

By: Carter

H.B. No. 1849

A BILL TO BE ENTITLED

AN ACT

relating to criminal asset forfeiture, the disposition of proceeds and property from criminal asset forfeiture, and accountability for that disposition.

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

SECTION 1. Article 59.06, Code of Criminal Procedure, is amended by amending Subsections (c), (c-1), and (g) and adding Subsections (d-3) and (d-4) to read as follows:

(c) If a local agreement exists between the attorney representing the state and law enforcement agencies, all money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, shall be deposited, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), according to the terms of the agreement into one or more of the following funds:

(1) a special fund in the county treasury for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposes of his office;

(2) a special fund in the municipal treasury if distributed to a municipal law enforcement agency, to be used solely for law enforcement purposes[~~, such as salaries and overtime pay for officers, officer training, specialized investigative equipment and supplies, and items used by officers in direct law enforcement duties~~];

1 (3) a special fund in the county treasury if
2 distributed to a county law enforcement agency, to be used solely
3 for law enforcement purposes; or

4 (4) a special fund in the state law enforcement agency
5 if distributed to a state law enforcement agency, to be used solely
6 for law enforcement purposes.

7 (c-1) Notwithstanding Subsection (a), the attorney
8 representing the state and special rangers of the Texas and
9 Southwestern Cattle Raisers Association who meet the requirements
10 of Article 2.125 may enter into a local agreement that allows the
11 attorney representing the state to transfer proceeds from the sale
12 of forfeited property described by Subsection (c), after the
13 deduction of court costs as described by that subsection, to a
14 special fund established for the special rangers. Proceeds
15 transferred under this subsection must be used by the special
16 rangers solely for law enforcement purposes[~~, such as training,~~
17 ~~essential equipment, and operating expenses~~]. Any expenditures of
18 the proceeds are subject to the audit provisions established under
19 this article.

20 (d-3) Except as otherwise provided by this article, an
21 expenditure of proceeds or property received under this chapter is
22 considered to be for a law enforcement purpose if the expenditure is
23 made for an activity of a law enforcement agency that relates to the
24 criminal and civil enforcement of the laws of this state, including
25 an expenditure made for:

26 (1) salary and overtime of employees;

27 (2) equipment, including vehicles, computers,

firearms, protective body armor, furniture, software, uniforms,
and maintenance equipment;

(3) supplies, including office supplies, mobile phone
and data account fees for employees, and Internet services;

(4) investigative and training-related travel
expenses, including payment for hotel rooms, airfare, meals, rental
of and fuel for a motor vehicle, and parking;

(5) conferences and training expenses, including fees
and materials;

(6) investigative costs, including payments to
informants and lab expenses;

(7) crime prevention and treatment programs;

(8) facility costs, including building purchase,
lease payments, remodeling and renovating, maintenance, and
utilities;

(9) witness-related costs, including travel and
security; and

(10) audit costs and fees, including audit preparation
and professional fees.

(d-4) Except as otherwise provided by this article, an
expenditure of proceeds or property received under this chapter is
considered to be for an official purpose of an attorney's office if
the expenditure is made for an activity of an attorney representing
the state that relates to the criminal and civil enforcement of the
laws of this state, including an expenditure made for:

(1) salary and overtime of employees;

(2) equipment, including vehicles, computers, visual

aid equipment for litigation, firearms, body armor, furniture, software, and uniforms;

(3) supplies, including office supplies, legal library supplies and access fees, mobile phone and data account fees for employees, and Internet services;

(4) prosecution and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking;

(5) conferences and training expenses, including fees and materials;

(6) investigative costs, including payments to informants and lab expenses;

(7) crime prevention and treatment programs;

(8) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities; and

(9) legal fees, including court costs, witness fees, and audit costs and fees.

(g)(1) All law enforcement agencies and attorneys representing the state who receive proceeds or property under this chapter shall account for the seizure, forfeiture, receipt, and specific expenditure of all the proceeds and property in an audit, which is to be performed annually by the auditor of the law enforcement agency, the political subdivision of the state, or the attorney representing the state ~~[commissioners court or governing body of a municipality]~~, as appropriate, or an accounting professional under contract for the purpose of complying with this

1 subdivision. The annual period of the audit for a law enforcement
2 agency is the fiscal year of the appropriate county or municipality
3 and the annual period for an attorney representing the state is the
4 state fiscal year. The attorney general may adopt a secure process
5 for electronically completing, verifying, and submitting an audit
6 report under this subdivision. The secure process adopted under
7 this subdivision may require digital signatures or unique login
8 protocols. The audit must be completed on an audit reporting [a]
9 form provided by the attorney general and available on the attorney
10 general's Internet website or completed electronically according
11 to the protocols adopted by the attorney general and must include a
12 detailed list [~~report~~] and explanation of all expenditures,
13 including salaries and overtime pay, officer training,
14 investigative equipment and supplies, and other items. The
15 completed audit report must be certified by the auditor or
16 accounting professional and the head of the law enforcement agency,
17 political subdivision, or attorney representing the state in a
18 manner specified by the attorney general to show that the
19 information provided is correct. Certified copies of the audit
20 report shall be delivered or electronically submitted by the law
21 enforcement agency or attorney representing the state to the
22 attorney general not later than the 60th day after the date on which
23 the annual period that is the subject of the audit ends.

24 (2) If a copy of the audit report is not delivered or
25 electronically submitted to the attorney general within the period
26 required by Subdivision (1), within five days after the end of the
27 period the attorney general shall notify the law enforcement agency

1 or the attorney representing the state of that fact. On a showing
 2 of good cause, the attorney general may grant an extension
 3 permitting the agency or attorney to deliver or electronically
 4 submit a copy of the audit report after the period required by
 5 Subdivision (1) and before the 76th day after the date on which the
 6 annual period that is the subject of the audit ends. If the law
 7 enforcement agency or the attorney representing the state fails to
 8 establish good cause for not delivering or electronically
 9 submitting the copy of the audit report within the period required
 10 by Subdivision (1) or fails to deliver or electronically submit a
 11 copy of an audit report within the extension period, the attorney
 12 general shall notify the comptroller of that fact.

13 (3) On notice under Subdivision (2), the comptroller
 14 shall perform the audit otherwise required by Subdivision (1). At
 15 the conclusion of the audit, the comptroller shall forward or
 16 electronically submit a copy of the audit report to the attorney
 17 general. The law enforcement agency or attorney representing the
 18 state is liable to the comptroller for the costs of the comptroller
 19 in performing the audit.

20 SECTION 2. The changes in law made by this Act in adding
 21 Articles 59.06(d-3) and (d-4), Code of Criminal Procedure, apply to
 22 the disposition or use, on or after the effective date of this Act,
 23 of proceeds or property received by a law enforcement agency or
 24 attorney representing the state under Chapter 59, Code of Criminal
 25 Procedure, regardless of whether the receipt of the proceeds or
 26 property occurred before, on, or after the effective date of this
 27 Act.

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1 SECTION 3. The changes in law made by this Act in amending
2 Article 59.06(g), Code of Criminal Procedure, apply to any audit
3 performed under that subsection on or after the effective date of
4 this Act.

5 SECTION 4. This Act takes effect September 1, 2013.