

FINAL BILL REPORT

HCR 4414

As Passed Legislature

Brief Description: Creating a joint select committee on civil forfeiture.

Sponsors: By Representatives Carrell and Lantz.

Background:

Law enforcement agencies may seize and forfeit certain real and personal property for violations of Washington's drug forfeiture statute.

In cases of personal property, the seizing agency has the initial burden of showing probable cause exists to believe the property is subject to forfeiture. The burden then shifts to the person claiming an ownership interest in the property to prove that the property is not subject to forfeiture. For real property, the burden of proof remains on the seizing law enforcement agency.

Generally, when property is forfeited, the seizing law enforcement agency may retain the property for official use. However, seizing law enforcement agencies are required to remit 10 percent of the net proceeds from forfeited property annually to the State Treasurer to be deposited in the drug enforcement and education account.

The seizing law enforcement agency is required to keep records regarding forfeited property. Specifically, the agency must keep a record of the identity of the owner, description and disposition of the forfeited property, value of the property at the time of seizure, and amount of proceeds realized from the sale of any forfeited property. These records must be maintained for at least seven years and must be submitted annually to the State Treasurer.

This session the Legislature passed ESHB 1995, which did the following: a) placed the burden of proof on the law enforcement agency to establish by a preponderance of the evidence that personal property is subject to forfeiture; and b) allows a claimant who substantially prevails in a forfeiture proceeding, to attorney fees that were reasonably incurred.

Summary:

A joint select committee on civil forfeiture is created. The committee must evaluate civil forfeiture laws and practices, evaluate changes to federal civil forfeiture laws and how they compare to Washington law, analyze whether a requirement for a criminal

conviction before allowing civil forfeiture would raise constitutional issues, conduct a comprehensive review of every civil forfeiture case that took place in the state in the year 2000, discuss other civil forfeiture issues identified by the committee, and make recommendations on ways to improve civil forfeiture laws.

The committee consists of eight members, two members from each caucus in the Senate appointed by the President of the Senate, and two members from each caucus in the House appointed by the Co-Speakers of the House of Representatives. The committee must consult with representatives from the American Civil Liberties Union, the Washington Association of Prosecuting Attorneys and the Washington Association of Criminal Defense Lawyers.

The committee must report its findings and recommendations to the Senate Judiciary Committee and House Judiciary Committee no later than December 1, 2001. The committee terminates December 15, 2001.

Votes on Final Passage:

First Special Session

House Adopted

Senate 44 0