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H.B. No. 3659

A BILL TO BE ENTITLED

AN ACT

relating to civil asset forfeiture proceedings, to the seizure and forfeiture of certain property, and to the reporting and disposition of proceeds and property from civil asset forfeiture.

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

SECTION 1. Article 59.02, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as otherwise provided by Subsection (a-1), property [Property] that is contraband is subject to seizure and forfeiture under this chapter.

(a-1)(1) Property that is contraband is not subject to seizure and forfeiture under this chapter if the property:

(A) is not otherwise unlawful to possess; and

(B) has an aggregate value of less than \$2,500.

(2) For purposes of determining the aggregate value of contraband under Subdivision (1), the owner or interest holder is not required to have simultaneously owned or had an interest in all of the property constituting contraband.

(3) Subdivision (1) does not apply to money that is used by law enforcement during an undercover criminal investigation of an offense under Subchapter D, Chapter 481, Health and Safety Code.

SECTION 2. Article 59.021(d), Code of Criminal Procedure,

1 is amended to read as follows:

2 (d) After seizure of the substitute property, the
3 disposition shall proceed as other cases in this chapter except
4 that the attorney representing the state must prove by clear and
5 convincing [~~a preponderance of the~~] evidence:

6 (1) that the contraband described by Subsection (b)
7 was subject to seizure and forfeiture under this chapter;

8 (2) the highest fair market value of that contraband
9 during the period in which the owner of the substitute property
10 owned, or had an interest in, the contraband;

11 (3) the fair market value of the substitute property
12 at the time it was seized; and

13 (4) that the owner of the substitute property owned or
14 had an interest in contraband with an aggregate value of \$200,000 or
15 more in connection with the commission of an underlying offense
16 giving rise to the forfeiture.

17 SECTION 3. Article 59.05(b), Code of Criminal Procedure, is
18 amended to read as follows:

19 (b) All cases under this chapter shall proceed to trial in
20 the same manner as in other civil cases. The state has the burden of
21 proving by clear and convincing [~~a preponderance of the~~] evidence
22 that property is subject to forfeiture.

23 SECTION 4. Chapter 59, Code of Criminal Procedure, is
24 amended by adding Article 59.063 to read as follows:

25 Art. 59.063. UNIFORM REPORTING REQUIREMENT FOR LAW
26 ENFORCEMENT AGENCIES. (a) A law enforcement agency engaged in the
27 seizure, forfeiture, receipt, or expenditure of proceeds and

1 property under this chapter shall submit a monthly report to the
2 attorney general's office. The monthly report must:

3 (1) include all of the information required by the
4 audit under Article 59.06(g)(1); and

5 (2) specify the number of seizures challenged or not
6 challenged by an owner or interest holder of the property.

7 (b) Each law enforcement agency shall file the report
8 described by Subsection (a) covering the seizure, forfeiture,
9 receipt, or expenditure of proceeds and property under this chapter
10 by the agency during the preceding month. An agency that did not
11 engage in a seizure or forfeiture during the reporting period must
12 indicate that fact in the report.

13 (c) The attorney general's office shall adopt a standard
14 form for the submission of a report under this section.

15 (d) Subject to Subsection (e), the attorney general's
16 office shall publish on the office's Internet website a monthly
17 report that includes each agency's specific information submitted
18 to the office under this section. The report must also aggregate the
19 information by law enforcement agency and include the total value
20 of proceeds and property seized by all law enforcement agencies
21 during the reporting period.

22 (e) The attorney general's report under Subsection (d) and
23 the Internet website may not include:

24 (1) the name, address, contact information, or other
25 identifying information of an owner or interest holder of the
26 seized or forfeited property or of another individual or entity
27 involved in the forfeiture proceeding; or

1 (2) the location, vehicle identification number, or
2 serial number of any seized or forfeited property.

3 SECTION 5. Articles 59.02, 59.021, and 59.05, Code of
4 Criminal Procedure, as amended by this Act, apply only to a
5 forfeiture proceeding that begins on or after the effective date of
6 this Act. A forfeiture proceeding that begins before the effective
7 date of this Act is governed by the law in effect on the date the
8 proceeding begins, and the former law is continued in effect for
9 that purpose.

10 SECTION 6. This Act takes effect September 1, 2023.