

BILL ANALYSIS

H.B. 1975
By: Schaefer
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that an innocent owner or interest holder in an asset forfeiture proceeding has the burden of proving by a preponderance of the evidence that the individual was not a party to the offense giving rise to the forfeiture and that the burden of proof should be shifted to the state. H.B. 1975 seeks to remedy this situation.

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. 1975 amends the Code of Criminal Procedure to remove the condition that a property owner or interest holder prove by a preponderance of the evidence that the circumstances prohibiting the forfeiture of the owner's or interest holder's interest in the property apply to property that is subject to seizure and forfeiture as contraband and to instead place the burden on the state to prove by a preponderance of the evidence that such circumstances do not apply to the property. The bill removes the condition that a property owner or interest holder prove by a preponderance of the evidence at a forfeiture hearing that the owner or interest holder was not a party to the offense giving rise to a property forfeiture and that the contraband meets certain criteria and instead places the burden on the state to prove by a preponderance of the evidence that such circumstances under which the forfeiture is prohibited do not apply to the property that is subject to seizure and forfeiture.

EFFECTIVE DATE

September 1, 2015.