

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB344** by Canales (relating to criminal asset forfeiture proceedings.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB344, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from Federal Funds
	555
2018	(\$1,031,729)
2019	(\$1,031,729)
2020	(\$1,031,729)
2021	(\$1,031,729)
2022	(\$1,031,729)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Parks and Wildlife Code to change the state's burden of proof in certain criminal asset forfeiture proceedings from the demonstration of "a preponderance of the evidence" to the demonstration of "clear and convincing evidence."

The bill would also proscribe a law enforcement agency or attorney representing the state from transferring seized property to any federal law enforcement authority or other federal agency, or coordinating with the federal authority or agency regarding seized property, unless the value of

the seized property exceeds \$50,000, and the attorney representing the state determines that the activity giving rise to the applicable seizure is interstate in nature and sufficiently complex to justify the transfer, or the seized property may only be forfeited under federal law.

The bill would take effect September 1, 2017.

Methodology

The Department of Public Safety (DPS) has indicated that the agency already follows a "clear and convincing" burden of proof in criminal asset forfeiture proceedings. It is therefore presumed the bill's requirement that a "clear and convincing" burden of proof be demonstrated in certain criminal asset forfeiture proceedings would not result in a decrease in the amount of assets being forfeited.

However, it is also presumed the bill's requirements limiting the transfer of seized property to federal authorities would result in a decrease to the amount of federal seized funds awarded to DPS. DPS reports the agency was awarded federal seized funds of \$17,195,487 in the last five years, for a yearly average of \$3,439,098. DPS has estimated that 30 percent, or \$1,031,729, of the seizures were from seizures below \$50,000. This fiscal note estimates that federal seized funds awarded to DPS could be reduced by \$1,031,729 per year.

Technology

No significant technology-related implications are anticipated.

Local Government Impact

According to the Houston Police Department, no fiscal impact is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 802 Parks and Wildlife Department

LBB Staff: UP, KJo, AI, JAW, JGA, PBO