

Committee on Criminal Justice

CS/CS/SB 1044 — Contraband Forfeiture

by Fiscal Policy Committee; Criminal Justice Committee; and Senators Brandes, Negron, Clemens, Bean, and Evers

This bill amends the Florida Contraband Forfeiture Act to specify that a seizure may occur only if the property owner is arrested for a criminal offense that forms the basis for determining that the property is a contraband article under s. 932.701, F.S., or if one or more of the following circumstances apply:

- The owner of the property cannot be identified after a diligent search or the person in possession of the property denies ownership and the owner of the property cannot be identified by available means at the time of seizure;
- The owner of the property is a fugitive from justice or is deceased;
- An individual who does not own the property is arrested for the criminal offense that forms the basis for determining that the property is a contraband article and the owner of the property had actual knowledge of the criminal activity;
- The owner of the property agrees to be a confidential informant as defined in s. 914.28, F.S.; or
- The property is a monetary instrument.

If after a diligent effort by the seizing agency, the owner of the seized property cannot be found after 90 days, the property is deemed a contraband article and forfeited subject to the act.

The bill also:

- Prescribes procedures for judicial review of seizures;
- Specifies when a seizing agency must apply for a probable cause determination and the findings a court must make regarding probable cause;
- Provides that any forfeiture hold or lien on seized property must be released within 5 days if the court finds that the new requirements for seizing property were not met or that no probable cause existed for seizing the property;
- Requires proof beyond a reasonable doubt that the contraband article was being used in violation of the act;
- Provides that the seizing agency is responsible for any damage to the property and any storage fees or maintenance costs, unless the parties expressly agree otherwise in writing;
- Increases from \$1,000 to \$2,000 the reasonable attorney's fees and costs a claimant can receive if the court makes a finding of no probable cause at the close of the adversarial preliminary hearing;
- Provides that a \$1,500 bond is payable to the claimant if the claimant prevails at the close of the forfeiture proceedings and any appeal, unless the parties expressly agree otherwise in writing;
- Requires that specified persons approve all settlement agreements concerning the seized property;

- Increases the minimum percentage of forfeiture proceeds from 15 percent to 25 percent that law enforcement agencies receiving over \$15,000 annually in forfeiture funds must donate to certain enumerated programs;
- Requires that 70 percent of net proceeds from seizures of motor vehicles driven by specified DUI offenders first be applied to payment of court costs, fines, and fees and the remainder deposited in the General Revenue Fund for use by regional workforce boards in providing transportation services for participants of the welfare transition program;
- Provides reporting requirements for law enforcement agencies seizing property under the act; and
- Provides penalties for noncompliance with the reporting requirements, to be enforced by the Department of Financial Services.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 116-0