

By: Noble, Leach, et al.

H.B. No. 1874

Substitute the following for H.B. No. 1874:

By: Moody

C.S.H.B. No. 1874

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the award of attorney's fees in a civil asset forfeiture
3 proceeding.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 59.05, Code of Criminal Procedure, is
6 amended by adding Subsection (h) to read as follows:

7 (h) Notwithstanding any other law, after the commencement
8 of discovery in a forfeiture proceeding under this chapter, and on
9 the court's determination that the property or an interest in the
10 property is not subject to forfeiture under this chapter, the court
11 shall enter an order requiring the law enforcement agency
12 responsible for seizing the property to reimburse the applicable
13 owner or interest holder for reasonable attorney's fees calculated
14 in accordance with the attorney's fees schedule promulgated under
15 Section 72.039, Government Code. If possible, notwithstanding the
16 purposes for which the money must be used under the law, the law
17 enforcement agency shall make the payment out of money available in
18 the applicable fund established for the law enforcement agency
19 under Article 59.06(c)(2), (3), or (4).

20 SECTION 2. Subchapter C, Chapter 72, Government Code, is
21 amended by adding Section 72.039 to read as follows:

22 Sec. 72.039. ATTORNEY'S FEES SCHEDULE. The Office of Court
23 Administration of the Texas Judicial System shall promulgate a
24 schedule of attorney's fees that may be used to determine a

1 reasonable amount of attorney's fees to award under Article
2 59.05(h), Code of Criminal Procedure.

3 SECTION 3. The change in law made by this Act applies only
4 to property subject to forfeiture on the basis of an offense
5 committed on or after the effective date of this Act. Property
6 subject to forfeiture on the basis of an offense committed before
7 the effective date of this Act is governed by the law in effect on
8 the date the offense was committed, and the former law is continued
9 in effect for that purpose. For purposes of this section, an
10 offense was committed before the effective date of this Act if any
11 element of the offense occurred before that date.

12 SECTION 4. This Act takes effect September 1, 2023.