June 19, 2019

Support the DUE PROCESS Act, H.R. 2835

On behalf of FreedomWorks’ activist community, I urge you to contact your representative and ask him or her to cosponsor the Deterring Undue Enforcement by Protecting Rights of Citizens from Excessive Searches and Seizures (DUE PROCESS) Act, H.R. 2835. Introduced by Rep. Jim Sensenbrenner (R-Wis.), the DUE PROCESS Act would reform federal civil asset forfeiture laws to, among other substantive reforms, increase the evidentiary standard, shift the burden of proof to the government, and provide counsel to those unable to afford legal representation.

Civil asset forfeiture laws put to question traditional American ideals surrounding private property, due process rights, and the presumption of innocence. By merely arguing a loose connection to criminal activity, the government has the power to permanently seize Americans’ property. Neither an arrest, charge, nor criminal conviction is necessary for the government to permanently seize property in question. Civil asset forfeiture laws also create a legal fiction because the property is on trial, not an individual.

Stories of abuse have led to state legislative activity to reform civil asset forfeiture laws. Today, more than two-dozen states evidentiary standards are clear and convincing or higher. In fact, 18 states now have a criminal conviction requirement. States that have increased evidentiary standards and enacted other civil asset forfeiture reforms in recent years include Arizona, Arkansas, Michigan, Ohio, and Pennsylvania. Seven states, including Arizona and Ohio, have closed the loophole that would otherwise have allowed the circumvention of state law to pursue forfeiture through federal law.

The DUE PROCESS Act would raise the standard of proof required to permanently seize property from a preponderance of the evidence to clear and convincing evidence. Additionally, the bill places the burden of proof on the federal government, strengthens protections for claimants by requiring a right to counsel in civil asset forfeiture cases, makes it easier for the recovery of legal fees when the property owner prevails in court, and increases accountability and transparency by requiring a yearly audit of a representative sample of forfeitures conducted under federal law by the Department of Justice Inspector General.
While the DUE PROCESS Act doesn’t eliminate the Department of Justice’s Equitable Sharing Program, as Rep. Tim Walberg’s (R-Mich.) Fifth Amendment Integrity Restoration (FAIR) Act would do, the DUE PROCESS Act is a significant step in the right direction.

Certainly, asset forfeiture can be a useful law enforcement tool when used in a limited, specific, and responsible manner, but the practice in its current state is in need of major reform. American citizens shouldn’t be treated like criminals and have personal property stolen when there is no proof of a crime.

For these reasons, it is vital to push forward necessary reforms and protect citizens’ private property and due process rights. I urge you to contact your representative and strongly encourage him or her to cosponsor the DUE PROCESS Act, H.R. 2835.

Sincerely,

Adam Brandon
President, FreedomWorks