

By: Thompson

H.B. No. 914

A BILL TO BE ENTITLED

AN ACT

relating to repealing civil asset forfeiture provisions and establishing criminal asset forfeiture in this state.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 59A to read as follows:

CHAPTER 59A. CRIMINAL ASSET FORFEITURE

Art. 59A.001. DEFINITIONS. In this chapter:

(1) "Abandoned property" means personal property left by an owner who has intentionally relinquished all rights to control of the property.

(2) "Actual knowledge" means direct and clear awareness of information, facts, or conditions.

(3) "Contraband" means tangible or intangible goods that are illegal to import, export, or possess, including a scheduled drug without a valid prescription.

(4) "Conveyance" means a device or structure used for transportation. The term includes a motor vehicle, trailer, snowmobile, airplane, or vessel, and any attached equipment.

(5) "Department" means the Department of Public Safety.

(6) "Instrumentality" means property that is otherwise lawful to possess and that is used in the furtherance or commission of an offense subject to forfeiture. The term includes

1 land, buildings, containers, conveyances, equipment, materials,
2 products, computer hardware or software, telecommunications
3 devices, firearms, ammunition, tools, and money, securities,
4 negotiable instruments, or other means of exchange. The term does
5 not include stolen property.

6 (7) "Law enforcement agency" means a law enforcement
7 agency of this state or a political subdivision of this state that
8 has authority under state law to engage in seizure and forfeiture.

9 (8) "Offense subject to forfeiture" means:

10 (A) a first or second degree felony under the
11 Penal Code;

12 (B) a third degree or state jail felony under
13 Chapter 49, Penal Code, if the defendant has been previously
14 convicted three times of an offense under that chapter;

15 (C) a felony under:

16 (i) Chapter 152, Finance Code;

17 (ii) Chapter 481 or 483, Health and Safety
18 Code;

19 (iii) Chapter 32, Human Resources Code, or
20 Chapter 35A or 37, Penal Code, that involves a health care program,
21 as defined by Section 35A.01, Penal Code;

22 (iv) Section 15.031, 21.11, or 38.04, Penal
23 Code;

24 (v) Chapter 20A, 29, 30, 31, 32, 33, 33A,
25 34, 35, or 43, Penal Code; or

26 (vi) The Securities Act (Title 12,
27 Government Code);

1 (D) a Class A misdemeanor under:

2 (i) Section 306.051, Business & Commerce
3 Code; or

4 (ii) Subchapter B, Chapter 365, Health and
5 Safety Code, if the defendant has been previously convicted two
6 times of an offense under that subchapter;

7 (E) a Class B misdemeanor under Chapter 522,
8 Business & Commerce Code;

9 (F) an offense under:

10 (i) Section 326.002, Business & Commerce
11 Code;

12 (ii) Section 20.05, 20.06, 20.07, 42.10,
13 46.06(a)(1), or 46.14, Penal Code;

14 (iii) Chapter 71, Penal Code; or

15 (iv) Section 545.420 or 550.021,
16 Transportation Code;

17 (G) an offense punishable under Section 42.03(d)
18 or (e), Penal Code; or

19 (H) any other offense that results in a personal
20 injury to a victim and that is provided under:

21 (i) the Penal Code; or

22 (ii) a federal criminal law.

23 Art. 59A.002. PURPOSE. The purpose of this chapter is to:

24 (1) deter criminal activity by reducing the economic
25 incentives;

26 (2) increase the pecuniary loss that results from
27 engaging in criminal activity; and

1 (3) protect against the wrongful forfeiture of
2 property.

3 Art. 59A.003. CRIMINAL ASSET FORFEITURE; PROPERTY SUBJECT
4 TO FORFEITURE. (a) The convicting court may order a person
5 convicted of an offense subject to forfeiture to forfeit any:

6 (1) property the person derived from the commission of
7 the offense;

8 (2) property directly traceable to property derived
9 from the commission of the offense; or

10 (3) instrumentality the person used in the commission
11 of the offense.

12 (b) For purposes of this chapter, a person is considered
13 convicted if:

14 (1) a sentence is imposed on the person; or

15 (2) the person receives community supervision,
16 including deferred adjudication community supervision.

17 Art. 59A.004. EXEMPT PROPERTY. The following are exempt
18 from forfeiture:

19 (1) property that is homestead property;

20 (2) a motor vehicle valued at less than \$10,000; and

21 (3) United States currency totaling \$200 or less.

22 Art. 59A.005. CONTRABAND. A person may not have a property
23 interest in contraband. Contraband is subject to seizure and shall
24 be disposed of in accordance with state law. Contraband is not
25 subject to forfeiture under this chapter.

26 Art. 59A.006. CONVICTION REQUIRED; STANDARD OF PROOF. (a)
27 Property may be forfeited under this chapter only if:

1 (1) a person is convicted of an offense subject to
2 forfeiture; and

3 (2) the state establishes by clear and convincing
4 evidence that the applicable requirements of Articles 59A.003,
5 59A.004, and 59A.005 are met.

6 (b) This chapter does not prevent property from being
7 forfeited by plea agreement approved by the convicting court.

8 Art. 59A.007. SUBSTITUTION OF ASSETS. On the state's
9 motion following conviction, the convicting court may order the
10 forfeiture of substitute property owned by the defendant if the
11 state proves by a preponderance of the evidence that the defendant
12 intentionally transferred, sold, or deposited property with a third
13 party to avoid the court's jurisdiction. The value of substitute
14 property forfeited may not exceed the value of the property
15 transferred, sold, or deposited.

16 Art. 59A.008. NO JOINT AND SEVERAL LIABILITY. A defendant
17 convicted of an offense subject to forfeiture is not jointly and
18 severally liable for a forfeiture award owed by any other
19 defendant. If ownership is unknown, the convicting court may order
20 each defendant to forfeit property on a pro rata basis or by other
21 equitable means.

22 Art. 59A.009. SEIZURE OF PERSONAL PROPERTY WITH PROCESS.
23 At the request of the state made at any time, a court may issue an ex
24 parte preliminary order to seize or secure personal property for
25 which forfeiture is sought and to provide for its custody.

26 Art. 59A.010. SEIZURE OF PERSONAL PROPERTY WITHOUT PROCESS.
27 Personal property subject to forfeiture may be seized at any time

1 without a court order if:

2 (1) the seizure is incident to a lawful arrest or
3 search;

4 (2) the personal property has been the subject of a
5 previous judgment in favor of the state; or

6 (3) the law enforcement agency seizing the property
7 has probable cause to believe that:

8 (A) the seizure is immediately necessary to
9 prevent the removal or destruction of the personal property; and

10 (B) the personal property is forfeitable under
11 this chapter.

12 Art. 59A.011. SEIZURE OF REAL PROPERTY WITH PROCESS. (a)
13 Real property may be seized only under a court order. A court may
14 issue an order to seize or secure real property for which forfeiture
15 is sought only after the property owners are provided notice and an
16 opportunity for a contested hearing to determine the sufficiency of
17 the probable cause for the seizure.

18 (b) This article does not prohibit the attorney
19 representing the state from seeking a lis pendens or restraining
20 order to prohibit the sale or destruction of the real property.

21 Art. 59A.012. RECEIPT. A law enforcement officer who
22 seizes property shall give an itemized receipt to the person
23 possessing the property, or in the absence of any person, leave a
24 receipt in the place where the property was found, if reasonably
25 possible.

26 Art. 59A.013. TITLE TO PROPERTY. (a) At the time of a
27 seizure or the issuance of a lis pendens or restraining order, the

1 state acquires provisional title to the seized property and may
2 hold and protect the property.

3 (b) Title to the property vests with the state on the date
4 the court orders the property to be forfeited and the vesting
5 relates back to the date the state acquired provisional title.
6 Title acquired under this subsection is subject to a claim by a
7 third party that is adjudicated as provided by this chapter.

8 Art. 59A.014. PRETRIAL HEARING REGARDING REPLEVIN. (a) In
9 this article, "claimant" means a person claiming an ownership
10 interest in property that has been seized under this chapter.

11 (b) Following a seizure of property subject to forfeiture, a
12 claimant has the right to a pretrial hearing to determine the
13 validity of the seizure.

14 (c) The claimant may claim, at any time on or before the 60th
15 day before the scheduled start of the trial of the related criminal
16 offense or as soon as otherwise practicable, the right to
17 possession of property by motion to the court to issue a writ of
18 replevin.

19 (d) The claimant must file a motion establishing the
20 validity of the alleged interest in the property.

21 (e) The court shall hear the motion not later than the 30th
22 day after the date the motion is filed.

23 (f) The state must file an answer showing probable cause for
24 the seizure or a cross motion not later than the 10th day before the
25 hearing on the claimant's motion.

26 (g) The court shall grant the claimant's motion if the court
27 finds that:

1 (1) the final judgment is likely to require the state
2 to return the property to the claimant;

3 (2) the property is not reasonably required to be held
4 for investigatory reasons; or

5 (3) the property is the only reasonable means for a
6 defendant to pay for legal representation in the forfeiture
7 proceeding or in the prosecution of the related criminal offense.

8 (h) At the court's discretion under Subsection (g)(3), the
9 court may order the return of funds or property sufficient for the
10 defendant to obtain legal counsel but less than the total amount
11 seized, and may require an accounting for the use of the returned
12 funds or property.

13 (i) Instead of ordering the issuance of the writ of
14 replevin, the court may order the state to give security or written
15 assurance for satisfaction of any judgment, including damages, that
16 may be rendered in the action or may order other appropriate relief.

17 Art. 59A.015. FORFEITURE PROCEEDING. A proceeding for the
18 forfeiture of property shall be held following the trial of the
19 related alleged offense. If the value of the property is less than
20 \$10,000, the proceeding must be held before the judge only.

21 Art. 59A.016. PROPORTIONALITY HEARING. (a) At any time
22 following a determination of forfeiture by the trier of fact, the
23 defendant may petition the court to determine whether the
24 forfeiture is unconstitutionally excessive under the United States
25 Constitution or the Texas Constitution.

26 (b) The defendant has the burden of establishing by a
27 preponderance of the evidence that the forfeiture is grossly

1 disproportional to the seriousness of the offense. The hearing
2 must be held before the judge only.

3 (c) In determining whether the forfeiture of property is
4 unconstitutionally excessive, the court may consider all relevant
5 factors, including:

6 (1) the seriousness of the offense and its impact on
7 the community, including the duration of the activity and the harm
8 caused by the defendant;

9 (2) the extent to which the defendant participated in
10 the offense;

11 (3) the extent to which the property was used in
12 committing the offense;

13 (4) the sentence imposed for the offense; and

14 (5) whether the offense was completed or attempted.

15 (d) In determining the value of the property subject to
16 forfeiture, the court may consider all relevant factors, including:

17 (1) the fair market value of the property;

18 (2) the value of the property to the defendant,
19 including hardship to the defendant if the court orders the
20 property to be forfeited; and

21 (3) the hardship to a defendant's family member or
22 other person from the loss of a primary residence, motor vehicle, or
23 other property if the court orders the property to be forfeited.

24 (e) The court may not consider the value of the property to
25 the state in determining whether the forfeiture of property is
26 unconstitutionally excessive.

27 Art. 59A.017. SECURITY INTEREST. A bona fide security

1 interest is not subject to forfeiture unless the person claiming
2 the security interest had actual knowledge that the property was
3 subject to forfeiture at the time the security interest was
4 created. A person claiming a security interest must establish the
5 validity of the interest by a preponderance of the evidence.

6 Art. 59A.018. INNOCENT OWNER. (a) The property of an
7 innocent owner may not be forfeited.

8 (b) A person who has an ownership interest in property
9 subject to forfeiture that existed at the time of the conduct giving
10 rise to the forfeiture and who claims to be an innocent owner must
11 show that the person has a legal right, title, or interest in the
12 property seized under this chapter. If the person shows legal
13 right, title, or interest in the property, the state must prove by a
14 preponderance of the evidence that the person had actual or
15 constructive knowledge of the underlying offense giving rise to the
16 forfeiture. A person is presumed to have constructive knowledge of
17 the underlying offense if the person is a family or household member
18 of the defendant alleged to have committed or convicted of the
19 underlying offense and if the defendant, during the 10 years
20 preceding the underlying offense, was convicted three or more times
21 for the same or a similar offense.

22 (c) A person who, after the commission of an offense giving
23 rise to the forfeiture, acquired an ownership interest in property
24 subject to forfeiture and who claims to be an innocent owner must
25 show that the person has legal right, title, or interest in the
26 property seized under this chapter. If the person shows legal
27 right, title, or interest in the property, the state must prove by a

1 preponderance of the evidence that at the time the person acquired
2 the property, the person:

3 (1) had actual or constructive knowledge that the
4 property was subject to forfeiture; or

5 (2) did not purchase the property for valuable
6 consideration without notice of any defect in title.

7 (d) A person is presumed to have constructive knowledge that
8 the property was subject to forfeiture if:

9 (1) the person:

10 (A) acquired the property from the defendant
11 alleged to have committed or convicted of the underlying offense;
12 and

13 (B) is a family or household member of the
14 defendant; and

15 (2) the defendant, during the 10-year period preceding
16 the underlying offense, was convicted three or more times for the
17 same or a similar offense.

18 (e) If the state fails to meet its burden in Subsection (b)
19 or (c), the court shall find that the person is an innocent owner
20 and shall order the state to relinquish all claims of title to the
21 property.

22 Art. 59A.019. APPEAL. A party to forfeiture litigation may
23 appeal the court's decision regarding the seizure, forfeiture, and
24 distribution of property under this chapter.

25 Art. 59A.020. DISPOSITION OF PROPERTY AND PROCEEDS. (a) If
26 abandoned property held for evidentiary purposes is no longer
27 needed for that purpose, the court may order that the property be

1 delivered, not later than the 30th day after the date of the order,
2 to the county treasurer in the county in which the property was
3 abandoned.

4 (b) If contraband held for evidentiary purposes is no longer
5 needed for that purpose, the court may order that the contraband be
6 destroyed not later than the 30th day after the date of the order.

7 (c) If property is forfeited under this chapter, the court
8 may order that the property be delivered, not later than the 30th
9 day after the date of the order, to the county treasurer in the
10 county in which the property was seized.

11 (d) All abandoned property shall be delivered to the county
12 treasurer in the county in which the property was abandoned.

13 (e) A county treasurer who receives forfeited or abandoned
14 property under this article shall dispose of the property, other
15 than currency, at public auction. The auction proceeds and
16 forfeited currency first shall be used to pay all outstanding
17 recorded liens on the forfeited property, and then shall be used to
18 comply with any court order regarding the payment of expenses.

19 (f) On the court's own motion or on the motion of any party,
20 the court may order that a portion of the currency seized or of the
21 proceeds from the public auction of property be used to pay
22 reasonable expenses for the seizure, storage, and maintenance or
23 custody of any forfeited items, other than expenses for personnel.

24 (g) The county treasurer shall, after making payments
25 required by Subsections (e) and (f), deposit any remaining money
26 into the county's general fund.

27 Art. 59A.021. PROHIBITION ON RETAINING PROPERTY; SALE

1 RESTRICTIONS. A law enforcement agency may not:

2 (1) retain forfeited or abandoned property for the
3 agency's use; or

4 (2) sell forfeited or abandoned property directly or
5 indirectly to:

6 (A) an employee of the agency;

7 (B) a person related to an employee by
8 consanguinity or affinity; or

9 (C) another law enforcement agency.

10 Art. 59A.022. REPORTING. (a) Not later than February 1 of
11 each year, each law enforcement agency shall report to the
12 department the following information regarding seizures by the
13 agency for which, during the preceding calendar year, a forfeiture
14 order was issued under this chapter or the property was otherwise
15 forfeited under applicable federal law:

16 (1) the total number of forfeitures of currency;

17 (2) the total number of forfeitures and the number of
18 items of property forfeited according to categories specified by
19 the department;

20 (3) the total market value of each category of
21 property forfeited;

22 (4) the total number of occurrences of each type of
23 offense underlying the forfeitures, including offenses involving
24 controlled substances and driving while intoxicated; and

25 (5) any other information required by the department.

26 (b) The department shall prescribe a standardized form and
27 provide for electronic submission of the report required under

1 Subsection (a).

2 (c) A law enforcement agency shall file with the department
3 separate reports for forfeitures completed under this chapter and
4 federal law. If a law enforcement agency did not engage in a
5 seizure that resulted in forfeiture during the reporting period,
6 the agency shall file a report indicating that fact.

7 (d) Not later than April 1 of each year, the department
8 shall:

9 (1) issue an aggregate report of all forfeitures in
10 the state; and

11 (2) make the reports submitted by law enforcement
12 agencies and the department's aggregate report available on the
13 department's Internet website.

14 Art. 59A.023. RETURN OF PROPERTY; DAMAGES; COSTS. (a) A
15 law enforcement agency that holds property under this chapter shall
16 return the property to the owner not later than the fifth day after
17 the date:

18 (1) the court finds that the owner had a bona fide
19 security interest;

20 (2) the court finds that the owner was an innocent
21 owner;

22 (3) the owner is acquitted of the offense that is the
23 basis of the forfeiture proceeding; or

24 (4) the criminal charge against the owner that is the
25 basis of the forfeiture proceeding is dismissed.

26 (b) The law enforcement agency that holds the property is
27 responsible for all damages, storage fees, and related costs

1 applicable to property returned under Subsection (a).

2 Art. 59A.024. EFFECT OF OVERTURNED CONVICTION; PAYMENT TO
3 DEFENDANT. (a) If a defendant's conviction for an offense
4 underlying a forfeiture under this chapter is reversed, set aside,
5 or vacated on appeal, the defendant is entitled to recover any money
6 deposited in the county's general fund under Article 59A.020(g) as
7 a result of the disposition of the defendant's forfeited property.
8 The county shall pay to the defendant the deposited amount on the
9 91st day after the applicable date as follows:

10 (1) the date the conviction is reversed, set aside, or
11 vacated, if the attorney representing the state does not file:

12 (A) an appeal of the ruling that reversed, set
13 aside, or vacated the conviction; or

14 (B) a written notice with the court of the
15 attorney's intention to proceed with a new trial;

16 (2) the date a ruling described by Subdivision (1)(A)
17 is affirmed on appeal; or

18 (3) the date the attorney representing the state files
19 the notice described by Subdivision (1)(B), if the new trial has not
20 commenced.

21 (b) For purposes of this chapter, the outcome of a new trial
22 shall be treated in the same manner as any other conviction.

23 Art. 59A.025. CIVIL FORFEITURE FOR CERTAIN PROPERTY. (a)
24 Notwithstanding any other provision of this chapter, property is
25 subject to forfeiture under this article, regardless of whether a
26 person has been convicted of an offense subject to forfeiture in
27 connection with the property, if:

1 (1) the property was:

2 (A) seized with probable cause that it was
3 involved in the commission of a felony; or

4 (B) obtained, directly or indirectly, through
5 the commission of a felony; and

6 (2) the property owner:

7 (A) has not claimed the property or asserted any
8 interest in the property; or

9 (B) is unavailable.

10 (b) For purposes of Subsection (a)(2)(B), a property owner
11 is unavailable if the owner is deceased or, after the owner is
12 indicted for the felony offense or after a warrant has been issued
13 for the arrest of the owner in connection with the offense, the
14 owner is:

15 (1) outside the state and unable to be extradited to
16 this state for prosecution; or

17 (2) unable to be located after reasonable efforts by
18 law enforcement authorities.

19 (c) The attorney representing the state may bring a
20 forfeiture proceeding under this article by filing a complaint in a
21 district court in the county in which the property was seized. The
22 complaint must state facts that show the property is subject to
23 forfeiture under Subsection (a).

24 (d) A forfeiture proceeding under this article shall
25 proceed to trial in the same manner as in other civil cases. The
26 state has the burden of proving by a preponderance of the evidence
27 that property is subject to forfeiture under Subsection (a).

1 Art. 59A.026. TRANSFER OF FORFEITABLE PROPERTY TO FEDERAL
2 GOVERNMENT. A law enforcement agency or attorney representing the
3 state may not directly or indirectly transfer seized property to
4 any federal law enforcement authority or other federal agency
5 unless:

6 (1) the value of the seized property exceeds \$50,000;

7 and

8 (2) the attorney representing the state determines

9 that:

10 (A) the activity giving rise to the investigation
11 or seizure is interstate in nature and sufficiently complex to
12 justify the transfer; or

13 (B) the seized property may only be forfeited
14 under federal law.

15 SECTION 2. Section 72.051(a), Business & Commerce Code, is
16 amended to read as follows:

17 (a) In this section, "law enforcement agency" means an
18 agency of the state or an agency of a political subdivision of the
19 state authorized by law to employ peace officers [~~has the meaning~~
20 ~~assigned by Article 59.01, Code of Criminal Procedure~~].

21 SECTION 3. Section 140A.111, Civil Practice and Remedies
22 Code, is amended to read as follows:

23 Sec. 140A.111. PREVIOUSLY SEIZED ASSETS. Notwithstanding
24 another provision of this chapter, no remedies provided by this
25 chapter may be assessed against proceeds [~~contraband~~] or [~~other~~]
26 property over which a law enforcement agency has previously
27 asserted jurisdiction under Chapter 59A [~~59~~], Code of Criminal

1 Procedure, at the time a suit under this chapter was filed.

2 SECTION 4. Section 140B.003, Civil Practice and Remedies
3 Code, is amended to read as follows:

4 Sec. 140B.003. PREVIOUSLY SEIZED ASSETS. Notwithstanding
5 any other provision of this chapter, a remedy provided by this
6 chapter may not be assessed against, and the attorney general may
7 not claim or pursue in an action brought under this chapter, any
8 proceeds[~~, contraband,~~] or [~~other~~] property of any kind over which
9 a law enforcement authority has previously asserted jurisdiction
10 under Chapter 59A [59], Code of Criminal Procedure, at the time an
11 action under this chapter was filed.

12 SECTION 5. Section 140B.152(c), Civil Practice and Remedies
13 Code, is amended to read as follows:

14 (c) If a forfeiture action is filed by the attorney general,
15 any money obtained by the attorney general under this section shall
16 be deposited into an escrow account [~~in the same manner described by~~
17 ~~Article 59.06(k)(3), Code of Criminal Procedure, and may be~~
18 ~~expended for the purposes and in the manner authorized by that~~
19 ~~section~~]. The money in the account is available to satisfy a
20 judgment against a person who engaged in conduct constituting an
21 offense under Section 72.02, 72.03, or 72.04, Penal Code, in favor
22 of the victim of the conduct if the judgment is for damages that
23 were incurred by the victim and caused by the conduct. The attorney
24 general shall transfer any money in the account that has not been
25 ordered paid to a victim in satisfaction of a judgment to the
26 compensation to victims of crime fund on the fifth anniversary of
27 the date the account was established. In this subsection, "victim"

1 has the meaning assigned by Article 56B.003, Code of Criminal
2 Procedure.

3 SECTION 6. Article 18.01(g), Code of Criminal Procedure, is
4 amended to read as follows:

5 (g) A search warrant may not be issued under Article
6 18.02(a)(12) unless the sworn affidavit required by Subsection (b)
7 of this article sets forth sufficient facts to establish probable
8 cause that a specific felony offense has been committed and that the
9 specifically described property or items that are to be searched
10 for or seized are subject to forfeiture under Chapter 59A
11 ~~[constitute contraband as defined in Article 59.01 of this code]~~
12 and are located at or on the particular person, place, or thing to
13 be searched.

14 SECTION 7. Article 18.02(a), Code of Criminal Procedure, is
15 amended to read as follows:

16 (a) A search warrant may be issued to search for and seize:

17 (1) property acquired by theft or in any other manner
18 which makes its acquisition a penal offense;

19 (2) property specially designed, made, or adapted for
20 or commonly used in the commission of an offense;

21 (3) arms and munitions kept or prepared for the
22 purposes of insurrection or riot;

23 (4) weapons prohibited by the Penal Code;

24 (5) gambling devices or equipment, altered gambling
25 equipment, or gambling paraphernalia;

26 (6) obscene materials kept or prepared for commercial
27 distribution or exhibition, subject to the additional rules set

1 forth by law;

2 (7) a drug, controlled substance, immediate
3 precursor, chemical precursor, or other controlled substance
4 property, including an apparatus or paraphernalia kept, prepared,
5 or manufactured in violation of the laws of this state;

6 (8) any property the possession of which is prohibited
7 by law;

8 (9) implements or instruments used in the commission
9 of a crime;

10 (10) property or items, except the personal writings
11 by the accused, constituting evidence of an offense or constituting
12 evidence tending to show that a particular person committed an
13 offense;

14 (11) persons;

15 (12) property [~~contraband~~] subject to forfeiture
16 under Chapter 59A [~~59 of this code~~];

17 (13) electronic customer data held in electronic
18 storage, including the contents of and records and other
19 information related to a wire communication or electronic
20 communication held in electronic storage; or

21 (14) a cellular telephone or other wireless
22 communications device, subject to Article [18.0215](#).

23 SECTION 8. Articles [18.19\(c\)](#), (d-1), and (e), Code of
24 Criminal Procedure, are amended to read as follows:

25 (c) If there is no prosecution or conviction for an offense
26 involving the weapon seized, the magistrate to whom the seizure was
27 reported shall, before the 61st day after the date the magistrate

1 determines that there will be no prosecution or conviction, notify
2 in writing the person found in possession of the weapon that the
3 person is entitled to the weapon upon written request to the
4 magistrate. The magistrate shall order the weapon returned to the
5 person found in possession before the 61st day after the date the
6 magistrate receives a request from the person. If the weapon is not
7 requested before the 61st day after the date of notification, the
8 magistrate shall, before the 121st day after the date of
9 notification, order the weapon destroyed, sold at public sale by
10 the law enforcement agency holding the weapon or by an auctioneer
11 licensed under Chapter 1802, Occupations Code, or forfeited to the
12 state for use by the law enforcement agency holding the weapon or by
13 a county forensic laboratory designated by the magistrate. If the
14 magistrate does not order the return, destruction, sale, or
15 forfeiture of the weapon within the applicable period prescribed by
16 this subsection, the law enforcement agency holding the weapon may
17 request an order of destruction, sale, or forfeiture of the weapon
18 from the magistrate. Only a firearms dealer licensed under 18
19 U.S.C. Section 923 may purchase a weapon at public sale under this
20 subsection. Proceeds from the sale of a seized weapon under this
21 subsection shall be transferred, after the deduction of court costs
22 and ~~[to which a district court clerk is entitled under Article~~
23 ~~59.05(f), followed by the deduction of]~~ auction costs, to the law
24 enforcement agency holding the weapon.

25 (d-1) Only a firearms dealer licensed under 18 U.S.C.
26 Section 923 may purchase a weapon at public sale under Subsection
27 (d). Proceeds from the sale of a seized weapon under Subsection (d)

1 shall be transferred, after the deduction of court costs and [~~to~~
2 ~~which a district court clerk is entitled under Article 59.05(f),~~
3 ~~followed by the deduction of]~~ auction costs, to the law enforcement
4 agency holding the weapon.

5 (e) If the person found in possession of a weapon is
6 convicted of an offense involving the use of the weapon, before the
7 61st day after the date of conviction the court entering judgment of
8 conviction shall order destruction of the weapon, sale at public
9 sale by the law enforcement agency holding the weapon or by an
10 auctioneer licensed under Chapter 1802, Occupations Code, or
11 forfeiture to the state for use by the law enforcement agency
12 holding the weapon or by a county forensic laboratory designated by
13 the court. If the court entering judgment of conviction does not
14 order the destruction, sale, or forfeiture of the weapon within the
15 period prescribed by this subsection, the law enforcement agency
16 holding the weapon may request an order of destruction, sale, or
17 forfeiture of the weapon from a magistrate. Only a firearms dealer
18 licensed under 18 U.S.C. Section 923 may purchase a weapon at public
19 sale under this subsection. Proceeds from the sale of a seized
20 weapon under this subsection shall be transferred, after the
21 deduction of court costs and [~~to which a district court clerk is~~
22 ~~entitled under Article 59.05(f), followed by the deduction of]~~
23 auction costs, to the law enforcement agency holding the weapon.

24 SECTION 9. Article 47.01a(b), Code of Criminal Procedure,
25 is amended to read as follows:

26 (b) If it is shown in a hearing that probable cause exists to
27 believe that the property was acquired by theft or by another manner

1 that makes its acquisition an offense and that the identity of the
2 actual owner of the property cannot be determined, the court shall
3 order the peace officer to:

4 (1) deliver the property to a government agency for
5 official purposes;

6 (2) deliver the property for disposition under Article
7 59A.020 to the county treasurer of the county in which the property
8 was seized [~~to a person authorized by Article 18.17 of this code to~~
9 ~~receive and dispose of the property~~]; or

10 (3) destroy the property.

11 SECTION 10. Article 47.06, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 47.06. DISPOSITION OF PROPERTY [~~SOLD~~]. If the
14 property is not claimed before the end of the 30-day period
15 following [~~within 30 days from~~] the conviction of the person
16 accused of illegally acquiring the property [~~it~~], the property
17 shall be delivered for disposition under Article 59A.020 to the
18 county treasurer of the county in which the property was seized
19 [~~same procedure for its disposition as set out in Article 18.17 of~~
20 ~~this Code shall be followed~~].

21 SECTION 11. Article 47.07, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 47.07. OWNER MAY RECOVER. The real owner of the
24 property disposed of [~~sold~~] under the provisions of Article 47.06
25 may file a claim with the commissioners court of the county to
26 recover any money attributable to the property and deposited in the
27 county's general fund under Article 59A.020(g) [~~such property under~~

1 ~~the same terms as prescribed in Subsection (e) of Article 18.17 of~~
2 ~~this Code]. A claim by the real owner must be filed not later than~~
3 ~~the 30th day after the date of disposition. If the claim is allowed~~
4 ~~by the commissioners court, the county treasurer shall pay the~~
5 ~~owner the amount deposited. If the claim is denied by the~~
6 ~~commissioners court or if the court fails to act on the claim before~~
7 ~~the 91st day after the date the claim was filed, the claimant may~~
8 ~~sue the county treasurer in a court of competent jurisdiction in the~~
9 ~~county and, on sufficient proof of ownership, recover judgment~~
10 ~~against the county for the amount deposited.~~

11 SECTION 12. Section 51.406(c), Education Code, is amended
12 to read as follows:

13 (c) A rule or policy of a state agency, including the Texas
14 Higher Education Coordinating Board, in effect on June 1, 2011,
15 that requires reporting by a university system or an institution of
16 higher education has no effect on or after September 1, 2013, unless
17 the rule or policy is affirmatively and formally readopted before
18 that date by formal administrative rule published in the Texas
19 Register and adopted in compliance with Chapter 2001, Government
20 Code. This subsection does not apply to:

21 (1) a rule or policy for which the authorizing statute
22 is listed in Subsection (b);

23 (2) a rule or policy for which the authorizing statute
24 is repealed on or before September 1, 2013, by legislation enacted
25 by the legislature that becomes law; or

26 (3) a report required under any of the following
27 provisions:

- 1 (A) [~~Article 59.06(g)(1), Code of Criminal~~
2 ~~Procedure,~~
3 [~~B~~] Section 51.005;
4 (B) [~~C~~] Section 51.0051;
5 (C) [~~D~~] Subchapter F-1 of this chapter;
6 (D) [~~E~~] Section 51.402;
7 (E) [~~F~~] Section 56.039;
8 (F) [~~G~~] Section 61.059;
9 (G) [~~H~~] Section 62.098;
10 (H) [~~I~~] Section 411.187(b), Government Code;
11 (I) [~~J~~] Subchapter C, Chapter 606, Government
12 Code;
13 (J) [~~K~~] Subchapter E, Chapter 815, Government
14 Code; or
15 (K) [~~L~~] Chapter 1551, Insurance Code.

16 SECTION 13. Section 96.641(j), Education Code, is amended
17 to read as follows:

18 (j) As part of the initial training and continuing education
19 for police chiefs required under this section, the institute shall
20 establish a program on asset forfeiture under Chapter 59A [~~59~~],
21 Code of Criminal Procedure. The program must include an
22 examination of the best practices for educating peace officers
23 about asset forfeiture and monitoring peace officers' compliance
24 with laws relating to asset forfeiture.

25 SECTION 14. Section 157.317(a), Family Code, is amended to
26 read as follows:

27 (a) A child support lien attaches to all real and personal

1 property not exempt under the Texas Constitution or other law,
2 including:

3 (1) an account in a financial institution;

4 (2) a retirement plan, including an individual
5 retirement account;

6 (3) the proceeds of an insurance policy, including the
7 proceeds from a life insurance policy or annuity contract and the
8 proceeds from the sale or assignment of life insurance or annuity
9 benefits, a claim for compensation, or a settlement or award for the
10 claim for compensation, due to or owned by the obligor;

11 (4) property seized and subject to forfeiture under
12 Chapter 59A [~~59~~], Code of Criminal Procedure; and

13 (5) the proceeds derived from the sale of oil or gas
14 production from an oil or gas well located in this state.

15 SECTION 15. Section 392.303, Finance Code, is amended by
16 amending Subsection (a) and adding Subsection (d) to read as
17 follows:

18 (a) In debt collection, a debt collector may not use unfair
19 or unconscionable means that employ the following practices:

20 (1) seeking or obtaining a written statement or
21 acknowledgment in any form that specifies that a consumer's
22 obligation is one incurred for necessities of life if the
23 obligation was not incurred for those necessities;

24 (2) collecting or attempting to collect interest or a
25 charge, fee, or expense incidental to the obligation unless the
26 interest or incidental charge, fee, or expense is expressly
27 authorized by the agreement creating the obligation or legally

1 chargeable to the consumer; or

2 (3) collecting or attempting to collect an obligation
3 under a check, draft, debit payment, or credit card payment, if:

4 (A) the check or draft was dishonored or the
5 debit payment or credit card payment was refused because the check
6 or draft was not drawn or the payment was not made by a person
7 authorized to use the applicable account;

8 (B) the debt collector has received written
9 notice from a person authorized to use the account that the check,
10 draft, or payment was unauthorized; and

11 (C) the person authorized to use the account has
12 filed a report concerning the unauthorized check, draft, or payment
13 with a law enforcement agency [~~as defined by Article 59.01, Code~~
14 ~~of Criminal Procedure,~~] and has provided the debt collector with a
15 copy of the report.

16 (d) In this section, "law enforcement agency" means an
17 agency of the state or an agency of a political subdivision of the
18 state authorized by law to employ peace officers.

19 SECTION 16. Section 45.193(d), Government Code, is amended
20 to read as follows:

21 (d) The county attorney has no power, duty, or privilege in
22 Grimes County relating to criminal matters, including asset
23 forfeitures under Chapter 59A [59], Code of Criminal Procedure,
24 appearance bond forfeitures under Chapter 17, Code of Criminal
25 Procedure, and habeas corpus related to criminal matters.

26 SECTION 17. Section 54.2205(a), Government Code, is amended
27 to read as follows:

1 (a) The judge of a district court or county court at law or a
2 justice of the peace may refer to a magistrate any case or matter
3 relating to a case for proceedings involving:

4 (1) a negotiated plea of guilty or no contest and
5 sentencing before the court;

6 (2) a bond forfeiture, remittitur, and related
7 proceedings;

8 (3) a pretrial motion;

9 (4) a writ of habeas corpus;

10 (5) an examining trial;

11 (6) an occupational driver's license;

12 (7) a petition for an order of expunction under
13 Chapter 55A, Code of Criminal Procedure;

14 (8) a an asset forfeiture proceeding ~~[hearing]~~ as
15 provided by Chapter 59A ~~[59]~~, Code of Criminal Procedure;

16 (9) a petition for an order of nondisclosure of
17 criminal history record information or an order of nondisclosure of
18 criminal history record information that does not require a
19 petition provided by Subchapter E-1, Chapter 411;

20 (10) a motion to modify or revoke community
21 supervision or to proceed with an adjudication of guilt;

22 (11) setting conditions, modifying, revoking, and
23 surrendering of bonds, including surety bonds;

24 (12) specialty court proceedings;

25 (13) a waiver of extradition;

26 (14) selection of a jury; and

27 (15) any other matter the judge or justice of the peace

1 considers necessary and proper.

2 SECTION 18. Section 54.2405(a), Government Code, is amended
3 to read as follows:

4 (a) The judge of a district court or county court at law or a
5 justice of the peace may refer to a magistrate any case or matter
6 relating to a case for proceedings involving:

7 (1) a negotiated plea of guilty or no contest and
8 sentencing before the court;

9 (2) a bond forfeiture, remittitur, and related
10 proceedings;

11 (3) a pretrial motion;

12 (4) a writ of habeas corpus;

13 (5) an examining trial;

14 (6) an occupational driver's license;

15 (7) a petition for an order of expunction under
16 Chapter 55A, Code of Criminal Procedure;

17 (8) a an-asset forfeiture proceeding ~~[hearing]~~ as
18 provided by Chapter 59A ~~[59]~~, Code of Criminal Procedure;

19 (9) a petition for an order of nondisclosure of
20 criminal history record information or an order of nondisclosure of
21 criminal history record information that does not require a
22 petition provided by Subchapter E-1, Chapter 411;

23 (10) a motion to modify or revoke community
24 supervision or to proceed with an adjudication of guilt;

25 (11) setting conditions, modifying, revoking, and
26 surrendering of bonds, including surety bonds;

27 (12) specialty court proceedings;

- 1 (13) a waiver of extradition;
2 (14) selection of a jury; and
3 (15) any other matter the judge or justice of the peace
4 considers necessary and proper.

5 SECTION 19. Section 54.2606(a), Government Code, is amended
6 to read as follows:

7 (a) A judge may refer to a magistrate any criminal case or
8 matter relating to a criminal case for proceedings involving:

9 (1) a negotiated plea of guilty or no contest and
10 sentencing before the court;

11 (2) a bond forfeiture, remittitur, and related
12 proceedings;

13 (3) a pretrial motion;

14 (4) a writ of habeas corpus;

15 (5) an examining trial;

16 (6) an occupational driver's license;

17 (7) a petition for an order of expunction under
18 Chapter 55A, Code of Criminal Procedure;

19 (8) a an asset forfeiture proceeding ~~hearing~~ as
20 provided by Chapter 59A ~~59~~, Code of Criminal Procedure;

21 (9) a petition for an order of nondisclosure of
22 criminal history record information or an order of nondisclosure of
23 criminal history record information that does not require a
24 petition provided by Subchapter E-1, Chapter 411;

25 (10) a motion to modify or revoke community
26 supervision or to proceed with an adjudication of guilt ~~guilty~~;

27 (11) setting conditions, modifying, revoking, and

1 surrendering of bonds, including surety bonds;
2 (12) specialty court proceedings;
3 (13) a waiver of extradition; and
4 (14) any other matter the judge considers necessary
5 and proper.

6 SECTION 20. Section 54.2811(a), Government Code, is amended
7 to read as follows:

8 (a) A district court judge with jurisdiction in Denton
9 County, the judge of a criminal statutory county court of Denton
10 County, or the judge of the juvenile court of Denton County may
11 refer to the criminal law magistrate court the following matters in
12 a criminal case:

13 (1) a negotiated plea of guilty or no contest before
14 the court;

15 (2) a bond forfeiture, remittitur, and related
16 proceedings;

17 (3) a pretrial motion;

18 (4) a writ of habeas corpus;

19 (5) an examining trial;

20 (6) jury selection;

21 (7) an occupational driver's license;

22 (8) a waiver of extradition or a related matter under
23 Chapter 51, Code of Criminal Procedure;

24 (9) the issuance of search warrants, including a
25 search warrant under Article 18.02(a)(10), Code of Criminal
26 Procedure, notwithstanding Article 18.01(c), Code of Criminal
27 Procedure;

1 (10) a petition for an order of expunction under
2 Chapter [55A](#) [~~55~~], Code of Criminal Procedure;

3 (11) a [~~an asset~~] forfeiture proceeding [~~hearing~~] as
4 provided by Chapter [59A](#) [~~59~~], Code of Criminal Procedure;

5 (12) a civil commitment matter under Subtitle C, Title
6 7, Health and Safety Code;

7 (13) setting, adjusting, or revoking bond;

8 (14) the conduct of initial juvenile detention
9 hearings or any other matter in a juvenile case if referred by the
10 judge of the juvenile court of the county and approved by the Denton
11 County Juvenile Board; and

12 (15) any other matter the judge considers necessary
13 and proper.

14 SECTION 21. Section [54.656](#)(a), Government Code, is amended
15 to read as follows:

16 (a) A judge may refer to a magistrate any criminal case or
17 matter relating to a criminal case for proceedings involving:

18 (1) a negotiated plea of guilty or nolo contendere and
19 sentencing before the court;

20 (2) a bond forfeiture, remittitur, and related
21 proceedings;

22 (3) a pretrial motion;

23 (4) a writ of habeas corpus;

24 (5) an examining trial;

25 (6) an occupational driver's license;

26 (7) a petition for an order of expunction under
27 Chapter [55A](#), Code of Criminal Procedure;

1 (8) a [~~an asset~~] forfeiture proceeding [~~hearing~~] as
2 provided by Chapter 59A [~~59~~], Code of Criminal Procedure;

3 (9) a petition for an order of nondisclosure of
4 criminal history record information or an order of nondisclosure of
5 criminal history record information that does not require a
6 petition provided by Subchapter E-1, Chapter 411;

7 (10) a motion to modify or revoke community
8 supervision or to proceed with an adjudication of guilt;

9 (11) setting conditions, modifying, revoking, and
10 surrendering of bonds, including surety bonds;

11 (12) specialty court proceedings;

12 (13) a waiver of extradition; and

13 (14) any other matter the referring judge considers
14 necessary and proper.

15 SECTION 22. Section 2007.003(b), Government Code, is
16 amended to read as follows:

17 (b) This chapter does not apply to the following
18 governmental actions:

19 (1) an action by a municipality except as provided by
20 Subsection (a)(3);

21 (2) a lawful forfeiture or seizure of property under
22 Chapter 59A [~~contraband as defined by Article 59.01~~], Code of
23 Criminal Procedure;

24 (3) a lawful seizure of property as evidence of a crime
25 or violation of law;

26 (4) an action, including an action of a political
27 subdivision, that is reasonably taken to fulfill an obligation

1 mandated by federal law or an action of a political subdivision that
2 is reasonably taken to fulfill an obligation mandated by state law;

3 (5) the discontinuance or modification of a program or
4 regulation that provides a unilateral expectation that does not
5 rise to the level of a recognized interest in private real property;

6 (6) an action taken to prohibit or restrict a
7 condition or use of private real property if the governmental
8 entity proves that the condition or use constitutes a public or
9 private nuisance as defined by background principles of nuisance
10 and property law of this state;

11 (7) an action taken out of a reasonable good faith
12 belief that the action is necessary to prevent a grave and immediate
13 threat to life or property;

14 (8) a formal exercise of the power of eminent domain;

15 (9) an action taken under a state mandate to prevent
16 waste of oil and gas, protect correlative rights of owners of
17 interests in oil or gas, or prevent pollution related to oil and gas
18 activities;

19 (10) a rule or proclamation adopted for the purpose of
20 regulating water safety, hunting, fishing, or control of
21 nonindigenous or exotic aquatic resources;

22 (11) an action taken by a political subdivision:

23 (A) to regulate construction in an area
24 designated under law as a floodplain;

25 (B) to regulate on-site sewage facilities;

26 (C) under the political subdivision's
27 [~~subdivisions's~~] statutory authority to prevent waste or protect

1 rights of owners of interest in groundwater; or

2 (D) to prevent subsidence;

3 (12) the appraisal of property for purposes of ad
4 valorem taxation;

5 (13) an action that:

6 (A) is taken in response to a real and
7 substantial threat to public health and safety;

8 (B) is designed to significantly advance the
9 health and safety purpose; and

10 (C) does not impose a greater burden than is
11 necessary to achieve the health and safety purpose; or

12 (14) an action or rulemaking undertaken by the Public
13 Utility Commission of Texas to order or require the location or
14 placement of telecommunications equipment owned by another party on
15 the premises of a certificated local exchange company.

16 SECTION 23. Section 481.159(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) If a district court orders the forfeiture of a
19 controlled substance property or plant under the [~~Chapter 59,~~] Code
20 of Criminal Procedure[~~7~~] or under this code, the court shall also
21 order a law enforcement agency or a criminal justice agency to which
22 the law enforcement agency transferred the property or plant for
23 analysis and storage to:

24 (1) retain the property or plant for official law
25 enforcement purposes, including use in the investigation of
26 offenses under this code;

27 (2) deliver the property or plant to a government

1 agency for official purposes;

2 (3) deliver the property or plant to a person
3 authorized by the court to receive it;

4 (4) deliver the property or plant to a person
5 authorized by the director to receive it; or

6 (5) destroy the property or plant that is not
7 otherwise disposed of in the manner prescribed by this subchapter.

8 SECTION 24. Section 481.160(a), Health and Safety Code, is
9 amended to read as follows:

10 (a) If a controlled substance property or plant is forfeited
11 under this code or under the [~~Chapter 59,~~] Code of Criminal
12 Procedure, the law enforcement agency that seized the property or
13 plant or to which the property or plant is forfeited or a criminal
14 justice agency to which the law enforcement agency transferred the
15 property or plant for analysis and storage may summarily destroy
16 the property or plant without a court order, or otherwise dispose of
17 the property or plant in lieu of destruction in accordance with
18 Section 481.161, before the disposition of a case arising out of the
19 forfeiture if the agency ensures that:

20 (1) at least five random and representative samples
21 are taken from the total amount of the property or plant and a
22 sufficient quantity is preserved to provide for discovery by
23 parties entitled to discovery;

24 (2) photographs are taken that reasonably depict the
25 total amount of the property or plant; and

26 (3) the gross weight or liquid measure of the property
27 or plant is determined, either by actually weighing or measuring

1 the property or plant or by estimating its weight or measurement
2 after making dimensional measurements of the total amount seized.

3 SECTION 25. Section 573.0001(2), Health and Safety Code, is
4 amended to read as follows:

5 (2) "Law enforcement agency" means an agency of the
6 state or an agency of a political subdivision of the state
7 authorized by law to employ peace officers [~~has the meaning~~
8 ~~assigned by Article 59.01, Code of Criminal Procedure~~].

9 SECTION 26. Section 113.008(g), Local Government Code, is
10 amended to read as follows:

11 (g) Subsections (b-1) and (f)(2) do not apply to a special
12 fund administered by an attorney representing the state under
13 Chapter 18 or [~~7~~] 47, [~~or 59,~~] Code of Criminal Procedure.

14 SECTION 27. Section 1701.253(g), Occupations Code, is
15 amended to read as follows:

16 (g) As part of the minimum curriculum requirements, the
17 commission shall establish a statewide comprehensive education and
18 training program on criminal asset forfeiture under Chapter 59A
19 [~~59~~], Code of Criminal Procedure, for officers licensed under this
20 chapter.

21 SECTION 28. Section 37.08(b), Penal Code, is amended to
22 read as follows:

23 (b) In this section, "law enforcement agency" means an
24 agency of the state or an agency of a political subdivision of the
25 state authorized by law to employ peace officers [~~has the meaning~~
26 ~~assigned by Article 59.01, Code of Criminal Procedure~~].

27 SECTION 29. Section 38.152(c)(3), Penal Code, is amended to

1 read as follows:

2 (3) "Law enforcement agency" means an agency of the
3 state or an agency of a political subdivision of the state
4 authorized by law to employ peace officers [~~has the meaning~~
5 ~~assigned by Article 59.01, Code of Criminal Procedure~~].

6 SECTION 30. The following provisions are repealed:

7 (1) Section 140A.102(h), Civil Practice and Remedies
8 Code;

9 (2) Article 18.17, Code of Criminal Procedure;

10 (3) Chapter 59, Code of Criminal Procedure;

11 (4) Sections 24.377(c), 54.2205(b), 54.2405(b),
12 54.2606(b), and 54.656(b), Government Code;

13 (5) Section 365.012(i), Health and Safety Code; and

14 (6) Sections 12.101(1) and (2), 12.1106, 61.0221, and
15 62.017, Parks and Wildlife Code.

16 SECTION 31. (a) Except as provided by Subsection (b) of
17 this section, on the effective date of this Act, any property in the
18 possession of a law enforcement agency, game warden, or attorney
19 representing the state, that was seized under Chapter 59, Code of
20 Criminal Procedure, or Section 12.1106, 61.0221, or 62.017, Parks
21 and Wildlife Code, and that has not been ordered forfeited to the
22 state by a court, must be returned to the person from whom the
23 property was seized.

24 (b) Property that is evidence in the investigation or
25 prosecution of a criminal offense is not required to be returned
26 under Subsection (a) of this section until the disposition of all
27 charges relating to the offense.

1 SECTION 32. The repeal by this Act of Article 18.17, Code of
2 Criminal Procedure, does not apply to abandoned or unclaimed
3 property seized before the effective date of this Act, and the
4 former Article 18.17 is continued in effect for the purposes of the
5 disposition of property described by this section.

6 SECTION 33. This Act takes effect September 1, 2025.