

By: Leach

H.B. No. 248

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the state's burden of proof in a criminal asset  
3 forfeiture proceeding.

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

5 SECTION 1. Article 59.021(d), Code of Criminal Procedure,  
6 is amended to read as follows:

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

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

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

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

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

22 SECTION 2. Article 59.05(b), Code of Criminal Procedure, is  
23 amended to read as follows:

24 (b) All cases under this chapter shall proceed to trial in

1 the same manner as in other civil cases. The state has the burden of  
2 proving by clear and convincing [~~a preponderance of the~~] evidence  
3 that property is subject to forfeiture.

4 SECTION 3. The change in law made by this Act applies only  
5 to a forfeiture proceeding that begins on or after the effective  
6 date of this Act. A forfeiture proceeding that begins before the  
7 effective date of this Act is governed by the law in effect on the  
8 date the proceeding begins, and the former law is continued in  
9 effect for that purpose.

10 SECTION 4. This Act takes effect September 1, 2015.