

By: Huffines

S.B. No. 1676

A BILL TO BE ENTITLED

AN ACT

relating to the state's burden of proof in certain criminal asset forfeiture proceedings.

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

SECTION 1. Articles 59.05(b) and (d), Code of Criminal Procedure, are amended to read as follows:

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

(d) A final conviction for an underlying offense is ~~[not]~~ a requirement for forfeiture under this chapter. ~~[An owner or interest holder may present evidence of a dismissal or acquittal of an underlying offense in a forfeiture proceeding, and evidence of an acquittal raises a presumption that the property or interest that is the subject of the hearing is nonforfeitable. This presumption can be rebutted by evidence that the owner or interest holder knew or should have known that the property was contraband.]~~

SECTION 2. This Act takes effect September 1, 2015.