

BILL ANALYSIS

H.B. 1012
By: Canales
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, in a civil asset forfeiture case the state must have a preponderance of evidence to prove that the seized property was used for a crime. However, there are reports that some law enforcement agencies have abused the civil asset forfeiture proceedings because of the low burden of proof required. Interested parties point to cases in which law enforcement has seized a person's property simply by asserting that the property is connected to illegal activity, even without pursuing criminal charges. These parties contend that law enforcement should not be able to seize personal property without a finding of guilt or, in some cases, without even making a criminal charge. H.B. 1012 seeks to prevent abuses by raising the burden of proof in a civil asset forfeiture case.

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

H.B. 1012 amends the Code of Criminal Procedure to change the state's burden of proof in a proceeding for forfeiture of contraband or substitute property from a burden of proof by a preponderance of the evidence to a burden of proof by clear and convincing evidence.

H.B. 1012 amends the Parks and Wildlife Code to change the court's burden of proof when determining that certain seized property is contraband and required to be forfeited to the Parks and Wildlife Department from a burden of proof by a preponderance of the evidence to a burden of proof by clear and convincing evidence.

EFFECTIVE DATE

September 1, 2015.