

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 94
SPONSOR: Senator Crist
SUBJECT: Forfeited Property/Vehicles
DATE: February 10, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	CP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 94 would prohibit law enforcement officers from using a retained forfeited vehicle for personal transportation, unless the personal transportation is for authorized law enforcement purposes. Authorized law enforcement purposes under the bill would include undercover operations and crime-prevention programs. It would not include personal transportation unrelated to these purposes.

This bill substantially amends section 932.7055 of the Florida Statutes.

II. Present Situation:

The Contraband Forfeiture Act, ss. 932.701-932.707, F.S., prescribes procedures for law enforcement agencies to follow when seizing, forfeiting, and disposing of property under the act. Currently, any vehicle involved in a felony offense is forfeitable under the act as a “contraband article,” defined as “personal property . . . employed as an instrumentality in the commission of or in aiding or abetting in the commission of any felony, whether or not comprising an element of the felony . . .” s. 932.701(2)(a)5., F.S. The constitutionality of the act has been upheld by the Florida Supreme Court in *Department of Law Enforcement v. Real Property*, 588 So.2d 957 (Fla. 1991).

Section 932.7055, F.S., provides for the disposition of liens and forfeited property under the act. The seizing agency may do any of the following when a final judgment of forfeiture is granted:

- (a) Retain the property for the agency’s use;
- (b) Sell the property at a public auction or by sealed bid to the highest bidder; or

(c) Salvage, trade, or transfer the property to any public or nonprofit organization.

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

(a) Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.

(b) Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property.

(c) Payment of court costs incurred in the forfeiture proceeding.

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 and may be used to fund school resource officers, crime prevention, safe neighborhood, drug abuse education and prevention programs, or other law enforcement purposes, including defraying the cost of protracted or complex investigations, providing additional equipment or expertise, and providing matching funds to obtain federal grants. These proceeds may not be used to meet normal operation expenses.

If the seizing agency is a local law enforcement agency, the proceeds are deposited into a special law enforcement trust fund established by the governing body of a county or municipality and the funds may be appropriated only to the sheriff by the board of county commissioners or to the chief of police by the governing body of the municipality when the sheriff or police chief has certified that the request for funds will be used for one of the above purposes.

If the seizing agency is a state agency, the remaining proceeds are deposited into the General Revenue Fund, except that certain agencies have their own special forfeiture trust fund.
s. 932.7055(5), F.S.

III. Effect of Proposed Changes:

Senate Bill 94 would prohibit law enforcement officers from using a retained forfeited vehicle for personal transportation, unless the personal transportation is for authorized law enforcement purposes. Authorized law enforcement purposes under the bill would include undercover operations and crime-prevention programs. It would not include personal transportation unrelated to these purposes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
