

Fiscal Estimate Narratives

DOC 12/2/2015

LRB Number	15-2148/1	Introduction Number	AB-0537	Estimate Type	Original
Description Forfeiture of property seized in relation to a crime					

Assumptions Used in Arriving at Fiscal Estimate

This bill changes the way property is forfeited after it is seized in relation to a crime. Under current law, the state or a local law enforcement agency may acquire certain property involved in the commission of a crime or seized in relation to a criminal investigation through a forfeiture proceeding. The forfeiture law applies to all property directly or indirectly derived from the commission of a crime. Current law allows an agency to keep certain property for its own use, to transfer the property to another agency, or to sell the property.

Under current law, the agency that seized the property may retain a set percentage of the proceeds of selling the property to cover administrative and other costs; the remainder goes into the state school fund. Under current law, local law enforcement agencies may enter into agreements with federal authorities wherein property that is seized in relation to a federal crime is turned over to the federal authorities for forfeiture under federal law. Proceeds from selling the property are shared between the federal authorities and local law enforcement agencies.

This bill allows property to be subject to forfeiture only if a person is convicted of the crime related to the action for forfeiture and only if a court finds that the property seized is proportional to the crime committed. The bill requires seized property to be returned to innocent owners of the property unless the owners were involved with or knowledgeable about the crime related to the property. Further, the bill allows the court, upon petition by a person whose property was seized but not yet forfeited, to return the property to the person under certain circumstances. Under the bill, the person may not sell, give away, or burden the property and, if the person is found to have committed the crime related to the property, must surrender the property for forfeiture. The bill requires all proceeds of the sale of property to be turned in to the state school fund.

The bill prohibits local law enforcement agencies from transferring property to federal agents for forfeiture under federal law unless the value of the property exceeds \$50,000, the property was seized in relation to an interstate crime, or the property may only be forfeited under federal law.

The bill also requires law enforcement agencies and the Department of Justice to create publicly accessible reports on the seizures and forfeitures for each year.

The Department of Corrections (DOC) will not be affected by this bill. The DOC does not receive any funds from civil forfeiture and is not involved in the collection of any funds related to civil forfeiture.

The local fiscal impact is indeterminate because the DOC currently has no record of the civil forfeiture practices of each locality and how much money, if any, each locality receives from civil forfeiture.

Long-Range Fiscal Implications