



Written by [Kelly Holt](#) on May 6, 2015

Texas Representative Stands Up to Civil Asset Forfeiture

Texas has stepped up to the plate in an effort to ensure that people's property stays theirs, so to speak. Hoping to repeal the abusive and unethical practices of civil asset forfeiture, Texas State Representative David Simpson has introduced [HB 3171](#) in the biennial legislative session to protect innocent third parties and their property.

Civil asset forfeiture is not only unethical, it is lawful. The term applies to the practice of law enforcement seizing property suspected of being used for, or obtained by, criminal activity. Via [civil asset forfeiture](#) property is actually charged with a crime, without its owner ever having been found guilty of a crime. Intended to be a tool in the law-enforcement toolbox, particularly against organized crime, modern practices result in seizures of property as a way to generate revenue — innocent members of the public notwithstanding. Essentially, property owners are presumed guilty until proven innocent.



In October 2014, the [Washington Post](#) published an article reporting about how thousands of local and state agencies are spending their windfalls — including “on luxury vehicles, travel and a clown named Sparkles.”

Texas law currently states that all persons are presumed to be innocent (except when they have something the government wants to take). [Simpson](#) wrote,

The same is not true for a person's property, which law enforcement can currently seize and have forfeited through a civil process which requires the state to prove only by a preponderance (50.01%) of the evidence that the property was used in or the result of criminal activity. Under current law, property may be seized and forfeited even if the property owner is never charged. Outrageously, in cases of dismissal or acquittal, the property DOES NOT have to be returned to the owner. For this reason, I introduced [HB 3171](#), which would repeal civil asset forfeiture and require a criminal conviction before someone's property is forfeited in Texas.

To illustrate his point, Simpson's blog included a link to a humorous YouTube clip of [John Oliver](#) examining current civil forfeiture injustices that have actually happened wherein innocent civilians had their cash, homes, or cars seized — essentially for being in the wrong place at the right time.

Texas joins its neighboring state of [New Mexico](#) in opposing this practice. In April, New Mexico Governor Susana Martinez signed a bill into law prohibiting the state from confiscating property from



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suspects of a crime until after they are convicted.

Simpson agrees. He notes on his blog that the bill “protects the ability of law enforcement to continue to seize property that is suspected to be the ill-gotten gains from a crime or used in a crime, but the property would not be forfeited until after a criminal conviction is obtained. My proposed bill respects and reinforces our Fourth and Fifth Amendment constitutional rights which protect innocent third parties and give due process to those suspected of criminal activity.”

Simpson gained state and national recognition in his freshman term by taking on the highly unpopular TSA in Texas. While his effort was ultimately derailed by legislative politics, his bill requiring the TSA to keep its mitts off travelers passed unanimously in the state’s House of Representatives that year. He has stood virtually alone in Texas by taking unpopular stances on, for instance, requiring that the House of Representatives abide by the House rules, but has gained a hard-earned reputation as a constitutionalist where one is desperately needed.

Many Texans have applauded Simpson’s bill, and support his efforts. In an era where the sanctity of private property is under assault, this basic tenet of our heritage needs a hero.



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