

By: Nichols

S.B. No. 1498

A BILL TO BE ENTITLED

1 AN ACT
2 relating to civil asset forfeiture of digital currency or other
3 similar property.

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

5 SECTION 1. Article 59.01, Code of Criminal Procedure, is
6 amended by amending Subdivisions (2), (7), and (9) and adding
7 Subdivision (3-a) to read as follows:

8 (2) "Contraband" means property of any nature,
9 including real, personal, tangible, or intangible, including a
10 digital currency, non-fungible token, or stablecoin, that is:

11 (A) used in the commission of:

12 (i) any first or second degree felony under
13 the Penal Code;

14 (ii) any felony under Section 15.031(b),
15 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
16 Code;

17 (iii) any felony under Chapter 43, Penal
18 Code, except as provided by Paragraph (B);

19 (iv) any felony under The Securities Act
20 (Title 12, Government Code); or

21 (v) any offense under Chapter 49, Penal
22 Code, that is punishable as a felony of the third degree or state
23 jail felony, if the defendant has been previously convicted three
24 times of an offense under that chapter;

1 (B) used or intended to be used in the commission
2 of:

3 (i) any felony under Chapter 481, Health
4 and Safety Code (Texas Controlled Substances Act);

5 (ii) any felony under Chapter 483, Health
6 and Safety Code;

7 (iii) a felony under Chapter 152, Finance
8 Code;

9 (iv) any felony under Chapter 20A or 34,
10 Penal Code;

11 (v) a Class A misdemeanor under Subchapter
12 B, Chapter 365, Health and Safety Code, if the defendant has been
13 previously convicted twice of an offense under that subchapter;

14 (vi) any felony under Chapter 32, Human
15 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
16 involves a health care program, as defined by Section 35A.01, Penal
17 Code;

18 (vii) a Class B misdemeanor under Chapter
19 522, Business & Commerce Code;

20 (viii) a Class A misdemeanor under Section
21 306.051, Business & Commerce Code;

22 (ix) any offense under Section 42.10, Penal
23 Code;

24 (x) any offense under Section 46.06(a)(1)
25 or 46.14, Penal Code;

26 (xi) any offense under Chapter 71, Penal
27 Code;

1 (xii) any offense under Section 20.05,
2 20.06, 20.07, 43.04, or 43.05, Penal Code;

3 (xiii) an offense under Section 326.002,
4 Business & Commerce Code;

5 (xiv) any offense under Section 545.420,
6 Transportation Code; or

7 (xv) any offense punishable under Section
8 42.03(d) or (e), Penal Code;

9 (C) the proceeds gained from the commission of a
10 felony listed in Paragraph (A) or (B) of this subdivision, a
11 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), (xii),
12 (xiv), or (xv) of this subdivision, or a crime of violence;

13 (D) acquired with proceeds gained from the
14 commission of a felony listed in Paragraph (A) or (B) of this
15 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
16 (xi), (xii), (xiv), or (xv) of this subdivision, or a crime of
17 violence;

18 (E) used to facilitate or intended to be used to
19 facilitate the commission of a felony under Section 15.031 or
20 Chapter 43, Penal Code; or

21 (F) used to facilitate or intended to be used to
22 facilitate the commission of an offense under Section 20.05, 20.06,
23 or 20.07 or Chapter 20A, Penal Code.

24 (3-a) "Digital currency" means a digital
25 representation of value recorded on a cryptographically secured
26 distributed ledger, including blockchain, or similar technology.

27 (7) "Proceeds" includes:

1 (A) income a person accused or convicted of a
2 crime or the person's representative or assignee receives from:

3 (i) [~~(A)~~] a movie, book, magazine article,
4 tape recording, phonographic record, radio or television
5 presentation, telephone service, electronic media format,
6 including an Internet website, or live entertainment in which the
7 crime was reenacted; or

8 (ii) [~~(B)~~] the sale of tangible property
9 the value of which is increased by the notoriety gained from the
10 conviction of an offense by the person accused or convicted of the
11 crime; or

12 (B) with respect to digital currency gained from
13 the commission of an offense, any increase in value of the digital
14 currency between the date of acquisition and the forfeiture of the
15 digital currency.

16 (9) "Depository account" means the obligation of a
17 regulated financial institution to pay the account owner under a
18 written agreement, including a checking account, savings account,
19 money market account, time deposit, NOW account, [~~or~~] certificate
20 of deposit, or digital currency wallet, regardless of whether the
21 wallet is connected to an exchange or network.

22 SECTION 2. Article 59.023(a), Code of Criminal Procedure,
23 is amended to read as follows:

24 (a) A peace officer who identifies proceeds that are gained
25 from the commission of an offense listed in Article 59.01(2)(A) or
26 (B) shall provide the attorney representing the state with an
27 affidavit that identifies the amount of the proceeds and that

1 states probable cause that the proceeds are contraband subject to
2 forfeiture. On receiving the affidavit, the attorney representing
3 the state may file for a judgment in the amount of the proceeds in a
4 district court in:

5 (1) the county in which the proceeds were gained;

6 (2) the county in which any owner or possessor of the
7 property was prosecuted for an underlying offense for which the
8 property is subject to forfeiture;

9 (3) the county in which venue existed for prosecution
10 of an underlying offense for which the property is subject to
11 forfeiture;

12 (4) the county in which the proceeds were seized; ~~[or]~~

13 (5) if the property is a digital currency,
14 non-fungible token, stablecoin, or wallet not connected to an
15 exchange or network, the county in which the law enforcement agency
16 that initiated the seizure of the property is located; or

17 (6) Travis County.

18 SECTION 3. Article 59.03(c), Code of Criminal Procedure, is
19 amended to read as follows:

20 (c) A peace officer who seizes property under this chapter
21 has custody of the property, subject only to replevy under Article
22 59.02 ~~[of this code]~~ or an order of a court. A peace officer who has
23 custody of property shall provide the attorney representing the
24 state with a sworn statement that contains a schedule of the
25 property seized, an acknowledgment that the officer has seized the
26 property, and a list of the officer's reasons for the seizure. Not
27 later than 72 hours after the seizure:

- 1 (1) [~~7~~] the peace officer shall:
- 2 (A) [~~1~~] place the property under seal;
- 3 (B) [~~2~~] remove the property to a place ordered
- 4 by the court; or
- 5 (C) [~~3~~] require a law enforcement agency of the
- 6 state or a political subdivision to take custody of the property and
- 7 move it to a proper location; or
- 8 (2) if the property seized is a digital currency,
- 9 non-fungible token, or stablecoin, the law enforcement agency
- 10 employing the peace officer shall transfer the property to a wallet
- 11 that is:
- 12 (A) not connected to an exchange or network; and
- 13 (B) only accessible by the law enforcement agency
- 14 or the attorney representing the state.

15 SECTION 4. Article 59.04(b), Code of Criminal Procedure, is

16 amended to read as follows:

17 (b) A forfeiture proceeding commences under this chapter

18 when the attorney representing the state files a notice of the

19 seizure and intended forfeiture in the name of the state with the

20 clerk of the district court in the county in which the seizure is

21 made or, if the property is a digital currency, non-fungible token,

22 stablecoin, or wallet not connected to an exchange or network, in

23 the county in which the law enforcement agency that initiated the

24 seizure of the property is located. The attorney representing the

25 state must attach to the notice the peace officer's sworn statement

26 under Article 59.03 [~~of this code~~] or, if the property has been

27 seized under Article 59.12(b), the statement of the terms and

1 amount of the depository account or inventory of assets provided by
2 the regulated financial institution to the peace officer executing
3 the warrant in the manner described by Article 59.12(b). Except as
4 provided by Subsection (c) of this article, the attorney
5 representing the state shall cause certified copies of the notice
6 to be served on the following persons in the same manner as provided
7 for the service of process by citation in civil cases:

- 8 (1) the owner of the property; and
- 9 (2) any interest holder in the property.

10 SECTION 5. Article 59.12(b), Code of Criminal Procedure, is
11 amended to read as follows:

12 (b) A regulated financial institution, at the time a seizure
13 warrant issued under Chapter 18 is served on the institution, may
14 either:

15 (1) pay an account or tender assets held as security
16 for an obligation owed to the institution at the time of the service
17 of the seizure warrant; ~~or~~

18 (2) transfer the depository account or assets to a
19 segregated interest-bearing account in the name of the attorney
20 representing the state as trustee, to remain in the account until
21 the time has expired for an appeal from a decision of the court
22 relating to the forfeiture of accounts or assets under Article
23 59.05; or

24 (3) transfer any digital currency, non-fungible
25 token, or stablecoin held by the institution to a secure wallet that
26 is:

27 (A) not connected to an exchange or network; and

1 (B) in the possession of a law enforcement agency
2 or an attorney representing the state.

3 SECTION 6. The changes in law made by this Act apply only to
4 property or proceeds seized on or after the effective date of this
5 Act. Property or proceeds seized before the effective date of this
6 Act are governed by the law in effect on the date the property or
7 proceeds were seized, and the former law is continued in effect for
8 that purpose. For purposes of this section, property or proceeds
9 were seized before the effective date of this Act if any portion of
10 the property or proceeds was seized before that date.

11 SECTION 7. This Act takes effect September 1, 2025.