

By: Harrison, Thompson of Harris

H.B. No. 2992

A BILL TO BE ENTITLED

AN ACT

relating to asset forfeiture under the Code of Criminal Procedure.

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

SECTION 1. Chapter 59, Code of Criminal Procedure, is amended by adding Articles 59.0221 and 59.0222 to read as follows:

Art. 59.0221. EXEMPT PROPERTY. Notwithstanding any other law, a motor vehicle valued at less than \$10,000 is exempt from forfeiture under this chapter.

Art. 59.0222. INNOCENT OWNER. Notwithstanding any other law, the property of an innocent owner may not be forfeited.

SECTION 2. Article 59.06, Code of Criminal Procedure, is amended by amending Subsections (c-1) and (m) and adding Subsections (v), (w), and (x) to read as follows:

(c-1) Notwithstanding Subsection (a), the attorney representing the state and special rangers of the Texas and Southwestern Cattle Raisers Association who meet the requirements of Article 2.125 may enter into a local agreement that allows the attorney representing the state to transfer proceeds from the sale of forfeited property described by Subsection (c), after the deduction of court costs as described by that subsection, to a special fund established for the special rangers. Proceeds transferred under this subsection must be used by the special rangers solely for law enforcement purposes. Any expenditures of the proceeds are subject to the audit provisions established under

1 this chapter [~~article~~].

2 (m) As a specific exception to Subdivisions (1)-(3) of  
3 Subsection (c), a law enforcement agency or attorney representing  
4 the state may use proceeds received under this chapter to contract  
5 with a person or entity to prepare an audit required by this chapter  
6 [~~as required by Subsection (g)~~].

7 (v) As a specific exception to Subsection (c) that the funds  
8 described by that subsection be used only for the official purposes  
9 of the attorney representing the state or for law enforcement  
10 purposes, the attorney representing the state or the head of a law  
11 enforcement agency, as applicable, may use any portion of the gross  
12 amount credited to the attorney's or agency's special fund under  
13 Subsection (c) to pay:

14 (1) the fee charged by the attorney general under  
15 Article 59.17; or

16 (2) any costs incurred by the attorney representing  
17 the state or the law enforcement agency to compile information or  
18 submit reports to the attorney general as required by Articles  
19 59.15 and 59.16.

20 (w) Notwithstanding any other provision of this article, if  
21 a law enforcement agency does not comply with Article 59.16(c), the  
22 attorney representing the state may not disburse funds received  
23 under this chapter to the agency, and the agency may not expend any  
24 proceeds or use any property awarded under this article, until the  
25 agency submits the report required by that subsection.

26 (x) Notwithstanding any other provision of this article, if  
27 the attorney representing the state does not comply with Article

1 59.16(c), the attorney may not expend any proceeds or use any  
2 property received under this chapter and awarded under this article  
3 until after the attorney submits the report required by that  
4 subsection.

5 SECTION 3. Article 59.061, Code of Criminal Procedure, is  
6 amended by adding Subsections (a-1) and (e) to read as follows:

7 (a-1) On request of a member of the legislature, the state  
8 auditor shall perform an audit described by Subsection (a). The  
9 state auditor is not required to perform more than one audit per  
10 year under this subsection.

11 (e) Not later than the 90th day after the date that an audit  
12 under Subsection (a) or (a-1) is completed, the state auditor shall  
13 submit a copy of the audit to the attorney general. The attorney  
14 general shall promptly publish the audit on the publicly accessible  
15 Internet website established under Article 59.16.

16 SECTION 4. Chapter 59, Code of Criminal Procedure, is  
17 amended by adding Articles 59.15, 59.16, 59.17, 59.18, and 59.19 to  
18 read as follows:

19 Art. 59.15. CASE TRACKING SYSTEM. (a) The attorney general  
20 shall establish and maintain a case tracking system to collect and  
21 organize data regarding property seized or forfeited under this  
22 chapter or under an agreement with the federal government. The case  
23 tracking system must include the information described by  
24 Subsection (b).

25 (b) When property is seized or forfeited under this chapter  
26 or under an agreement with the federal government, the law  
27 enforcement agency that seized the property or the attorney

1 representing the state in the forfeiture proceeding, as assigned by  
2 the attorney general for reporting purposes under Subsection (d),  
3 shall submit the following information to the attorney general, to  
4 the extent the information is available or applicable:

5 (1) the name of the law enforcement agency that seized  
6 the property, or the name of the law enforcement agency with primary  
7 responsibility for seizing the property, if more than one agency  
8 was involved in the seizure;

9 (2) the date of the seizure;

10 (3) a description of the property seized;

11 (4) the location of the seizure;

12 (5) if the seizure occurred on a highway, the  
13 direction of the traffic flow;

14 (6) an estimated value of the property seized;

15 (7) the alleged offense that gave rise to the seizure;

16 (8) if charges were filed in relation to the seizure:

17 (A) the offense charged;

18 (B) the criminal case number;

19 (C) the court in which the charges were filed;

20 and

21 (D) the disposition of the charges;

22 (9) whether forfeiture is sought under federal law,

23 and if so:

24 (A) whether a joint task force consisting of  
25 state or local law enforcement officers and federal law enforcement  
26 officers collaborated on the seizure; and

27 (B) whether a federal law enforcement agency

1 asserted jurisdiction over a seizure made by a state or local law  
2 enforcement agency without involvement in the seizure by the  
3 federal law enforcement agency;

4 (10) the civil case number of the forfeiture  
5 proceeding and the court in which the forfeiture proceeding was  
6 filed;

7 (11) whether an owner or interest holder of the seized  
8 property filed a claim or counterclaim in the forfeiture  
9 proceeding, and if so, whether the owner or interest holder was the  
10 person from whom the property was seized, an innocent owner, a  
11 creditor, or another party;

12 (12) whether an owner or interest holder of the seized  
13 property defaulted in the forfeiture proceeding;

14 (13) whether there was a settlement agreement in the  
15 forfeiture proceeding;

16 (14) the date of the forfeiture order;

17 (15) whether the seized property:

18 (A) was fully or partially returned to the person  
19 from whom the property was seized;

20 (B) was sold or donated;

21 (C) was destroyed;

22 (D) was retained by a law enforcement agency or  
23 attorney representing the state; or

24 (E) is pending disposition;

25 (16) the date of final disposition of the seized  
26 property;

27 (17) the amount of attorney's fees awarded to an owner

1 or interest holder of the seized property;

2 (18) an estimate of the total costs to:

3 (A) store the seized or forfeited property;

4 (B) pay for law enforcement officers' and  
5 personnel salaries for work performed in relation to the forfeiture  
6 proceeding;

7 (C) pay the attorney representing the state for  
8 work performed in relation to the forfeiture proceeding; and

9 (D) sell or dispose of the forfeited property;

10 (19) if property was retained by a law enforcement  
11 agency or attorney representing the state, the purpose for which  
12 the property was used;

13 (20) the total market value of the forfeited property,  
14 including currency, proceeds from the sale of property, and  
15 distributions received from the federal government; and

16 (21) the total market value of the forfeited property  
17 that was retained by the state, destroyed, sold, or donated.

18 (c) If the property seized or forfeited was alcohol or a  
19 controlled substance or drug paraphernalia as defined by Section  
20 481.002, Health and Safety Code, a law enforcement agency or  
21 attorney representing the state may not submit information required  
22 by Subsections (b)(3), (20), and (21) to the case tracking system.

23 (d) The attorney general shall assign the responsibility  
24 for submitting the information required under Subsection (b) to  
25 appropriate state or local law enforcement agencies or attorneys  
26 representing the state.

27 (e) If property was seized from a confidential informant,

1 the law enforcement agency or attorney representing the state may  
2 delay submitting the information required under Subsection (b) for  
3 any period in which the informant continues to cooperate with the  
4 agency or attorney.

5 (f) If a law enforcement agency or an attorney representing  
6 the state responsible for submitting information to the attorney  
7 general under Subsection (b) has not seized any property during the  
8 period specified by the attorney general, the agency or attorney  
9 shall file a report stating that no property was seized.

10 (g) The attorney general shall adopt rules as necessary to  
11 implement this section, including rules regarding how frequently  
12 law enforcement agencies and attorneys representing the state must  
13 submit information required by Subsection (b).

14 Art. 59.16. SEARCHABLE INTERNET DATABASE; REPORTS OF  
15 EXPENDITURES. (a) The attorney general shall establish and make  
16 available to the public an Internet website with a searchable  
17 database that includes the following information, subject to  
18 Subsection (b):

19 (1) the information submitted to the attorney general  
20 for inclusion in the case tracking system under Article 59.15(b);

21 (2) the total amount of funds expended from the  
22 proceeds of property seized or forfeited under this chapter or  
23 under an agreement with the federal government in the following  
24 categories:

25 (A) drug abuse, crime, and gang prevention or  
26 other community programs;

27 (B) compensation, reparations, or other similar

1 types of funds paid to or in behalf of victims;  
2 (C) investigation costs, including controlled  
3 buys, forensics, informant fees, and witness protection;  
4 (D) expenses related to the storage,  
5 maintenance, repair, or return of seized property;  
6 (E) expenses related to forfeiture proceedings  
7 under this chapter, including court costs, attorney's fees, and  
8 costs related to auditing, discovery, court reporters, printing,  
9 postage, and witnesses;  
10 (F) government personnel costs, including  
11 salaries, overtime, and benefits;  
12 (G) government travel and training, including  
13 conferences, continuing education, entertainment, and meals;  
14 (H) government administrative and operating  
15 expenses, including office supplies, postage, printing, utilities,  
16 and repairs and maintenance of vehicles or other equipment; and  
17 (I) government capital expenditures, including  
18 appliances, canines, computers, equipment, firearms, furniture,  
19 and vehicles;  
20 (3) an itemized list of any other expenditure of  
21 proceeds that was received from a forfeiture under this chapter or  
22 under an agreement with the federal government and that was  
23 reported under Subsection (c), other than expenditures described by  
24 Subdivision (2) and including payments to trade associations,  
25 lobbyists, and other agencies; and  
26 (4) the total value of seized and forfeited property  
27 held by the law enforcement agency or attorney representing the



1 state at the end of the state fiscal year.

2 (b) The attorney general may not require a law enforcement  
3 agency or attorney representing the state to disclose, and the  
4 Internet website may not include:

5 (1) the name, address, contact information, or other  
6 personally identifying information of an owner or interest holder  
7 of the seized property, business entity, or other individual  
8 involved in the forfeiture proceeding; or

9 (2) the address, vehicle identification number, or  
10 serial number of any seized or forfeited property.

11 (c) A law enforcement agency or attorney representing the  
12 state that expends funds from the proceeds of property seized or  
13 forfeited under this chapter or under an agreement with the federal  
14 government shall submit a report with the information required by  
15 Subsections (a)(2) and (3) to the attorney general not later than  
16 the 30th day after the end of the state fiscal year. The commander  
17 of a multijurisdictional task force may appoint one law enforcement  
18 agency to report the relevant expenditures.

19 (d) The attorney general may extend the 30-day period under  
20 Subsection (c) for a period determined by the attorney general if  
21 the attorney general finds good cause for the extension.

22 (e) A law enforcement agency or attorney representing the  
23 state in violation of Subsection (c) is subject to a civil penalty  
24 for each violation:

25 (1) in an amount equal to \$500, or 25 percent of the  
26 forfeiture proceeds received by the law enforcement agency or  
27 attorney representing the state, whichever is greater; or

1           (2) in a reasonable amount determined by the office of  
2 the attorney general.

3           (f) Sovereign immunity of this state and governmental  
4 immunity of a political subdivision to suit and from liability is  
5 waived to the extent of liability created by Subsection (e).

6           (g) The office of the attorney general shall deposit a civil  
7 penalty collected under this article in the general revenue fund.

8           (h) The attorney general may adopt rules as necessary to  
9 implement this article.

10          Art. 59.17. ATTORNEY GENERAL MAY CHARGE FEE. The attorney  
11 general may charge a reasonable fee to a law enforcement agency or  
12 attorney representing the state that submits information under  
13 Article 59.15 or 59.16 to cover the costs associated with  
14 maintaining the case tracking system and Internet website  
15 established under Articles 59.15 and 59.16.

16          Art. 59.18. ATTORNEY GENERAL REPORT. (a) Not later than  
17 the 120th day after the end of the state fiscal year, the attorney  
18 general shall compile and submit to the governor, the lieutenant  
19 governor, and the speaker of the house of representatives a report  
20 summarizing activity related to property seized or forfeited under  
21 this chapter. The report must include:

22           (1) the type, approximate value, and disposition of  
23 property seized or forfeited under this chapter; and

24           (2) the total amount of funds received or expended  
25 from the proceeds of property seized or forfeited under this  
26 chapter.

27          (b) The information included in the report must be:

1           (1) disaggregated by agency; and  
2           (2) for information required by Articles 59.16(a)(2)  
3 and (3), organized by the categories described under those  
4 subdivisions.

5           (c) The attorney general may include in the report required  
6 by Subsection (a) legislative recommendations to ensure  
7 expenditures related to the seizure or forfeiture of property under  
8 this chapter are expended and reported in a manner that is fair to  
9 victims, owners or interest holders of seized property, residents  
10 of this state, law enforcement agencies and attorneys representing  
11 the state, and taxpayers.

12           (d) The attorney general shall post a copy of the report  
13 required by Subsection (a) on the publicly accessible Internet  
14 website established under Article 59.16.

15           Art. 59.19. PUBLIC DISCLOSURE. All information and reports  
16 submitted to the attorney general or published by the attorney  
17 general under Articles 59.15, 59.16, and 59.18, other than Article  
18 59.16(b), are public information subject to disclosure under  
19 Chapter 552, Government Code.

20           SECTION 5. Articles 59.06(1) and (s), Code of Criminal  
21 Procedure, are repealed.

22           SECTION 6. The change in law made by this Act applies only  
23 to a state fiscal year beginning on or after January 1, 2024.

24           SECTION 7. This Act takes effect September 1, 2023.