

BILL ANALYSIS

C.S.H.B. 249
By: Leach
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties recognize a need for greater transparency in asset forfeiture proceedings in Texas due to reported instances of common petty cash abuse of asset forfeiture as well as more grotesque abuse. C.S.H.B. 249 seeks to increase transparency in these proceedings and protect the citizens of Texas from these potential abuses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 249 amends the Code of Criminal Procedure to require the attorney general to publish, not later than February 1 of each year, a report summarizing the results of the audits of all proceeds and property received from the forfeiture of contraband by a law enforcement agency and attorney representing the state received during the preceding calendar year and to make the report available to the public on the attorney general's website.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 249 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 59.06, Code of Criminal Procedure, is amended by amending Subsection (g) and adding Subsection (g-1) to read as follows:

(g)(1) All law enforcement agencies and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 59.06, Code of Criminal Procedure, is amended by adding Subsection (g-1) to read as follows:

No equivalent provision.

attorneys representing the state who receive proceeds or property under this chapter shall account for the seizure, forfeiture, receipt, and specific expenditure of all the proceeds and property in an audit, which is to be performed annually by the commissioners court or governing body of a municipality, as appropriate. The annual period of the audit for a law enforcement agency is the fiscal year of the appropriate county or municipality and the annual period for an attorney representing the state is the state fiscal year. The audit must be completed on a form provided by the attorney general and must include:

(A) a detailed report and explanation of all expenditures, including salaries and overtime pay, officer training, investigative equipment and supplies, and other items; and

(B) for each seizure of proceeds or property under this chapter, an indication of:

(i) the specific criminal offense on which each seizure was based; and

(ii) if charges were brought in connection with the offense, the disposition of those charges.

(2) Certified copies of the audit shall be delivered by the law enforcement agency or attorney representing the state to the attorney general not later than the 60th day after the date on which the annual period that is the subject of the audit ends.

(3) ~~(2)~~ If a copy of the audit is not delivered to the attorney general within the period required by Subdivision (2) ~~(1)~~, within five days after the end of the period the attorney general shall notify the law enforcement agency or the attorney representing the state of that fact. On a showing of good cause, the attorney general may grant an extension permitting the agency or attorney to deliver a copy of the audit after the period required by Subdivision (2) ~~(1)~~ and before the 76th day after the date on which the annual period that is the subject of the audit ends. If the law enforcement agency or the attorney representing the state fails to establish good cause for not delivering the copy of the audit within the period required by Subdivision (2) ~~(1)~~ or fails to deliver a copy of an audit within the extension period, the attorney general shall notify the comptroller of that fact.

(4) ~~(3)~~ On notice under Subdivision (3)

~~[(2)]~~, the comptroller shall perform the audit otherwise required by Subdivision (1). At the conclusion of the audit, the comptroller shall forward a copy of the audit to the attorney general. The law enforcement agency or attorney representing the state is liable to the comptroller for the costs of the comptroller in performing the audit.

(g-1) Not later than February 1 of each year, the attorney general shall publish a report summarizing the results of the audits received during the preceding calendar year. The attorney general shall make the report available to the public on its Internet website.

SECTION 2. The changes in law made by this Act in amending Article 59.06(g), Code of Criminal Procedure, apply to any audit performed under that subsection on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.

(g-1) Not later than February 1 of each year, the attorney general shall publish a report summarizing the results of the audits received during the preceding calendar year. The attorney general shall make the report available to the public on the attorney general's Internet website.

No equivalent provision.

SECTION 2. Same as introduced version.