

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 878
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Article 59.06 of the Texas Code of Criminal Procedure establishes the procedures for the disposition of forfeited property by either the attorney representing the state or the law enforcement agency. Forfeited property is contraband used in the commission of a crime that is subject to seizure and forfeiture. The disposition of forfeited assets is determined at a forfeiture hearing.

The purpose for which proceeds from forfeited assets may be used is limited to an "official purpose of the office" or a "law enforcement purpose." As currently written, however, the statute is silent as to which purposes and expenses those terms do, and do not, include. The result is that neither law enforcement, state attorneys' offices, nor the general public have any guidance as to the permissible use of these funds.

C.S.S.B. 878 will help provide clarity in the disposition and reporting process of forfeited property. This bill provides law enforcement, state attorneys, and the public a clear directive as to what is and is not an authorized use of asset forfeiture dollars.

C.S.S.B. 878 amends current law relating to the disposition of proceeds and property from criminal asset forfeiture.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 59.06, Code of Criminal Procedure, by amending Subsections (c) and (c-1) and adding Subsections (d-3) and (d-4), as follows:

(c) Deletes existing text enumerating examples of uses that qualify as uses for law enforcement purposes in regard to disposition of forfeited assets.

(c-1) Requires that proceeds transferred under this subsection be used by the special rangers solely for law enforcement purposes, rather than solely for law enforcement purposes such as training, essential equipment, and operating expenses.

(d-3) Provides that, except as otherwise provided by this article, an expenditure of proceeds or property received under this chapter is considered to be for a law enforcement purpose if the expenditure is made for an activity of a law enforcement agency that relates to the criminal and civil enforcement of the laws of this state, including an expenditure made for:

(1) equipment, including vehicles, computers, firearms, protective body armor, furniture, software, uniforms, and maintenance equipment;

(2) supplies, including office supplies, mobile phone and data account fees for employees, and Internet services;

- (3) investigative and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking;
- (4) conferences and training expenses, including fees and materials;
- (5) investigative costs, including payments to informants and lab expenses;
- (6) crime prevention and treatment programs;
- (7) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities;
- (8) witness-related costs, including travel and security; and
- (9) audit costs and fees, including audit preparation and professional fees.

(d-4) Provides that, except as otherwise provided by this article, an expenditure of proceeds or property received under this chapter is considered to be for an official purpose of an attorney's office if the expenditure is made for an activity of an attorney or office of an attorney representing the state that relates to the preservation, enforcement, or administration of the laws of this state, including an expenditure made for:

- (1) equipment, including vehicles, computers, visual aid equipment for litigation, firearms, body armor, furniture, software, and uniforms;
- (2) supplies, including office supplies, legal library supplies and access fees, mobile phone and data account fees for employees, and Internet services;
- (3) prosecution and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking;
- (4) conferences and training expenses, including fees and materials;
- (5) investigative costs, including payments to informants and lab expenses;
- (6) crime prevention and treatment programs;
- (7) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities;
- (8) legal fees, including court costs, witness fees, and related costs, including travel and security, audit costs, and professional fees; and
- (9) state bar and legal association dues.

SECTION 2. Provides that the changes in law made by this Act apply to the disposition or use, on or after the effective date of this Act, of proceeds or property received by a law enforcement agency or attorney representing the state under Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure, regardless of whether the receipt of the proceeds or property occurred before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2013.