



June 26, 2020

## **Support the Fifth Amendment Integrity Restoration (FAIR) Act, S. 4074**

On behalf of FreedomWorks' activist community, I urge you to contact your senators and ask them to cosponsor the Fifth Amendment Integrity Restoration (FAIR) Act, S. 4074. Introduced by Sens. Rand Paul (R-Ky.), Angus King (I-Maine), Mike Crapo (R-Idaho), and Mike Lee (R-Utah), the FAIR Act would reform federal civil asset forfeiture laws to increase the evidentiary standard needed to subject property to permanent seizure and restore the presumption of innocence in federal civil forfeiture proceedings.

For far too long, federal civil asset forfeiture laws have been used to seize property merely suspected of a connection to illicit activity. Often, the property owner is not arrested for or charged with a crime, let alone convicted. The burden of proof falls on the property owner, not the government, throwing the presumption of innocence out of the window.

State and local law enforcement agencies can, through the Department of Justice's Equitable Sharing Program, receive up to 80 percent of the proceeds from the sale of seized property. This program creates a perverse profit motive to seize property and subject it to forfeiture under an incredibly low evidentiary standard, currently "a preponderance of the evidence," which amounts to a coin flip on the proof the government presents for its claim against the property.

The [Washington Post's 2014 "Stop and Seize" series](#) highlighted several stories of innocent people whose property was seized and subject to forfeiture through federal forfeiture laws. The Post reported that criminal charges were not filed in 81 percent of cases involving the Equitable Sharing Program.

The FAIR Act reforms federal forfeiture laws to increase the evidentiary standard to clear and convincing evidence from a preponderance of the evidence and restores the presumption of innocence, placing the burden of proof on the government, where it belongs. The bill would eliminate the Department of Justice's Equitable Sharing Program, which encourages and incentivizes the practice of civil asset forfeiture, and send proceeds from forfeitures to the

Treasury's general fund, removing the perverse profit motive to seize property and subject it to forfeiture. It also ensures the right to counsel in all forfeiture cases.

The rights to private property and due process are among our most basic constitutional protections. The federal government should not be allowed to permanently seize property without presenting clear and convincing evidence that the property is actually connected to illicit activity.

Too many innocent Americans have been negatively impacted by civil asset forfeiture. It's time for Congress to step up and rein in the egregious use of this practice. For these reasons, I urge you to contact your senators and ask them to cosponsor the Fifth Amendment Integrity Restoration (FAIR) Act, S. 4074.

Sincerely,

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

Adam Brandon  
President, FreedomWorks