



SB 665/ HB 2992

FACT SHEET

2023 LEGISLATIVE SESSION

WHAT THE BILL DOES

SB 665/HB 2992 **aims to address the gap in information surrounding civil asset forfeiture practices in the state by creating a case tracking management system.** This system is to be created and managed by the state's attorney general, with the goal of collecting, organizing, and sharing said information with the public (i.e., via websites and reports). SB 665/HB 2992 also allows any member of the state legislature to request an audit related to the seizure, forfeiture, receipt, and specific expenditure of proceeds and property, as permitted under Article 59 of the Texas Code of Criminal Procedure.

RESEARCH SUPPORTING POLICY CHANGE

In Texas, **the reporting requirements on asset forfeiture are limited to what is seized, its monetary value, and how these profits are then spent.**ⁱ Substantial gaps in the records exist, such as the location of the seizure, information on the trial, and whether the charged offense resulted in conviction. Other states include relevant details in their asset forfeiture reporting requirements, such as location of the seizure, race and sex of the individual from which the property was seized, criminal charges associated with the seizure, outcome of the associated criminal case (e.g., dismissal, conviction, etc.) and the eventual fate of the property (e.g., returned, sold etc.).ⁱⁱ Comprehensive and consistent reporting allows for a broader understanding of how civil asset forfeiture practices play out across departments, and where abuse of it may be frequent.

Texas' civil asset forfeiture process provides law enforcement personnel the opportunity to claim a crime has occurred for the benefit of police department funding, rather than the benefit of public safety. In 2014, funds related to property seized from Texans by law enforcement provided between 14% and 18% of police budgets.ⁱⁱⁱ Between 2013 and 2018, Texas law enforcement spent approximately \$266 million in asset forfeiture funds.^{iv} About half of this money went to equipment and capital expenditures, while a quarter was expended on personnel.^v These funds include property repurposed by police departments, such as cars.^{vi}

Despite laws barring law enforcement from utilizing civil asset forfeiture profits on certain expenditures,^{vii} an exception in Texas' Criminal Code of Procedure (Article 59.06(d-1)(7)) allows a municipality's governing body or the commissioners court to approve a salary increase for law enforcement officers through the use of those funds.^{viii} This exception paired with the financial contribution to police budgets highlights a clear benefit of relying on continuing practices as they stand.^{ix}




Collecting more comprehensive data on the use of civil asset forfeiture practices across the state is key. Currently, **Texas collects only four of twenty potential reporting details outlined by the Institute of Justice,** a non-profit, public interest law firm that conducts extensive research on asset forfeiture practices and outcomes.^x Collecting additional information such as the alleged offense that gave rise to the seizure and the outcome of one's case, could provide a more in-depth look into how civil asset forfeiture is being used in each jurisdiction.

In 2020, law enforcement agencies and prosecutors throughout Texas seized more than \$40 million in cash and other property through asset forfeiture. None of these seizures recorded by the state's attorney general distinguished whether the seizures resulted in a conviction, or whether the seizures followed a conviction.^{xi} Contesting the seizure of one's property has also been found to be futile in Texas, as up to 70% of forfeiture proceeds is retained by law enforcement in cases where property is forfeited by default, and up to

100% is retained by law enforcement where forfeiture is contested.^{xii} In 2016, data across six counties (Dallas, Denton, Fort Bend, Hidalgo, Montgomery, and Nueces) showed nearly half of the civil asset forfeiture cases ended in default.^{xiii}

RECOMMENDATION

Texas Appleseed recommends the Texas Legislature adopt and implement SB 665/HB 2992, which authorizes the state's attorney general to collect, manage, track, and report on the seizure, forfeiture, receipt, and specific expenditures of proceeds and property, as permitted under Article 59 of the Texas Code of Criminal Procedure. Benefits of passing SB 665/HB 2992 include:

-  **Enhancing data collection, tracking, and reporting around the use of asset forfeiture across the state.**
-  **Achieving and maintaining transparency and accountability around the use of funds/property seized by law enforcement across the state.**
-  **Ensuring public safety and procedural justice by monitoring asset forfeiture practices across the state.**

REFERENCES & ENDNOTES

ⁱ Erickson, A. (2017). *Forfeiture Transparency & Accountability*. Institute for Justice. Retrieved from <https://ij.org/report/forfeiture-transparency-accountability/?state=US-TX>

ⁱⁱ Ibid.

ⁱⁱⁱ Stuteville, R. L. (2014). *Reverse robin hood: the tale of how Texas law enforcement has used civil asset forfeiture to take from property owners and pad the pockets of local government the righteous hunt for reform is on*. Texas Tech Law Review, 46(4), 1169-1202.

^{iv} Institute for Justice (2020). *Policing for Profit: The Abuse of Civil Asset Forfeiture*. Retrieved from <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>

^v Ibid.

^{vi} Houston Chronicle (September 2022). *As Texas DPS touts new Dodge Hellcat seized in high-speed chase*. Retrieved from <https://www.houstonchronicle.com/news/houston-texas/crime/article/dps-dodge-hellcat-17475350.php>

^{vii} Texas Criminal Code, Chapter 59, Article 59.06 § (d). Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.59.htm>

^{viii} Texas Criminal Code, Chapter 59, Article 59.06 (d-1) (7). Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.59.htm>; Stuteville, R. L. (2014). *Reverse robin hood: the tale of how Texas law enforcement has used civil asset forfeiture to take from property owners and pad the pockets of local government the righteous hunt for reform is on*. Texas Tech Law Review, 46(4), 1169-1202.

^{ix} Worrall, J. (2000), Addicted to the drug war: The role of civil asset forfeiture as a budgetary necessity in contemporary law enforcement, *Journal of Criminal Justice*, (29) 3, 171-187.

^x Ibid.

^{xi} Texas Attorney General (2020). *Texas Attorney General Forfeiture Report 2020*, Retrieved from <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/criminaljustice/AnnualReportForfeitedFunds2020.pdf>

^{xii} Institute for Justice (2020), *Policing for Profit: The Abuse of Civil Asset Forfeiture*. Retrieved from <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>

^{xiii} Texas Appleseed (2020). *Civil Asset Forfeiture Case Outcomes*. Data and findings available upon request.



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