

BILL ANALYSIS

Senate Research Center
77R5510 GWK-D

S.B. 563
By: Armbrister
Criminal Justice
2/22/2001
Committee Report (Amended)

DIGEST AND PURPOSE

Currently, innocent victims of crimes are not protected from theft or burglary where seized property was either obtained by criminal means or was acquired with proceeds from property obtained by criminal means. As proposed, S.B. 563 amends the Texas Code of Criminal Procedure, Article 59.02 by adding Subsection (h) to provide that an owner or interest holder's interest in property is prohibited from being forfeited if at the forfeiture hearing the owner or interest holder proves by a preponderance of the evidence that the owner or interest holder meets certain conditions.

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 59.02, Code of Criminal Procedure, by adding Subsection (h), to prohibit an owner or interest holder's interest in property from being forfeited under this chapter if at the forfeiture hearing the owner or interest holder proves by a preponderance of the evidence that the owner or interest holder was not a party to the offense giving rise to the forfeiture and that the contraband was stolen from the owner or interest holder before being used in the commission of the offense giving rise to the forfeiture; or was purchased with money stolen from the owner or interest holder; or proceeds from the sale of property stolen from the owner or interest holder. Requires an attorney representing the state who has a reasonable belief that property subject to forfeiture is described by Subdivision (1) and who has a reasonable belief as to the identity of the rightful owner or interest holder of the property to notify the owner or interest holder as provided by Article 59.04. Provides that an attorney representing the state is not liable in an action for damages resulting from an act or omission in the performance of the duties imposed by Subsection (h)(2). Provides that the exclusive remedy for failure by the attorney representing the state to provide the notice required under Subsection (h)(2) is submission of that failure as a ground for new trial in a motion for new trial or bill of review.

SECTION 2. Effective date: September 1, 2001.
Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 563, Article 59.02, Code of Criminal Procedure, as follows:

- Adds new language regarding an attorney representing the state not being liable in an action for damages resulting from an Act or omission in the performance of the duties imposed by Subsection (h)(2).
- Adds new language regarding the exclusive remedy for failure by the attorney representing the state to provide the notice required under Subsection (h)(2).

SECTION 2. No change.