

By: Hefner

H.B. No. 3659

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to civil asset forfeiture proceedings, to the seizure and  
3 forfeiture of certain property, and to the reporting and  
4 disposition of proceeds and property from civil asset forfeiture.

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

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

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

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

14 (A) is not otherwise unlawful to possess; and

15 (B) has an aggregate value of less than \$5,000.

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

20 SECTION 2. Article 59.021(d), Code of Criminal Procedure,  
21 is amended to read as follows:

22 (d) After seizure of the substitute property, the  
23 disposition shall proceed as other cases in this chapter except  
24 that the attorney representing the state must prove by clear and

1 convincing [~~a preponderance of the~~] evidence:

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

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

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

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

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

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

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

21 Art. 59.063. UNIFORM REPORTING REQUIREMENT FOR LAW  
22 ENFORCEMENT AGENCIES. (a) A law enforcement agency engaged in the  
23 seizure, forfeiture, receipt, or expenditure of proceeds and  
24 property under this chapter shall submit a monthly report to the  
25 attorney general's office. The monthly report must:

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

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

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

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

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

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

20           (1) the name, address, contact information, or other  
21 identifying information of an owner or interest holder of the  
22 seized or forfeited property or of another individual or entity  
23 involved in the forfeiture proceeding; or

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

26           SECTION 5. Articles 59.02, 59.021, and 59.05, Code of  
27 Criminal Procedure, as amended by this Act, apply only to a

1 forfeiture proceeding that begins on or after the effective date of  
2 this Act. A forfeiture proceeding that begins before the effective  
3 date of this Act is governed by the law in effect on the date the  
4 proceeding begins, and the former law is continued in effect for  
5 that purpose.

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