

Support HB 447: Reform Policing for Profit in Idaho

The ACLU of Idaho urges passage of HB 447 to reform Idaho’s civil asset forfeiture laws to protect the property rights of Idahoans and to ensure increased accountability and transparency within Idaho’s law enforcement agencies.

What is Civil Asset Forfeiture (CAF)? Idaho’s CAF laws allows police to seize and then keep or sell any property they allege is involved in a crime—without even charging an individual with a crime. This ability is granted to local, state, and federal law enforcement departments to seize property believed to be connected to criminal activity including an individual’s cash on hand, car, home or other property located at the scene of the suspected crime. The intent of these laws is to hinder large-scale criminal enterprises by seizing their resources.

The problem with CAF is that after taking an individual’s property, law enforcement is not required to produce any evidence of the connection between the crime and the property. Instead, if the owner wants their property back, they alone bear the burden of proof. This is an assault on property rights and on our Constitution. Even more egregious, our current CAF laws permit law enforcement agencies to collect the proceeds from civil forfeitures, funding their local budgets from seized property, which in turn creates a perverse incentive to police for profits.

According to DOJ reports in 2014, fifteen Idaho law Enforcement agencies and task forces collectively seized nearly \$800,000 worth of property. Because there are currently no reporting requirements, that number is likely considerably lower than actual numbers and includes only a *fraction* of agencies throughout the state. There is also no requirement that law enforcement report how that money is being used. The ACLU of Idaho, along with the Idaho Freedom Foundation, Idaho Association of Criminal Defense Lawyers and our legislative sponsors, asks the Idaho Legislature to support our reform efforts and restore transparency to this questionable practice.

CAF reform would benefit innocent Idaho property owners and return transparency to our law enforcement practices, as it would:

- 1) Prevent law enforcement from seizing cash without probable cause that indicates the money is connected directly to the commission of a drug crime;
- 2) Allow essential property reasonably necessary to maintaining one’s livelihood to be returned to a property owner upon show of cause and judicial determination;
- 3) Restore transparency in this policing practice by requiring police departments statewide to annually collect and report data on their use of CAF;
- 4) Protect the due process rights of property owners in Idaho.

Civil asset forfeiture reform is necessary to ensure that the rights of accused persons and innocent individuals are preserved. With growing bipartisan support for these reforms across the country, and here in Idaho, it’s time for the Idaho Legislature to protect the property rights of Idahoans, and in turn, create a smarter and fairer criminal justice system for all.