



Stephen Hopkins Center
for Civil Rights



RHODE ISLAND CENTER FOR
FREEDOM &
PROSPERITY

Asset Forfeiture Reform in Rhode Island

Summary of 2018 Legislation – H7640 and S2681

Opportunity to Lead the Way for Civil Rights, Responsible Government, and Conscientious Budgeting

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Building off the successful “Justice Reinvestment” reforms that were enacted in by Rhode Island lawmakers in 2017, the state’s *asset forfeiture laws* should next come under scrutiny, as they can often lead to the unfettered government seizure of cars, cash, and other private property. While many policymakers might assume that such laws are directed at criminals, in reality, simply being accused of a crime or violating a regulation may be sufficient for the state to take your property.

Rhode Island was recently graded at a **D-** in a national report by the Institute for Justice for its weak civil forfeiture laws, which, nationally, have led to some of the most egregious infringements of private property rights in the U.S. today. In the past 12 years, over \$17 million of private property has been seized in our state.

While the original good intent of forfeiture laws cannot be disputed — removing the illegal gains, resources, and instruments of those committing crimes from their reach — decades of experience has made obvious the need for statutory reforms, long overdue if Rhode Island is to keep pace with criminal justice reforms being made in other states across America.

Current Law: Rhode Island law sets a *very low bar* on the front-end by allowing the government to seize property on the mere basis of criminal suspicion and for non-criminal regulatory violations. If you don’t hire a lawyer and file a lawsuit to reclaim your own property, you soon lose it. On the back-end, Rhode Island also sets a *very high bar* for innocent property owners to reclaim what is rightfully theirs. Further, state law allows the government agency that seized your property to keep the majority of it as a means to supplement their own budgets, creating a perverse incentive to violate due process and property rights.

In its January 2018 report, *Right To Earn a Living*, the Rhode Island Center for Freedom & Prosperity advocated that civil asset forfeiture reforms would improve the State’s poorly ranked business climate, by raising the bar for asset forfeiture from businesses and individuals as well as to adopt better forfeiture administration. The Hopkins Center has researched best practices in the other states that have adopted reforms, and drafted

Since 2014, 25 states and the District of Columbia have passed forfeiture reforms

<http://ij.org/activism/legislation/civil-forfeiture-legislative-highlights/>

language new criminal forfeiture law that every Rhode Island legislator could support.

Also supported by business groups, the RI ACLU, the RI Families Coalition, and civil society leaders, the *bi-partisan legislation* (H7640 & S2681) represents a total rewrite of existing statutes and which includes the following key features:

- 1. Raised the bar for seizures:** Avoids government taking for civil violations and from non-defendant property owners and co-owners, while also building-in legal protections before the state seizes property.
- 2. Lowered the bar for due process:** Provides less-burdensome, prompt, and streamlined legal procedures for innocent property owners to reclaim seized assets.
- 3. Increased transparency:** Greater transparency around forfeiture actions so that public officials and citizens have the data to provide appropriate oversight. The 4-pages of new reporting provisions include keeping track of and reporting how much the government seizes, whether property owners are ever convicted of a crime, and how much money comes in from those seizures, as opposed to the 4-lines of reporting in current law.
- 4. Enhanced administration:** Improves administration of forfeiture programs in order to increase the credibility of law enforcement as they conduct permitted seizures; including prohibition of sale of assets for any person’s gain and a streamlined process for returning property.
- 5. Budget accountability:** Unelected bureaucrats in state and local agencies should not be empowered to manage profits from asset forfeitures or be free from public accountability. Legitimately seized moneys go to the state’s general fund where duly elected officials decide if and how to redistribute them.