



To: Colorado House Judiciary Committee
Re: HB 1067
Date: March 3, 2025

Dear Chair Mike Weissman, Vice Chair Jennifer Bacon, and members of the Colorado House Judiciary Committee:

We are writing on behalf of the National Coalition for a Civil Right to Counsel (NCCRC) in support of HB 1067, which would abolish civil forfeiture in the context of drug offenses. Crucially, the bill would provide a right to counsel to claimant defendants represented by the public defender or other appointed counsel in the related forfeiture matter.

The NCCRC is an association of over 600 participants from 41 states, some of whom are in Colorado. The NCCRC works to advance and protect the right to counsel in cases involving basic human needs, and forfeiture proceedings implicate such human needs by putting at risk primary residences or money needed for subsistence living.

The stakes are undeniably high for defendants in these proceedings: when the federal government enacted H.R. 1658 (the Civil Asset Forfeiture Reform Act of 2000) to provide a right to counsel in federal civil forfeiture cases involving a primary residence, the House Judiciary Committee's report recommending passage observed that civil forfeiture is "so punitive in nature that appointed counsel should be made available for those who are indigent, or made indigent by seizure in appropriate circumstances."¹

Recently, the Michigan Advisory Committee to the U.S. Commission on Civil Rights issued a report titled [Civil Rights and Civil Asset Forfeiture in Michigan](#). The report recommended that "all property owners be afforded the right to court-appointed counsel in civil forfeiture cases where basic needs are at risk, such as shelter, sustenance, safety, health, or child custody" and that "the Department should require partnering state and local jurisdictions to uphold this right, and recommend the same of all law enforcement agencies." The report added that the lack of counsel in forfeiture proceedings significantly increases the risk of an erroneous deprivation and is likely to disproportionately impact communities of color.

Indeed, others have noted the disparate impact of forfeiture proceedings on minority and economically disenfranchised communities as well, especially in the context drug law enforcement. As the [Southern Poverty Law Center](#) writes:

The drug war has unduly harmed racial minorities, and its civil forfeiture provisions are no different. Because of racial profiling, black and Hispanic motorists are

¹ H. Rept. 106-192 at 54.

disproportionately searched and put at risk of having their cash assets seized, even though black and white drivers are equally likely to be found with narcotics. ... Forfeiture is also most likely to affect economically disadvantaged communities: One study found that areas with high income inequality were targeted for civil forfeiture operations[.]

In addition, providing a right to counsel in forfeiture cases is growing as a best practice. According to our website's [interactive map](#), seven states provide a right to counsel in at least some types of forfeiture matters. Moreover, other forfeiture bills containing right to counsel provisions have been introduced in recent years in Iowa, Kansas, Massachusetts, Minnesota, Nebraska, New Hampshire, and Tennessee.

The issue is so crucial in fact that it has gained broad bipartisan approach. In recent years, the American Legislative Exchange Council (ALEC) released [model legislation](#) urging not only the abolition of civil forfeiture, but the right to counsel in the resulting criminal forfeiture cases.

We thank you for this opportunity to provide this testimony and are happy to answer any questions the Committee may have.

Sincerely,



John Pollock
Coordinator

Amanda Insalaco
Legal Research & Legislative Specialist



INSTITUTE FOR JUSTICE

March 4, 2025

House Judiciary Committee
Colorado General Assembly
200 East Colfax Avenue, HCR 0107
Denver, Colorado 80203

Re: Letter in support of HB25-1067

Dear Chair Mabrey, Vice Chair Carter, and Members of the Committee:

Thank you for the opportunity to submit this letter in support of HB25-1067. My name is Alasdair Whitney, and I am Legislative Counsel at the Institute for Justice (IJ). For more than 30 years, IJ has worked in statehouses and courthouses around the country to protect private property rights. As part of our work, we have advocated for the repeal of civil asset forfeiture in favor of criminal asset forfeiture.

IJ urges the committee to support this bill, which would replace civil asset forfeiture with criminal asset forfeiture for controlled substance-related offenses. This means that a defendant property owner must be convicted of a drug-related offense before losing title to property via the forfeiture process. And it would provide significant protections to innocent individuals who may have unknowingly had their car or some other property used for illegal activity. Importantly, the changes proposed by this legislation would not significantly impact law enforcement's authority to (1) seize contraband or evidence, (2) fight crime, (3) prosecute criminal offenses, or (4) seek the civil forfeiture of property connected to offenses not involving controlled substances.

In Colorado today and in most states in the country, a person can be deprived of their property on the mere suspicion that it is connected to an alleged criminal offense. The state can then take title to, or forfeit, property even if the state does not charge the property owner with a criminal offense or secure a conviction. IJ believes this is fundamentally wrong.

Civil asset forfeiture traces its origins to colonial era maritime law, when the early federal government needed a way to seize property from ships involved in smuggling without having to prosecute absent shipowners. This practice was based on the legal fiction that property itself could be "guilty" of a crime. Civil asset forfeiture made sense in the Port of Baltimore in 1790 since it was the only way for colonial authorities to assert jurisdiction over property before a ship sailed away. It does not make sense on Interstate 25 in Fort Collins today, where law enforcement can almost always identify people and property connected to unlawful activity and commence criminal proceedings.

This modern application of a centuries-old practice has predictably ensnared innocent and vulnerable property owners. Indeed, extensive research shows that it disproportionately affects

low-income individuals and marginalized communities.¹ And most currency forfeited in recent years was under \$2,000 for an average of \$1,276 across 21 states.² In Colorado, the median value of forfeited currency is even lower at \$799.³ This data shows that forfeiture typically targets low-value property alleged to have been involved in criminal activity.

Although this bill will not solve every harm that civil asset forfeiture inflicts, it will make significant reforms that are designed to protect the most vulnerable Coloradans, strengthen due process protections, and ensure that police and prosecutors can continue to go after the most serious lawbreakers. To be clear, IJ does not support this bill as an anti-law enforcement measure. We acknowledge and are grateful for the important work that law enforcement does to keep the state's communities safe. And we agree that convicted criminals should be punished for breaking the law. We support this bill as a measure to codify the best practices of many law enforcement agencies into state law and ensure that forfeiture cases connected to drug-related offenses are handled uniformly throughout the state.

IJ is not asking Colorado to be a guinea pig for some untested policy experiment. Recently, three states have either significantly reformed their civil asset forfeiture laws or abolished the practice entirely, including two of Colorado's neighbors, Nebraska and New Mexico. These states, following North Carolina's lead in abolishing the practice in the 1980s, have shown through their experiences that reform is both feasible and non-disruptive. Research shows that crime rates have not surged following those reforms, despite warnings to the contrary.⁴ In sum, reforming civil asset forfeiture is possible and it need not come at the expense of fighting crime.

Thank you for your time and thoughtful consideration of this issue.

Sincerely,

Alasdair Whitney
Institute for Justice
awhitney@ij.org
www.ij.org

¹ Knepper, L., et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture*, Institute for Justice (3d ed.) (December 2020) available at <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>; Miller, C., *Civil asset forfeiture: Unfair, undemocratic, and un-American*, Southern Poverty Law Center (Oct. 30, 2017), available at <https://www.splcenter.org/resources/reports/civil-asset-forfeiture-unfair-undemocratic-and-un-american/>.

² Knepper, L., et al., *supra*.

³ *Id.*

⁴ McDonald, J., et al., *Does Civil Forfeiture Fight Crime? Evidence From New Mexico*, *Criminal Justice Review* (Nov. 3, 2024), available at <https://journals.sagepub.com/doi/abs/10.1177/07340168241285569>.

House Judiciary

03/04/2025 Upon Adjournment

HB25-1067 Criminal Asset Forfeiture Act

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Rachel Matus Against themselves	Test
Jeany Rush For themselves	<p>TO: House Judiciary Committee</p> <p>RE: HB25-1067 Criminal Asset Forfeiture Act</p> <p>Sponsors: DeGraaf, Baisley</p> <p>FROM: Jeany Rush, Colorado Springs Constituent</p> <p>VOTE: YES</p> <p>"NO PERSON SHALL BE ... DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION."</p> <p>I support this bill for peoples' rights and the large number of average citizens being horribly impacted by growing instability in our communities. I also support this bill because sadly many innocents involved in an arrest/court scenario. Often, the person accused and/or prosecuted of a crime has a family, wife, children, parents, etc. left behind. They're at the mercy of a Just System' which for a long time has not often been assured. The suffering of the innocent family members should be of the concerns.</p> <p>"Currently, on whatever allegations, citizens can be forced into a two-front war against the State. You could enter court "presumed innocent," and leave court "presumed innocent," but have the civil court next door determine you're "guilty enough" to transfer your property to the State. While there are some sizable seizures used to fund law enforcement activities, at least half of them are for less than \$800; many of which are transferred without a trial, sometimes without charges. CAF is a means by which the "presumed innocent" can still be punished or exploited by the state." KD</p> <p>Since this bill gives law enforcement and prosecutors tools to protect both accused, and innocent-owners, I hope our agencies, Police, Cities, Municipal Leagues, DA's, Sheriffs, & our Governor embrace this bill & insure people are served by our Constitution, & their oath of office. I support our law enforcement and their efforts in such trying times, & want them enabled to work for us, & protect our communities.</p>

	<p>It should be the role of government to not take property, before a conviction, & then, only if no other claims exist eg.real estate.</p> <p>If there are children, families, they may be put on the STREETS without recourse, prior to determining rights. It shouldn't be over use like by Eminent Domain! Lobbyists and interested parties shouldn't be standing in line to "GET SOME" assets. What has our society, our state come to when it has to be legislated to STAND DOWN??????</p> <p>This bill stands for Humanity and real intentions of Law. Our agencies are supposed to steward people and their rights, not rip them away. Thank you for this effort!</p>
<p>Leif Sigstedt For themselves</p>	<p>This is a necessary step to stop "policing for profit" in our state. Civil asset forfeiture was a terrible idea from the start and even the Supreme Court has ruled against it. Please join me in supporting this bill so that our state can reaffirm that this practice must end.</p>
<p>Raymond Garcia For Colorado Hispanic Republicans</p>	

February 19, 2025
Colorado House Judiciary Committee

Chair and Members of the Committee,

My name is Jeremy R. Abbott, and I am a resident of **House District 22, Colorado Springs, CO**. I strongly support **HB25-1067**, which raises the burden of proof for civil asset forfeiture to **beyond a reasonable doubt**.

Currently, the government can seize property with only a **preponderance of the evidence**—just 51% certainty. **This low standard puts innocent people at risk of losing their property without a conviction**. If the government intends to take someone's property, it should meet the same high standard required in criminal cases.

While I have not personally been affected by civil asset forfeiture, **our legal system should never allow innocent individuals to lose their property without due process**. The burden must be on the government—not the individual—to justify forfeiture.

This is not an anti-law enforcement position. I fully support ensuring that state, county, and city law enforcement agencies have the resources they need. **However, those resources should come from transparent, lawful funding—not civil asset forfeiture practices that lack proper safeguards**.

HB25-1067 is not a partisan issue; it is a fundamental protection for all Coloradans. I urge the committee to support this bill and restore fairness and accountability to the process.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "J. R. Abbott", with a long horizontal flourish extending to the right.

Jeremy R. Abbott
Resident, House District 22, Colorado Springs, CO