

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 14, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB251 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 HB251, As Introduced : a negative impact of (\$8,080,000) through the biennium ending August 31, 2023.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	(\$4,040,000)
2023	(\$4,040,000)
2024	(\$4,040,000)
2025	(\$4,040,000)
2026	(\$4,040,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Ag Law Enforcement Acct 5006	Probable Revenue Gain/(Loss) from Game, Fish, Water Safety Ac 9	Probable Revenue Gain/(Loss) from Federal Funds 555
2022	(\$4,040,000)	(\$440,000)	(\$6,000)	(\$796,984)
2023	(\$4,040,000)	(\$440,000)	(\$6,000)	(\$796,984)
2024	(\$4,040,000)	(\$440,000)	(\$6,000)	(\$796,984)
2025	(\$4,040,000)	(\$440,000)	(\$6,000)	(\$796,984)
2026	(\$4,040,000)	(\$440,000)	(\$6,000)	(\$796,984)

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from Appropriated Receipts 666
2022	(\$1,216,981)
2023	(\$1,216,981)
2024	(\$1,216,981)
2025	(\$1,216,981)
2026	(\$1,216,981)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure by repealing Chapter 59, regarding forfeiture of contraband, and adding Chapter 59A, regarding criminal asset forfeiture. The bill would allow a convicting court

to order a person convicted of an offense subject to forfeiture to forfeit any property derived or directly traceable to property derived from the commission of the offense or instrumentality used in the commission of the offense with certain exemptions. The bill would require that a court order is necessary to seize real property and identifies circumstances in which personal property could be seized with or without a court order. The bill would allow the courts to conduct hearings related to the validity and proportionality of seizures and forfeitures. The bill would prohibit the forfeiture of property belonging to an innocent owner.

The bill would require all abandoned or forfeited property to be delivered to the county in which the property was abandoned or seized and identifies the manner in which the county treasurer may use proceeds and currency from abandoned and forfeited property. The bill would allow civil asset forfeitures and transfers of forfeitable property to the federal government under certain circumstances.

The bill would require law enforcement agencies to report certain information regarding seizures and forfeitures to the Department of Public Safety (DPS) by February 1 of each year. The bill would require DPS to issue an aggregate report by April 1 of each year. The bill would require any property seized under Chapter 59 of the Code of Criminal Procedure or Sections 12.1106, 61.0221, or 62.017 of the Parks and Wildlife Code that is in the possession of a law enforcement agency, game warden, or attorney representing the state that has not been ordered forfeited to the state by a court to be returned to the person from whom the property was seized unless the property is evidence in the investigation or prosecution of a criminal offense.

Methodology

According to analysis by the Comptroller of Public Accounts (CPA), the bill would eliminate civil asset forfeitures, with some exceptions. The bill 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 Chapter 71 of the Property Code regarding escheat of property, which concerns abandoned or unclaimed property that 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 \$4,040,000; estimated loss to the Game, Fish, and Water Safety Account is \$6,000; estimated loss to the Attorney General Law Enforcement Account is \$440,000; and estimated loss to Appropriated Receipts is \$31,000.

According to analysis provided by the Department of Public Safety (DPS), it is estimated that the state seizure awards to DPS will decrease by \$1,185,981 per fiscal year. This amount is based on the average awarded funds to the agency in the last six fiscal years. Additionally, the bill would reduce federal awards by approximately \$796,984 per fiscal year.

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

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

Technology

It is assumed that any technology costs to DPS can be absorbed using existing resources.

Local Government Impact

El Paso County anticipates a total revenue loss of \$518,701 in fiscal year 2022 and \$544,636 in fiscal year 2023.

According to Parker County, the economic impact would be minimal.

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: JMc, DKn, CMa, ANe, NA