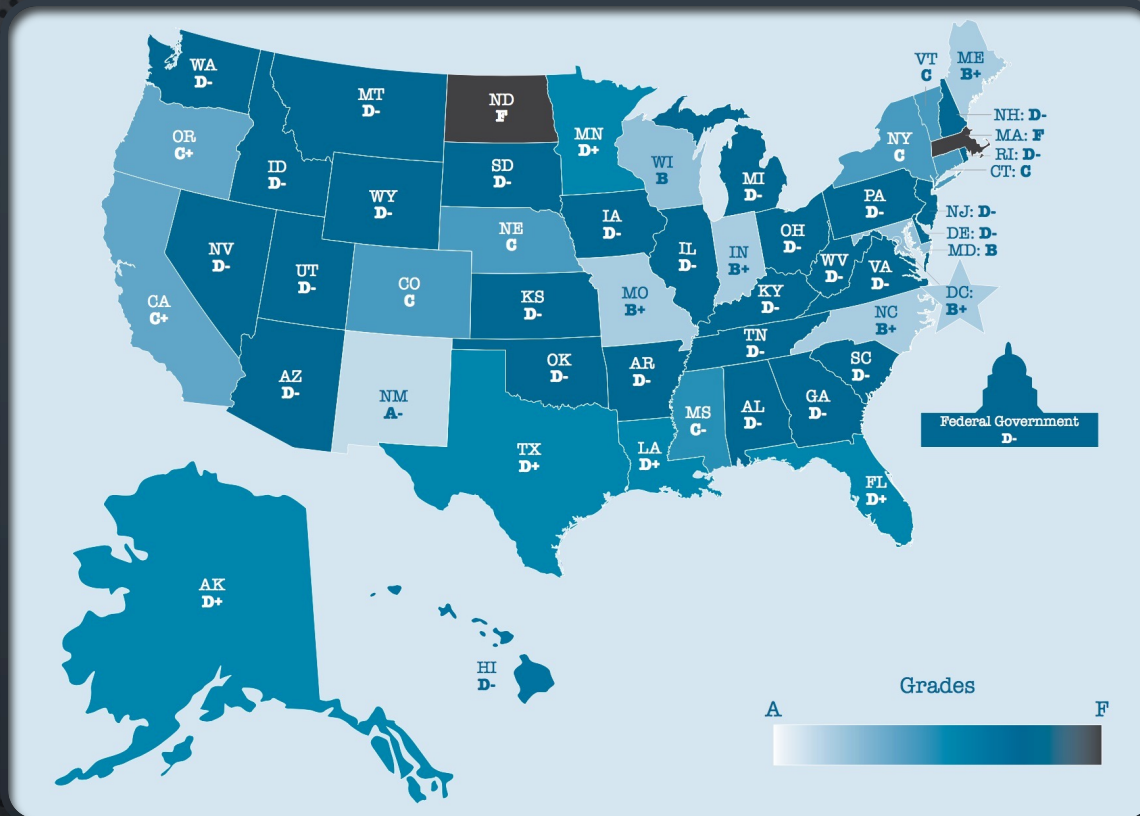
What are the parties doing?

- Thus far not a ton
- But what has been done is bi-partisan



What are the interest groups doing?

- The interest groups are becoming quite active on this topic.
 - The Heritage Foundation has made a large push
 - The Institute for Justice is being to push the abuse of civil asset forfeiture
 - Many other groups are now active in lobbying for the elimination of civil asset forfeiture



What This Means?

- This means that while action has yet to occur it can be expected in the future

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THANK YOU VERY MUCH!

Any Questions?