



Monday, March 11th, 2019

Members of the House Judiciary Finance and Civil Law Division:

On behalf of Americans for Prosperity activists in the state of Minnesota, I urge you to pass HF1971, which would protect innocent property owners in Minnesota from losing their property by replacing civil forfeiture with criminal forfeiture. This bill would require that a conviction (a) is a prerequisite to transferring to the state title to the fruits and instruments of crime and (b) happens in the same process as the prosecution of the suspect in criminal court.

In its purest form, civil asset forfeiture allows law enforcement agencies to seize and then have prosecutors litigate the transfer of title to property that they suspect is connected to criminal activity or that represents the profits of wrongdoing—all without convicting or even charging the property owner with a crime. Cash, cars, and other property are forfeited under this program.

Minnesota ranks poorly compared to the rest of the country in its civil asset forfeiture policies, meaning property owners lack protections here that residents of many other states take for granted. The legislature attempted to rein in civil forfeiture in 2014, but major loopholes in the law allowed civil asset forfeiture to continue unimpeded.

Under the 2014 law, when the forfeiture process begins, the property owner enters criminal court but the seized property itself enters civil court, where the government has a far lower standard of proof. In these proceedings, the burden of proof falls on spouses, parents and other innocent owner claimants to demonstrate their own innocence by filing a lawsuit—within the small window of 60 days after seizure—against their own property to even have a chance of getting it back. If they don't file a lawsuit, they automatically lose their property in an administrative process done by prosecutors in their offices. In Minnesota, 95 percent of forfeitures are done this way.

That's exactly the opposite of the "innocent until proven guilty" standard that applies to so much of our legal system.

Through civil asset forfeiture, up to 90 percent of proceeds can be handed over to state and local police, rather than deposited into the state's general fund. This provides a strong perverse incentive to seize and forfeit property that goes far beyond the original intent of the policy. This system represents the very worst aspects of abusive government interference with our property rights. Civil asset forfeiture is meant to protect us from criminals, but in many cases is a form of legalized theft in its own right.

We value the service of our law enforcement officers. They fill a necessary role of government to maintain public safety. As such, law enforcement should be adequately funded through the regular, transparent budget process. They should not be placed in the position of supplementing budgets through forfeiture in

Through broad-based grassroots outreach, *Americans for Prosperity (AFP)* is driving long-term solutions to the country's biggest problems. AFP activists engage friends and neighbors on key issues and encourage them to take an active role in building a culture of mutual benefit, where people succeed by helping one another. AFP recruits and unites activists in 35 states behind a common goal of advancing policies that will help people improve their lives.

order to have the tools needed to protect and serve our communities. Moreover, nothing in this bill changes how law enforcement agencies seize contraband and large quantities of cash related to contraband.

Under HF1971, the loopholes in the 2014 legislation creating a two-track system would be closed, requiring that both property owners and their property are tried in the same criminal case, and would prohibit forfeitures from taking place without a conviction.

This much needed reform – ending civil forfeiture and using criminal forfeiture – will allow innocent property owners in Minnesota to regain some of their fundamental liberties and create opportunity for everyone by protecting the private property rights that are so vital to a free society. Americans for Prosperity-Minnesota fully supports this bill and urges its swift passage in the legislature.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Flohrs', with a stylized flourish at the end.

Jason Flohrs
State Director
Americans for Prosperity - Minnesota