

By: Anchia

H.B. No. 1108

A BILL TO BE ENTITLED

AN ACT

relating to the forfeiture of certain contraband used in the commission of offenses involving prostitution.

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

SECTION 1. Article 59.01(1), Code of Criminal Procedure, is amended to read as follows:

(1) "Attorney representing the state" means:

(A) the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter;

(B) in a proceeding for forfeiture of contraband as defined under Subdivision (2)(A)(iv) of this article, the city attorney of a municipality if:

(i) the property is seized in the municipality by a peace officer employed by the municipality;

(ii) the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding; and

(iii) the city attorney accepts jurisdiction under this subdivision;

(C) [er,] in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(v) [~~(2)(B)(iv)~~] of this article, the city attorney of a municipality if:

(i) the property is seized in that

1 municipality by a peace officer employed by that municipality; and
2 (ii) the governing body of the municipality
3 has approved procedures for the city attorney acting in a
4 forfeiture proceeding; or

5 (D) in [~~. In~~] a proceeding for forfeiture of
6 contraband as defined under Subdivision (2)(B)(vii) of this
7 article, the prosecutor with felony jurisdiction in the county in
8 which the forfeiture proceeding is held under this chapter or [~~the~~
9 ~~term includes~~] the attorney general.

10 SECTION 2. Article 59.01(2), Code of Criminal Procedure, as
11 amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and
12 Section 3, Chapter 649, Acts of the 78th Legislature, Regular
13 Session, 2003, is reenacted and amended to read as follows:

14 (2) "Contraband" means property of any nature,
15 including real, personal, tangible, or intangible, that is:

16 (A) used in the commission of:

17 (i) any first or second degree felony under
18 the Penal Code;

19 (ii) any felony under Section 15.031(b),
20 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32,
21 33, 33A, or 35, Penal Code; [~~or~~]

22 (iii) any felony under The Securities Act
23 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

24 (iv) a misdemeanor under Section
25 43.02(a)(2), Penal Code, except that for the purpose of this
26 subparagraph only, the property that constitutes contraband is a
27 motor vehicle used in the commission of the offense;

1 (B) used or intended to be used in the commission
2 of:

3 (i) any felony under Chapter 481, Health
4 and Safety Code (Texas Controlled Substances Act);

5 (ii) any felony under Chapter 483, Health
6 and Safety Code;

7 (iii) a felony under Chapter 153, Finance
8 Code;

9 (iv) any felony under Chapter 34, Penal
10 Code;

11 (v) a Class A misdemeanor under Subchapter
12 B, Chapter 365, Health and Safety Code, if the defendant has been
13 previously convicted twice of an offense under that subchapter;

14 (vi) any felony under Chapter 152, Finance
15 Code; ~~or~~

16 (vii) any felony under Chapter 31, 32, or
17 37, Penal Code, that involves the state Medicaid program, or any
18 felony under Chapter 36, Human Resources Code; or

19 (viii) [~~(vii)~~] a Class B misdemeanor under
20 Section 35.58, Business & Commerce Code;

21 (C) the proceeds gained from the commission of a
22 felony listed in Paragraph (A) or (B) of this subdivision, a
23 misdemeanor listed in Paragraph (B)(viii) [~~(B)(vii)~~] of this
24 subdivision, or a crime of violence; or

25 (D) acquired with proceeds gained from the
26 commission of a felony listed in Paragraph (A) or (B) of this
27 subdivision, a misdemeanor listed in Paragraph (B)(viii)

1 [~~(B)(vii)~~] of this subdivision, or a crime of violence.

2 SECTION 3. The change in law made by this Act applies only
3 to the forfeiture of contraband used in the commission of an offense
4 under Section 43.02(a)(2), Penal Code, committed on or after the
5 effective date of this Act. Forfeiture of contraband used in the
6 commission of an offense under Section 43.02(a)(2), Penal Code,
7 committed before the effective date of this Act is covered by the
8 law in effect when the offense was committed, and the former law is
9 continued in effect for that purpose. For purposes of this section,
10 an offense is committed before the effective date of this Act if any
11 element of the offense occurs before that date.

12 SECTION 4. This Act takes effect September 1, 2005.