

By: Johnson, Parker

S.B. No. 665

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the tracking, reporting, and disposition of proceeds
3 and property from asset forfeiture proceedings under the Code of
4 Criminal Procedure.

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

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

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

21 (m) As a specific exception to Subdivisions (1)-(3) of
22 Subsection (c), a law enforcement agency or attorney representing
23 the state may use proceeds received under this chapter to contract
24 with a person or entity to prepare an audit required by this chapter

1 ~~[as required by Subsection (g)].~~

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

9 (1) the fee charged by the attorney general under
10 Article 59.17; or

11 (2) any costs incurred by the attorney representing
12 the state or the law enforcement agency to compile information or
13 submit reports to the attorney general as required by Articles
14 59.15 and 59.16.

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

21 (x) Notwithstanding any other provision of this article, if
22 the attorney representing the state does not comply with Article
23 59.16(c), the attorney may not expend any proceeds or use any
24 property received under this chapter and awarded under this article
25 until after the attorney submits the report required by that
26 subsection.

27 SECTION 2. Article 59.061, Code of Criminal Procedure, is

1 amended by adding Subsections (a-1) and (e) to read as follows:

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

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

11 SECTION 3. Chapter 59, Code of Criminal Procedure, is
12 amended by adding Articles 59.15, 59.16, 59.17, 59.18, and 59.19 to
13 read as follows:

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

20 (b) When property is seized or forfeited under this chapter
21 or under an agreement with the federal government, the law
22 enforcement agency that seized the property or the attorney
23 representing the state in the forfeiture proceeding, as assigned by
24 the attorney general for reporting purposes under Subsection (d),
25 shall submit the following information to the attorney general, to
26 the extent the information is available or applicable:

27 (1) the name of the law enforcement agency that seized

1 the property, or the name of the law enforcement agency with primary
2 responsibility for seizing the property, if more than one agency
3 was involved in the seizure;

4 (2) the date of the seizure;

5 (3) a description of the property seized;

6 (4) the location of the seizure;

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

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

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

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

12 (A) the offense charged;

13 (B) the criminal case number;

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

15 and

16 (D) the disposition of the charges;

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

18 and if so:

19 (A) whether a joint task force consisting of
20 state or local law enforcement officers and federal law enforcement
21 officers collaborated on the seizure; and

22 (B) whether a federal law enforcement agency
23 asserted jurisdiction over a seizure made by a state or local law
24 enforcement agency without involvement in the seizure by the
25 federal law enforcement agency;

26 (10) the civil case number of the forfeiture
27 proceeding and the court in which the forfeiture proceeding was

1 filed;

2 (11) whether an owner or interest holder of the seized
3 property filed a claim or counterclaim in the forfeiture
4 proceeding, and if so, whether the owner or interest holder was the
5 person from whom the property was seized, an innocent owner, a
6 creditor, or another party;

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

9 (13) whether there was a settlement agreement in the
10 forfeiture proceeding;

11 (14) the date of the forfeiture order;

12 (15) whether the seized property:

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

15 (B) was sold or donated;

16 (C) was destroyed;

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

19 (E) is pending disposition;

20 (16) the date of final disposition of the seized
21 property;

22 (17) the amount of attorney's fees awarded to an owner
23 or interest holder of the seized property;

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

25 (A) store the seized or forfeited property;

26 (B) pay for law enforcement officers' and
27 personnel salaries for work performed in relation to the forfeiture

1 proceeding;

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

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

5 (19) if property was retained by a law enforcement
6 agency or attorney representing the state, the purpose for which
7 the property was used;

8 (20) the total market value of the forfeited property,
9 including currency, proceeds from the sale of property, and
10 distributions received from the federal government; and

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

13 (c) If the property seized or forfeited was alcohol or a
14 controlled substance or drug paraphernalia as defined by Section
15 481.002, Health and Safety Code, a law enforcement agency or
16 attorney representing the state may not submit information required
17 by Subsections (b)(3), (20), and (21) to the case tracking system.

18 (d) The attorney general shall assign the responsibility
19 for submitting the information required under Subsection (b) to
20 appropriate state or local law enforcement agencies or attorneys
21 representing the state.

22 (e) If property was seized from a confidential informant,
23 the law enforcement agency or attorney representing the state may
24 delay submitting the information required under Subsection (b) for
25 any period in which the informant continues to cooperate with the
26 agency or attorney.

27 (f) If a law enforcement agency or an attorney representing

1 the state responsible for submitting information to the attorney
2 general under Subsection (b) has not seized any property during the
3 period specified by the attorney general, the agency or attorney
4 shall file a report stating that no property was seized.

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

9 Art. 59.16. SEARCHABLE INTERNET DATABASE; REPORTS OF
10 EXPENDITURES. (a) The attorney general shall establish and make
11 available to the public an Internet website with a searchable
12 database that includes the following information, subject to
13 Subsection (b):

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

16 (2) the total amount of funds expended from the
17 proceeds of property seized or forfeited under this chapter or
18 under an agreement with the federal government in the following
19 categories:

20 (A) drug abuse, crime, and gang prevention or
21 other community programs;

22 (B) compensation, reparations, or other similar
23 types of funds paid to or in behalf of victims;

24 (C) investigation costs, including controlled
25 buys, forensics, informant fees, and witness protection;

26 (D) expenses related to the storage,
27 maintenance, repair, or return of seized property;

1 (E) expenses related to forfeiture proceedings
2 under this chapter, including court costs, attorney's fees, and
3 costs related to auditing, discovery, court reporters, printing,
4 postage, and witnesses;

5 (F) government personnel costs, including
6 salaries, overtime, and benefits;

7 (G) government travel and training, including
8 conferences, continuing education, entertainment, and meals;

9 (H) government administrative and operating
10 expenses, including office supplies, postage, printing, utilities,
11 and repairs and maintenance of vehicles or other equipment; and

12 (I) government capital expenditures, including
13 appliances, canines, computers, equipment, firearms, furniture,
14 and vehicles;

15 (3) an itemized list of any other expenditure of
16 proceeds that was received from a forfeiture under this chapter or
17 under an agreement with the federal government and that was
18 reported under Subsection (c), other than expenditures described by
19 Subdivision (2) and including payments to trade associations,
20 lobbyists, and other agencies; and

21 (4) the total value of seized and forfeited property
22 held by the law enforcement agency or attorney representing the
23 state at the end of the state fiscal year.

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

27 (1) the name, address, contact information, or other

1 personally identifying information of an owner or interest holder
2 of the seized property, business entity, or other individual
3 involved in the forfeiture proceeding; or

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) the total amount of funds received or expended
20 from the proceeds of property seized or forfeited under this
21 chapter.

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

23 (1) disaggregated by agency; and

24 (2) for information required by Articles 59.16(a)(2)
25 and (3), organized by the categories described under those
26 subdivisions.

27 (c) The attorney general may include in the report required

1 by Subsection (a) legislative recommendations to ensure
2 expenditures related to the seizure or forfeiture of property under
3 this chapter are expended and reported in a manner that is fair to
4 victims, owners or interest holders of seized property, residents
5 of this state, law enforcement agencies and attorneys representing
6 the state, and taxpayers.

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

10 Art. 59.19. PUBLIC DISCLOSURE. All information and reports
11 submitted to the attorney general or published by the attorney
12 general under Articles 59.15, 59.16, and 59.18, other than Article
13 59.16(b), are public information subject to disclosure under
14 Chapter 552, Government Code.

15 SECTION 4. Articles 59.06(1) and (s), Code of Criminal
16 Procedure, are repealed.

17 SECTION 5. The change in law made by this Act applies only
18 to a state fiscal year beginning on or after January 1, 2024.

19 SECTION 6. This Act takes effect September 1, 2023.