



THE
AMERICAN
CONSERVATIVE
UNION



June 20, 2019

Members of the U.S. House of Representatives
United States Capitol
Washington, D.C. 20515

RE: THANK YOU for adopting Walberg #13, the Civil Forfeiture Amendment to H.R. 3055

Dear Members of Congress:

We write to commend the House of Representatives for passing Amendment #13 to H.R. 3055, the “minibus” appropriations measure being considered by the House of Representatives. This amendment, which was adopted by Voice Vote last evening and prohibits the use of funds by the Department of Justice to seek and accept “adoptive seizures,” is an important step towards reforming our nation’s civil-forfeiture laws and protecting the due-process and property rights of all Americans. Moreover, the amendment was broadly

bipartisan, with cosponsors including Reps. Tony Cardenas, Bobby Rush, Tom McClintock, Justin Amash, and Tulsi Gabbard.

As background, federal law enforcement can confiscate property it seizes from individuals and businesses without ever filing criminal charges. Those property owners must then navigate a legal system that is stacked against them if they are to have a chance to get their property back. For example, the burden is on the property owner (not the government) to file a claim and prove their own innocence, and owners of seized property have no right to counsel to contest the forfeiture. Even worse, the agency taking the property typically gets to keep the proceeds, which poses an obvious financial incentive to engage in this practice.

Members of Congress should know that civil forfeiture is deeply unpopular with the public. In a September 2018 national survey by YouGov, sponsored by the Institute for Justice, 59 percent of respondents oppose the use of civil forfeiture. Moreover, and specifically relevant to this amendment, 69 percent of Americans oppose “equitable sharing,” whereby local and state agencies work with federal officials to confiscate property in order to bypass state laws. And finally, fully 76 percent of respondents would be more likely to vote for a congressional candidate who wants to require a criminal conviction or raise the standard of proof to forfeit property.¹

Fortunately, in some states, legislatures have restricted the use of civil forfeiture or provided additional protections to the property owners. Until 2015, state and local law enforcement could evade these stricter state-level protections by asking the federal government to “adopt” a local seizure made by state law enforcement. Once “adopted,” the federal government would use federal law to forfeit the property and then “kick back” up to 80 percent of the proceeds to the state or local agency. In 2015, this practice was ended through a DOJ policy change, but in July of 2017, then-Attorney General Jeff Sessions reversed course and enabled state and local law enforcement to once again dodge state laws through this “adoption” tactic. Amendment #13 prohibits the use of funds to implement the 2017 DOJ directive that restored the use of these “adoptive seizures.”

It is crucial that the House of Representatives insist upon the inclusion of the Walberg civil-forfeiture amendment during any negotiations with the Senate over the final bill that goes to the President. If you have further questions regarding civil forfeiture, please contact Darpana Sheth with the Institute for Justice at dsheth@ij.org or Kanya Bennett at the American Civil Liberties Union at kbennett@aclu.org.

Sincerely,

Institute for Justice

American Commitment

Americans for Prosperity

Campaign for Liberty

DKT Liberty Project

Due Process Institute

The Goldwater Institute

Hispanic Leadership Fund

Law Enforcement Action Partnership

NAACP

National Association of Social Workers

National Taxpayers Union

American Civil Liberties Union

American Conservative Union

Americans for Tax Reform

Defending Rights & Dissent

Drug Policy Alliance

FreedomWorks

Heritage Action for America

Justice Action Network

The Leadership Conference on Civil and Human Rights

National Association of Criminal Defense Lawyers

National Motorists Association

R Street Institute

¹ For more information regarding the IJ/YouGov poll, see <https://ij.org/press-release/new-poll-76-of-americans-more-likely-to-vote-for-candidates-who-back-forfeiture-reform/>.