

BILL ANALYSIS

Senate Research Center
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H.B. 2696
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Recently, several states, including Texas, have been examining the use of criminal asset forfeiture as a tool to further discourage and impede criminal activities. Problems found with the existing forfeiture system include the lack of adequate enforcement of auditing requirements, the availability of more lenient federal forfeiture remedies, and reports of seizures of cash without proper cause. H.B. 2696 modifies current asset forfeiture provisions and procedures and requires the establishment of educational and training programs on asset forfeiture for police chiefs and certain peace officers.

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 59.03, Code of Criminal Procedure, by adding Subsection (d) to authorize a person in the possession of property at the time a peace officer seizes the property under this chapter to at the time of seizure assert the person's interest in or right to the property. Prohibits a peace officer who seizes property under this chapter from at the time of seizure requesting, requiring, in any manner inducing any person, including a person who asserts an interest in or right to the property seized, to execute a document purporting to waive the person's interest in or rights to the property

SECTION 2. Amends Article 59.06(g), Code of Criminal Procedure, to require the attorney general, within five days after the end of the period, to notify the law enforcement agency or the attorney representing the state of the fact, if a copy of the audit is not delivered to the attorney general within the period required by this section. Authorizes the attorney general, on a showing of good cause, to grant an extension permitting the agency or attorney to deliver a copy of the audit after the period required by this section and before the 46th day after the date on which the annual period that is the subject of the audit ends. Requires the attorney general, 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 this section or fails to deliver a copy of an audit within the extension period, to notify the comptroller of public accounts of that fact. Requires the comptroller to perform the audit otherwise required by this section, on notice under this section. Requires the comptroller, at the conclusion of the audit, to forward a copy of the audit to the attorney general. Provides that the law enforcement agency or attorney representing the state is liable to the comptroller for the costs of the comptroller in performing the audit.

SECTION 3. Amends Section 96.641, Education Code, by adding Subsection (j) to require the Bill Blackwood Law Enforcement Management Institute of Texas, as part of the initial training and continuing education for police chiefs required under this section, to establish a program on asset forfeiture under Chapter 59, Code of Criminal Procedure. Requires the program to include an examination of the best practices for educating peace officers about asset forfeiture and monitoring peace officers' compliance with laws relating to asset forfeiture.

SECTION 4. Amends Section 1701.253, Occupations Code, by adding Subsection (e) to require the Commission on Law Enforcement Officer Standards and Education (commission), as part of the minimum curriculum requirements, to establish a statewide comprehensive education and training program on asset forfeiture under Chapter 59, Code of Criminal Procedure, for officers licensed under this chapter. Requires an officer to complete a program established under this section not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Amends Section 1701.402, Occupations Code, by adding Subsection (d) to require an officer, as a requirement for an intermediate proficiency certificate, to complete an education and training program on asset forfeiture established by the commission under Section 1701.253(e).

SECTION 6. Makes application of this Act prospective.

SECTION 7. Provides that Article 59.06(g), Code of Criminal Procedure, as amended by this Act, applies to the first audit required to be performed by a commissioners court or governing body on or after the effective date of this Act.

SECTION 8. Requires the Commission on Law Enforcement Officer Standards and Education to establish an education and training program on asset forfeiture as required by Section 1701.253(e), Occupations Code, as added by this Act, not later than January 1, 2002. Requires the Bill Blackwood Law Enforcement Management Institute of Texas to establish a program on asset forfeiture as required by Section 96.941(j), Education Code, as added by this Act, not later than January 1, 2002.

SECTION 9. Requires a person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years to complete an education and training program on asset forfeiture established under Section 1701.253(e), Occupations Code, as added by this Act, not later than September 1, 2002.

SECTION 10. Requires an individual appointed or elected as a police chief before the effective date of this Act to complete a program on asset forfeiture established under Section 96.641(j), Education Code, as added by this Act, not later than September 1, 2002.

SECTION 11. Effective date: September 1, 2001.