

## Faulk, Camilla

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**From:** Kevin P. Donnelly [kevin@kevindonnellylaw.com]  
**Sent:** Friday, January 29, 2010 4:06 PM  
**To:** Faulk, Camilla  
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I am an attorney who practices in the area of criminal defense. Removal of the bail forfeiture mechanism is not sound policy both from a financial perspective or a equities perspective. This procedure is generally used when the crime charged involves behavior that is technically a crime but the crime is de minimus. An example is Minor in Possession or marijuana possession such crimes are a first offense. For example a college student facing an MIP might be offered a bail forfeiture in order to avoid a criminal record which could hamper future employment or educational opportunities.

Another college student facing a marijuana possession could face the loss of financial aid with such a conviction. This procedure prevents it. Good honest people who have made a single mistake could have their lives ruined by this rule if bail forfeiture were not an option.

Another area where this procedure is used is when the evidence against the defendant is lacking. A prosecutor who does not want to dismiss a charge may offer a bail forfeiture because he or she knows that a trial will result in a loss. I suspect that this procedure has resulted in a large number of expensive trials being avoided.

Bail forfeiture is a tool that should be available to resolve cases. It will save money and help good people avoid the stigma of a criminal conviction. I would point out that with the advent of the internet and courts putting conviction data on the internet, a conviction will be an issue when one applies for a job or volunteer work. This tool allows the system to keep people whose conduct is not truly criminal or was such that it could be chalked up to a youthful indiscretion from facing the debilitating effects of a conviction. Please do not take that away.

If the court is concerned about bail forfeitures being used in cases such as domestic violence or DUI, appropriate changes can be made. However, in my limited experience prosecutors do not use this tool in those situations or in cases of serious misdemeanors.

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