



**AMERICANS FOR
PROSPERITY.**

Testimony in Support of House Bill 2648
Before the House Committee on Judiciary, Kansas Legislature
Jon Lueth, Deputy State Director, Americans for Prosperity – Kansas
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Thank you, Chair Patton and members of the House Committee on Judiciary for allowing me to testify today in support of House Bill 2648. My name is Jon Lueth, and I am the Deputy State Director for Americans for Prosperity – Kansas. We are a grassroots organization dedicated to outreach, education, and advocacy on long-term solutions to the country’s biggest problems that prevent people from realizing their full potential. This necessarily includes improving our criminal justice system so that it maximizes public safety, respects human dignity, and ensures equal justice for all.

Civil asset forfeiture allows law enforcement to seize property if it allegedly was used in a crime or derived from a crime without the need to charge, let alone convict, a person of a criminal offense. The property owner or possessor, not the government, bears the burden of proving their property is innocent of any crime. Additionally, law enforcement gets to keep a significant portion of the proceeds if the property is ultimately forfeited. This flips the principles of “innocent until proven guilty” on its head and creates negative financial incentives for law enforcement agencies that should be fully funded by taxpayers as a core government function. A focus on revenue collection through forfeiture diverts officers’ time and energy away from solving and preventing violent and property crimes and erodes the relationship between police and the citizens they are hired to serve.

In 2018, members of the Kansas Legislature passed a bill requiring the Kansas Bureau of Investigation to establish a platform for every local law enforcement agency in Kansas to report comprehensive information on every seizure and forfeiture in the state. The three years of data that have been reported so far confirm one thing – the government is not using forfeiture to seize the proceeds of the activities of cartel members or organized crime, but instead to seize small sums of money from ordinary Kansans. In just three years, they have seized more than \$10 million in cash, vehicles, and other property but a growing majority of those seizures are valued at less than \$2,000.¹ We also now know that a substantial portion of these seizures never results in criminal charges or a conviction.² This data reveals that law enforcement in Kansas is frequently using this power to seize the property of innocent Kansans without the necessary due process protections normally provided in our criminal justice system.

¹ Kansas Bureau of Investigation, 2019-2021 Excel Files - Kansas Asset Seizure and Forfeiture Repository, Kansas Bureau of Investigation (2022), available at <https://kasfr.kbi.ks.gov/res/p/download/>.

² The percentage of cases not resulting in a conviction or criminal charges vary based on year – 54% in 2018, 46% in 2019, and 44% in 2020. See Kansas Bureau of Investigation, *supra* note 1.

H.B. 2648 presents an opportunity for the Kansas Legislature to ensure this extraordinary power provided to law enforcement is used for its intended purpose. This legislation will not take away law enforcement's ability to seize property connected with or involved in crime and will only require them to wait until after a criminal conviction has been secured to forfeit any property they have seized. It will also take steps to conform Kansas law with the recent U.S. Supreme Court ruling in *Timbs v. Indiana* where the Court unanimously ruled that the 8th Amendment's excessive fines clause applied to a state's use of fines and forfeitures. We believe these reforms are vital to protect innocent property owners and ensure law enforcement can focus on their core mission of preventing and solving violent crime. The legislature and local governments should fully fund our law enforcement agencies so that they do not feel compelled to act as tax collectors to keep our communities safe. We hope that you will promptly advance this legislation to the full House and allow them to consider this important issue.

Jonathan Lueth

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