

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 1044

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Brandes and others

SUBJECT: Forfeiture of Contraband

DATE: March 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Harkness	Sadberry	ACJ	Recommend: Fav/CS
3.	Jones	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1044 amends the Florida Contraband Forfeiture Act to specify that a seizure may occur only if the property owner is arrested or if one or more of the following circumstances apply:

- The owner of the property cannot be identified after a diligent search;
- 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 violation that renders the property 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:

- Requires that 70 percent of net proceeds from seizures 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;

- Requires specified persons approve all settlement agreements concerning the seized property;
- Provides that if more than one agency seeks forfeiture of the property, the division of liability may be governed by the terms of the agreement between the agencies;
- Specifies the procedures for judicial review of seizures;
- Requires proof beyond a reasonable doubt that contraband item was being used in violation of the act;
- Provides reporting requirements for seized property for forfeiture;
- Provides penalties for noncompliance with the reporting requirements, to be enforced by the Department of Financial Services;
- Requires parties to agree in writing to a different assignment of responsibility;
- Specifies when a seizing agency must apply for a probable cause determination and the findings a court must make regarding probable cause; and
- Clarifies that bond shall be payable to the claimant if the claimant prevails at the close of the forfeiture proceedings and any appeal.

This bill has an indeterminate state fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2016.

II. Present Situation:

The Florida Contraband Forfeiture Act, (act), ss. 932.701-932.706, F.S., provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.

Contraband and other property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes:

- A controlled substance as defined in ch. 893, F.S., or a substance, device, paraphernalia, or currency or other means of exchange that was used, attempted, or intended to be used in violation of ch. 893, F.S.;¹
- Gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, attempted, or intended to be used in violation of Florida gambling laws;
- Equipment, liquid or solid, which was used, attempted, or intended to be used, in violation of Florida beverage or tobacco laws;
- Motor fuel upon which the motor fuel tax has not been paid;
- Personal property that was used or attempted to be used as an instrumentality in, or to aid or abet the commission of, any felony, or which is acquired by proceeds obtained from a violation of the act;
- Real property that was used or attempted to be used as an instrumentality in, or to aid or abet the commission of, any felony, or which is acquired by proceeds from a violation of the Act;
- Any personal property in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c), F.S.;
- A motor vehicle offered for sale in violation of s. 320.28, F.S.;
- A motor vehicle used in the course of committing a violation of s. 322.34(9)(a), F.S.;

¹ The totality of the facts presented by the State must clearly establish probable cause to believe that a nexus exists between the article seized and the narcotics activity. Section 932.701(2)(a)1., F.S.

- Photographs, films, or other recorded images, recorded in violation of s. 810.145, F.S., and possessed for amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person;
- Real property which is acquired by the proceeds of Medicaid fraud under ss. 409.920, F.S., or 409.9201, F.S.;
- Personal property in the possession of, or belonging to, any person which is acquired by the proceeds of Medicaid fraud under ss. 409.920, F.S., or 409.9201, F.S.; and
- Personal property that is used or attempted to be used as an instrumentality in the commission of, or in aiding and abetting in the commission of, a person's third or subsequent violation of s. 509.144, F.S.²

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the provisions of the act.³ All rights to, interest in, and title to contraband articles used in violation of the act immediately vest in the seizing law enforcement agency upon seizure.⁴

Seizure Process

Personal property may be seized at the time of the violation or subsequent to the violation based upon a law enforcement officer's determination that probable cause exists to believe the property is being used in violation of the act. A person is entitled to notice⁵ must be given notice, at the time of seizure or within 5 days of the seizure by certified mail, of his or her right to have a court review such determination in a postseizure adversarial preliminary hearing.⁶ When a court review is desired, the person entitled to notice must request it in writing by certified mail. The agency must hold a hearing within 10 days after receiving the request.

Unlike personal property, the seizure of real property may not occur until the person entitled to notice has the opportunity to attend a pre-seizure adversarial hearing, at which time the court determines whether or not probable cause exists to justify the seizure.⁷ The seizing agency must make a diligent effort to notify persons entitled to notice of the seizure.

If the court finds probable cause that the property was used in violation of the act, it must authorize the seizure or continued seizure of the contraband article.⁸

² Section 932.701(2)(a), F.S.

³ Section 932.703(1), F.S.

⁴ Section 932.703(1)(c), F.S.

⁵ Section 932.701(2)(e), F.S., defines a "person entitled to notice" as any owner, entity, bona fide lienholder, or person in possession of the property subject to forfeiture when seized, who is known to the seizing agency after a diligent search and inquiry. Interests of bona fide lienholders, property held jointly by a husband and wife, interests in property held jointly, and rental cars may not be forfeited under s. 932.703, F.S.

⁶ The court review must occur within 15 days after the notice is received. Section 932.703(2), F.S.

⁷ The hearing must occur within 10 days of the filing of the lis pendens or as soon as practicable. Section 932.703(2)(b), F.S.

⁸ Section 932.703(2)(c), F.S.

Forfeiture Proceedings

If the person entitled to notice does not request a hearing, the seizing law enforcement agency must promptly proceed against the contraband article by filing a complaint in the circuit court within 45 days after the seizure, requesting the court to issue a judgment of forfeiture.⁹

Under the act, the civil forfeiture trial must be decided by a jury unless that right is waived by the claimant.¹⁰ At trial, the seizing agency must prove that the contraband article was being used in violation of the act by clear and convincing evidence. Property may not be forfeited under the act unless the seizing agency shows by the preponderance of the evidence that the owner or any co-owner knew or should have known, that the property was being used in criminal activity.¹¹

Once this occurs, the right, title, and interest in and to such property must be perfected in the seizing agency, subject only to the rights of bona fide lienholders.¹² The act also provides that it is an affirmative defense to forfeiture that the nexus between the property and the underlying violation was incidental or entirely accidental.¹³

If the claimant prevails, the seizing agency must pay claimants the reasonable loss of value of the property or loss of income. The agency cannot assess fees and costs against a successful claimant and is required to pay reasonable attorney fees and costs up to \$1,000 if the claimant prevails at the adversarial preliminary hearing.¹⁴

Disposition of Forfeited Property

Once a seizing agency has been awarded a final judgment granting of forfeiture of the property it may:

- Retain the property for the agency's use;
- Sell the property at a public auction or by sealed bid to the highest bidder; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.¹⁵

If the property has a lien attached and the agency sells the property, the proceeds of the sale are to be distributed in this order:

- Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.
- Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property.
- Payment of court costs incurred in the forfeiture proceeding.¹⁶

The proceeds which remain after all liens and debts against the forfeited property are paid are then deposited into a special law enforcement trust fund established by the governing body of a

⁹ Sections 932.701(2)(c), and 932.704(4), F.S.

¹⁰ Section 932.704(5), F.S. The act authorizes the claimant and the seizing law enforcement agency to settle the forfeiture action prior to the conclusion of the forfeiture proceeding. Section 932.704(7), F.S.

¹¹ Sections 932.703(6)(a), F.S.

¹² Section 932.704(8), F.S.

¹³ Section 932.703(8), F.S.

¹⁴ Sections 932.704(9) and (10), F.S.

¹⁵ Section 932.7055(1), F.S.

¹⁶ Sections 932.7055(3) and (4), F.S.

county or municipality. These proceeds and interest may not be used to meet normal operation expenses.¹⁷

Any local law enforcement agency that acquires at least \$15,000 under the act within a fiscal year must expend or donate no less than 15 percent of these proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program. The agency has discretion to determine which program receives the funds.¹⁸

If the seizing agency is a state agency, the remaining proceeds are deposited into the General Revenue Fund.¹⁹

Section 322.34, F.S.

A motor vehicle driven by a person under the influence of alcohol or drugs is subject to seizure and forfeiture and to liens for recovering, towing, or storing vehicles, if, at the time of the offense, the person's driver license is suspended, revoked, or canceled as a result of a prior conviction for driving under the influence.²⁰

When the seizing agency obtains a final judgment granting forfeiture of a motor vehicle associated with that offense, 30 percent of the net proceeds from the sale of the motor vehicle are retained by the seizing law enforcement agency and 70 percent are deposited in the General Revenue Fund for use by regional workforce boards in providing transportation services for participants of the welfare transition program.²¹

III. Effect of Proposed Changes:

The bill amends s. 932.703, F.S., to specify that a seizure may occur only if the property owner is arrested or if one or more of the following circumstances apply:

- The owner of the property cannot be identified after a diligent search;
- 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 violation that renders the property a contraband article and the owner of the property had actual knowledge of the criminal activity;²²

¹⁷ Section 932.7055(5)(a), F.S.

¹⁸ Section 932.7055(5)(c)3., F.S.

¹⁹ The following agencies have their own forfeiture trust funds: FDLE; Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco; Department of Highway Safety and Motor Vehicles; Fish and Wildlife Conservation Commission; state attorney offices; school board security agencies; State University System police departments; Department of Agriculture and Consumer Services; Department of Military Affairs; Medicaid Fraud Control Unit of the Department of Legal Affairs; Division of State Fire Marshal of the Department of Financial Services; and Division of Insurance Fraud of the Department of Financial Services. Section 932.7055(6), F.S.

²⁰ Section 322.34(9)(a), F.S.

²¹ Section 322.34(9)(c), F.S.

²² Evidence that an owner received written notification from a law enforcement agency and acknowledged receipt of the notification in writing, that the seized asset had been used in violation of the act on a prior occasion by the arrested person, may be used to establish actual knowledge.

- The owner of the property agrees to be a confidential informant as defined in s. 914.28, F.S.;²³ or
- The property is a monetary instrument.²⁴

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.

Unless the parties agree in writing to a different assignment of responsibility, the agency seeking to forfeit the seized property is responsible for any damage to the property and any storage fees or maintenance costs applicable to the property. If more than one agency seeks forfeiture of the property, the division of liability may be governed by the terms of an agreement between the agencies.

Probable Cause for Seizure of Property

The bill requires when a seizure of property is made, the seizing agency must apply within 10 business days after the seizure to a court of competent jurisdiction for an order determining whether probable cause exists for the seizure of the property. The application for the probable cause determination must be accompanied by a sworn affidavit and may be filed electronically. The court must determine whether:

- The owner was arrested and if not, whether an exception to the arrest requirement specified above applies; and
- Probable cause exists for property seizure under act.

If the court finds that the requirements stated above were met and that probable cause exists for the seizure, the forfeiture may proceed and no further probable cause determination is required unless the claimant requests an adversarial preliminary hearing as set forth in the act. Upon such a finding, the court must issue a written order finding probable cause for the seizure and order the property held until the issue of a determination of title is resolved pursuant to the procedures defined in the act.

If the court finds that no probable cause exists for the seizure, any forfeiture hold, lien, lis pendens, or other civil encumbrance must be released within 5 days. The court may seal any portion of the application and the record of any proceeding under the act which is exempt or confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution or may otherwise be sealed pursuant to Rule 2.420, Florida Rules of Judicial Administration.

²³ The seizing agency may not use the threat of property seizure or forfeiture to coerce the owner of the property to enter into a confidential informant agreement. The seizing agency must return the property to the owner if criminal charges are not filed against the owner and the active criminal investigation ends or if the owner ceases being a confidential informant, unless the agency includes the final forfeiture of the property as a component of the confidential informant agreement.

²⁴ “Monetary instrument” is defined to mean coin or currency of the United States or any other country; a traveler’s check; a personal check; a bank check; a cashier’s check; a money order; a bank draft of any country; an investment security or negotiable instrument in bearer form or in other form such that title passes upon delivery; a prepaid or stored value card or other device that is the equivalent of money and can be used to obtain cash, property, or services; or gold, silver, or platinum bullion or coins.

The seizing agency must promptly proceed against the contraband article by filing a complaint in the circuit court within the jurisdiction where the seizure or the offense occurred, paying a filing fee of at least \$1,000 and depositing a bond of \$1,500 to the clerk of the court. The bond must be payable to the claimant (property owner) if the claimant prevails at the close of the forfeiture proceedings and any appeal.

The bill increases the standard of proof from clear and convincing to beyond a reasonable doubt that the contraband article was being used in violation of act. If the contraband article was used in violation of the act the court must order the seized property forfeited to the seizing law enforcement agency. The bill also increases reasonable attorney's fees and costs a claimant can receive if the court makes a finding of no probable cause from \$1,000, to \$2,000.

Guidelines for Implementing the Florida Contraband Forfeiture Act

Currently, the Florida Department of Law Enforcement (FDLE), in consultation with the Florida Sheriffs Association and the Florida Police Chiefs Association, must develop guidelines and training procedures to be used by state and local law enforcement agencies and state attorneys in implementing the act. The bill adds the following requirements:

- Each state or local law enforcement agency that seizes property for the purpose of forfeiture must annually review the seizures, any settlements, and any forfeiture proceedings initiated by a law enforcement agency. If the review suggests deficiencies, the state or local law enforcement agency must take action to comply with the act.
- The employment, salary, promotion, or other compensation of any law enforcement officer may not be dependent on the ability of the officer to meet a quota for seizures
- A seizing agency must adopt and implement written policies, procedures, and training to ensure compliance with all applicable legal requirements regarding seizing, maintaining, and the forfeiture of property under the act.
- When property is seized for forfeiture, the probable cause supporting the seizure must be promptly reviewed by supervisory personnel. The seizing agency's legal counsel must be notified as soon as possible of all seizures and conduct a review to determine whether there is legal sufficiency to proceed with a forfeiture action.
- Each seizing agency must adopt and implement written policies and procedures promoting the prompt release of seized property. To help ensure that property is not wrongfully held after seizure, each law enforcement agency must adopt written policies and procedures ensuring that all asserted claims of interest in seized property are promptly reviewed for potential validity.
- The settlement of any forfeiture action must be consistent with the act and the policy of the seizing agency.²⁵
- Law enforcement agency personnel involved in the seizure of property for forfeiture must receive basic training and continuing education as required by the act. Each agency must maintain records demonstrating each law enforcement officer's compliance with this requirement. The training must address the legal aspects of forfeiture, including search and seizure and other constitutional considerations.

²⁵ The bill requires all settlements to be approved by the head of the seizing law enforcement agency, except in cases where the head is unavailable and delay would have an adverse impact; in such situations a designated subordinate may grant approval.

Reporting Requirements

The bill requires the following reporting requirements for seized property for forfeiture:

- Every law enforcement agency must submit an annual report to the FDLE indicating whether the agency has seized or forfeited property under the act. A law enforcement agency receiving or expending forfeited property or proceeds from the sale of forfeited property in accordance with the act must submit a completed annual report by October 10 documenting the receipts and expenditures. The report must:
 - Be submitted in an electronic form;
 - Be maintained by the FDLE in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA);
 - Be submitted to the entity that has budgetary authority over the law enforcement agency and to the FDLE; and
 - At a minimum, specify the type, approximate value, court case number, type of offense, disposition of property received, and amount of any proceeds received or expended.
- The FDLE must submit an annual report to the OPPAGA compiling the information and data in the annual reports submitted by the law enforcement agencies. The annual report must contain a list of law enforcement agencies that have failed to meet the reporting requirements and a summary of any action taken against the noncomplying agency by the office of Chief Financial Officer (Department of Financial Services).
- The law enforcement agency and the entity having budgetary control over the law enforcement agency may not anticipate future forfeitures or proceeds therefrom in the adoption and approval of the budget for the law enforcement agency.

The bill provides that a seizing agency that fails to comply with the reporting requirements stated above is subject to a civil fine of \$5,000. The fine is determined by the Chief Financial Officer and payable to the General Revenue Fund. However, such agency is not subject to the fine if, within 60 days after receipt of written notification of noncompliance with the reporting requirements, the agency substantially complies with those requirements. The FDLE must submit any substantial noncompliance to the Department of Financial Services.

The bill repeals the provision that all rights to, interest in, and title to contraband articles used in violation of the act immediately vest in the seizing law enforcement agency upon seizure.

The bill also corrects cross-references to the act in several statutes.

Section 322.34, F.S.

The bill also modifies how proceeds from a seized motor vehicle may be distributed. The bill provides 70 percent of the net proceeds from the seizure must first be applied to payment of court costs, fines, and fees remaining due which are associated with the offense. Any remaining balance of the proceeds must be deposited into the General Revenue Fund to be used by regional workforce boards in providing transportation services, as directed in current law.

The bill is effective July 1, 2016.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

To the extent the bill requires a local government to expend funds, provisions of art. VII, s. 18(a) of the Florida Constitution, may apply. If those provisions do apply, for the law to be binding upon the cities and counties, the Legislature must find that it fulfills an important state interest and one of the exceptions must apply:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

Both state and local law enforcement agencies must comply with the new reporting requirements and are subject to a fine for noncompliance.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill requiring an arrest may result in a reduction of property being seized by and forfeited to law enforcement agencies.

C. Government Sector Impact:

This bill has an indeterminate state fiscal impact. The bill requires that 70 percent of the net proceeds from motor vehicle seizures must first be applied to payment of court costs, fines, and fees which are associated with the offense rather than being deposited into General Revenue to be used by regional workforce boards in providing transportation services. The bill reduces revenues accruing to the General Revenue Fund. Proceeds applied to court costs, fines, and fees will primarily benefit the clerks of the court and state trust funds.

In addition, the bill may reduce the number of seizures and forfeitures under the act because of the criminal nexus requirement, thereby reducing revenue to seizing law enforcement agencies.

The bill requires the Chief Financial Officer and the Department of Financial Services to enforce noncompliance with the reporting requirement and permits the Chief Financial Officer to impose a civil fine of \$5,000 on the law enforcement agency, payable to the General Revenue fund. This may have a negative, indeterminate fiscal impact. The amount of fines collected and deposited into General Revenue will likely be minimal and insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recently reviewed Florida's current civil asset forfeiture practices by local law enforcement agencies and released its findings in a report entitled *Civil Asset Forfeiture in Florida: Policies and Practices*.²⁶ Some of the findings in the report included the following:

- There is no current requirement for law enforcement agencies to report seizures and forfeitures under the act and without statewide information, the Legislature does not know the extent of civil asset forfeiture practices in Florida.²⁷
- Vehicles and currency were the most commonly seized assets, related primarily to drug offenses.²⁸
- An arrest was made in conjunction with most seizures during Fiscal Year 2013-2014.²⁹
- Many assets were returned to the owners, either in whole or in part.³⁰
- Sixteen percent of seizure actions were contested by an adversarial hearing request, and one percent resulted in a civil trial.³¹
- Responding agencies reported spending over \$12 million in forfeited assets during Fiscal Year 2013-2014.³²

Also included in the report were the following options that could be considered by the Legislature when making changes to the act:

- Require law enforcement agencies to report seizure actions and forfeitures to the state at least annually.³³

²⁶ Florida Legislature, Office of Program Policy Analysis and Government Accountability, Report No. 15-10 (Nov. 2015), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1510rpt.pdf> (last visited Feb. 25, 2016).

²⁷ *Id.* at 11.

²⁸ *Id.* at 4.

²⁹ *Id.* at 5. Responding agencies gave the following examples of when an arrest is not possible to make at the time of seizure: an arrest is premature because the officer was unable to positively identify the owner of the cash and illegal drugs; an arrest is premature during an ongoing economic crime investigation but the seizure of currency is ripe; and an arrest is premature when owners of property subject to seizure are willing to give information on higher level crimes leading to later related arrests.

³⁰ *Id.* at 7 and 8.

³¹ *Id.* at 7.

³² *Id.* at 9. Responding agencies indicated they used forfeiture money primarily for supporting substance abuse and crime prevention programs, buying additional equipment, defraying costs of complex investigations, providing additional expertise, providing matching funds to obtain federal grants, and buying automatic external defibrillators. *Id.* at 10.

³³ Thirty-three states have some sort of reporting requirement. *Id.* at 11.

- Require a criminal conviction before forfeiture;³⁴
- Increase the evidentiary standard of proof from clear and convincing to beyond a reasonable doubt;³⁵ and
- Restrict the use of civil asset forfeiture proceeds.³⁶

The bill codifies the option of requiring a criminal conviction before final forfeiture.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.34, 323.001, 328.07, 403.413, 817.625, 932.701, 932.703, 932.704, and 932.7055.

The bill creates sections 932.7061 and 932.7062 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on February 29, 2016:

The CS:

- Requires that 70 percent of net proceeds from seizures 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;
- Requires specified persons approve all settlement agreements concerning the seized property;
- Provides that if more than one agency seeks forfeiture of the property, the division of liability may be governed by the terms of the agreement between the agencies;
- Specifies the procedures for judicial review of seizures;
- Requires proof beyond a reasonable doubt that contraband item was being used in violation of the act;
- Provides reporting requirements for seized property for forfeiture;
- Provides penalties for noncompliance with the reporting requirements, to be enforced by the Department of Financial Services;
- Requires parties to agree in writing to a different assignment of responsibility;
- Specifies when a seizing agency must apply for a probable cause determination and the findings a court must make regarding probable cause; and
- Clarifies that bond shall be payable to the claimant if the claimant prevails at the close of the forfeiture proceedings and any appeal.

³⁴ Several states, including Minnesota, Montana, Nevada, New Mexico, and North Carolina, have this requirement. *Id.* at 12.

³⁵ Florida is one of 11 states that has a clear and convincing proof standard, which is higher than most other states. Nebraska, North Carolina, and Wisconsin use the criminal standard of proof, beyond a reasonable doubt. *Id.* at 12.

³⁶ *Id.* at 13.

CS by Criminal Justice on January 25, 2016:

- Requires that a property owner be arrested before the property may be seized, unless the owner and state agree that the property owner will become a confidential informant.
- Requires that the property be returned to the confidential informant if charges are not brought against him or her at the conclusion of the criminal investigation.
- Clarifies that forfeiture is final when the property owner is convicted of or pleads guilty or nolo contendere to a criminal offense, without regard to whether adjudication is withheld.

B. Amendments:

None.