

Wyoming Liberty Index

62nd Wyoming Legislature ★ 2014 Budget Session

HB0107, Forfeiture of property for criminal offenses.

Sponsors: Representative(s) Gingery, Kroeker and Loucks and Senator(s) Case

Comments

A bill to create criminal forfeiture (with the standard of "clear and convincing evidence"), define it narrowly, and ban civil forfeiture, which has a standard of "preponderance of the evidence". While Wyoming has no record of abuse of civil forfeiture, that record may not last forever. We need this to protect our property rights.

U: The fiscal impact to the judicial system is indeterminable due to an unknown number of cases. This is a wonderful example of Jekyll and Hyde legislation! This is legislation that is long overdue to protect the liberty and property of the People against overzealous or avaricious agents of government. This would be Hallelujah legislation except for 7-7-230 (b) "For a state government unit to transfer a criminal investigation or proceeding that includes forfeiture to the federal government, a state court shall affirmatively find that: (ii) The seized property is forfeitable only as a violation of federal law." This is a loophole big enough to drive a tank thru! If something is not forfeit-able under state law, then the state should not provide fiduciary encouragement to Wyoming peace officers, judges, attorneys general, or other officials that allows them to, at best, circumvent Wyoming law or, at worst, to break Wyoming law in spirit if not in actual fact! This is bad enough that, at first, it dropped the entire bill right to the bottom of the liberty scale! However, after reflection, the assessment is that, on net, it would probably be a little bit better to have the legislation than not to have it on the books.

Weighted Rating: 1.50. Unweighted Rating: 1.00.

Categories

General Government, Individual Rights, and Limited Government

For more information on the categories:

<http://wyominglibertyindex.info/2014/methodology.html#thecategories>

Document Status

Final