

BILL ANALYSIS

S.B. 1701
By: Williams
Criminal Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

Occasionally, a court conducting a contraband forfeiture proceeding is unable to locate property required to be forfeited or the person owning the property has taken some measure to hide the property or diminish the property's value. S.B. 1701 seeks to remedy such situations by authorizing a court in a criminal asset forfeiture hearing to order the forfeiture of substitute assets for the property originally ordered forfeited under certain circumstances.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1701 amends the Code of Criminal Procedure to authorize a court to order the forfeiture of any other property of a person that otherwise is not subject to forfeiture under statutory provisions governing forfeiture hearings relating to the forfeiture of contraband if the court finds that property of the person that was originally ordered forfeited by the court, as a result of an act or omission of the person, cannot be located on exercise of due diligence; has been transferred, conveyed, or sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property and cannot be separated without difficulty. The bill prohibits the court, in ordering such a forfeiture of substitute assets, from ordering the forfeiture of property with a value greater than the value of the property originally ordered forfeited by the court.

EFFECTIVE DATE

September 1, 2011.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1, in the provision establishing as a basis for a court's authority to order the forfeiture of substitute assets the fact that the property originally ordered forfeited has been substantially diminished in value, specifies that such property was diminished in value by the person whose property was originally forfeited.