

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 15, 2019

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: HB404 by Thompson, Senfronia (Relating to repealing civil asset forfeiture provisions and establishing criminal asset forfeiture in this state.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB404, As Introduced: a negative impact of (\$9,296,000) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$4,648,000)
2021	(\$4,648,000)
2022	(\$4,648,000)
2023	(\$4,648,000)
2024	(\$4,648,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666	Probable Revenue Gain/(Loss) from <i>Game, Fish, Water Safety</i> 9	Probable Revenue Gain/(Loss) from <i>Attorney General Law Enforcement Acct</i> 5006
2020	(\$4,648,000)	(\$1,293,960)	(\$4,000)	(\$533,000)
2021	(\$4,648,000)	(\$1,293,960)	(\$4,000)	(\$533,000)
2022	(\$4,648,000)	(\$1,293,960)	(\$4,000)	(\$533,000)
2023	(\$4,648,000)	(\$1,293,960)	(\$4,000)	(\$533,000)
2024	(\$4,648,000)	(\$1,293,960)	(\$4,000)	(\$533,000)

Fiscal Analysis

The bill repeals certain civil asset forfeiture provisions and establishes a new article in the Code

of Criminal Procedure pertaining to criminal asset forfeiture.

The bill adds certain provision to the Code of Criminal Procedure, including: adds certain offenses that would be subject to seizure; proscribes the forfeiture of contraband and authorizes its seizure and final disposition; allows for substitution of certain property; defines methods for property seizure; requires itemized receipts of seized property; requires all property and proceeds from forfeiture stay local; establishes a reporting requirement in electronic format; allows for civil forfeiture regardless of whether a person has been convicted of an offense subject to forfeiture in connection with property if the property was seized with probable cause that it was involved in the commission of a felony or obtained directly or indirectly through the commission of a felony, and the property owner has not claimed the property or asserted any interest in the property, or is unavailable, as defined by the bill; and prohibits the transfer of seized property to any federal law enforcement authority or agency unless the value of the property exceeds \$50,000 and the attorney representing the state determines that the investigation or seizure is interstate in nature and sufficiently complex to justify the transfer or the seized property may only be forfeited under federal law.

This bill also modifies the Code of Criminal Procedure to require the sworn affidavit for a search warrant to clarify the property or items to be searched for or seized are also subject to forfeiture under the terms created by this bill.

Methodology

According to analysis by the Comptroller of Public Accounts (CPA), the bill would eliminate civil asset forfeitures, with some exceptions. The will would also require that revenue from forfeitures or from the sale of abandoned property remain local. The analysis assumes the provisions of the bill would not address Title 6 Chapter 71 of the Property Code regarding escheat of property which concerns abandoned or unclaimed property which reverts to the state of Texas.

The fiscal impacts shown in the table are revenue loss estimates based on historical collection data of state seizure awards. CPA's estimated loss to the General Revenue Fund, based on data received from relative state agencies is \$4,648,000, estimated loss to the Game, Fish, and Water Safety Account is \$4,000, estimated loss to the Attorney General Law Enforcement Account is \$533,000, and estimated loss to Appropriated Receipts is \$27,000.

According to analysis provided by the Department of Public Safety (DPS), it is estimated that the state seizure awards to DPS will decrease by \$1,266,960 per fiscal year. This amount is based on the average awarded funds to the agency in the last four fiscal years.

It is assumed that any administrative costs to DPS can be absorbed within existing resources.

Local Government Impact

El Paso County anticipates a fiscal impact of \$458,708 in FY 2019 and \$369,744 annually thereafter. Harris County estimates the County could be impacted by \$3.0 million annually.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: WP, LBO, AI, SMi, LCO, AF, GDz