

# WHAT IS CIVIL ASSET FORFEITURE?

Civil asset forfeiture is a tool used by police to seize property and assume permanent possession of it without convicting, or even charging, the owner with a crime.

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## Private Property Is a Fundamental Right

Under current law, police can seize and take ownership of individual West Virginians' property without ever charging or convicting them of a crime. This unfair taking of personal property by government officials can include cash, vehicles, families' homes, or any property police initially think may be related to a crime. And once an individual's property is taken through civil asset forfeiture, law enforcement officials can assume complete ownership of the property, regardless of whether the individual who rightly owns the property was ever charged or convicted of the alleged crime.

Americans for Prosperity and the American Civil Liberties Union agree – West Virginia law enforcement work diligently to keep us safe, and seizing suspicious property is often essential to police investigations. But if the owner is never charged or convicted, the property should be returned.

## What can West Virginia do about it?

### *Raise Standards*

Under the Constitution, no one should be deprived of life, liberty, or property without due process of law. Police should be required to obtain a criminal conviction in order to forfeit property, proving either by clear and convincing evidence or beyond a reasonable doubt that the owner is guilty of a crime.

### *End Bad Incentives*

Even good cops can be affected by bad incentives. When the owner is innocent, their property should be returned, not pocketed by law enforcement officials.

### *Obey West Virginia Laws*

When lawmakers pass the above reforms, West Virginia police should be required to follow them. Police should not be able to skirt restrictions passed by the state legislature by participating in the federal equitable sharing program.

### *Require Better Reporting*

West Virginia currently has an "F" rating when it comes to forfeiture transparency and accountability. New law should require agencies and district attorneys at the state, county, and municipal level to report the number and dollar value of forfeitures to the state government, and make them available to the public. Reports should also indicate whether a given forfeiture was accompanied by a criminal charge or conviction.

