

HOUSE RESEARCH

Bill Summary

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Subject: Judicial forfeiture; criminal conviction required

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Overview

This bill amends the forfeiture burden of proof by requiring a conviction for judicial forfeiture of property associated with controlled substance offenses and vehicles used in drive-by shootings.

Section

1 Forfeiture a civil procedure; conviction required. Requires a conviction for forfeiture by judicial determination (i.e., when prosecutor files a judicial forfeiture action or property owner files demand to convert administrative forfeiture to a judicial action). The following are also considered “convictions” for purposes of this section:

- (1) an informant’s plea bargain; or
- (2) an admission of guilt, stayed sentence, or referral to diversion for a controlled substance crime under chapter 152.

Maintains the burden of proving by clear and convincing evidence that the property is an instrument or represents the proceeds of the underlying offense.

2 Judicial forfeiture; property associated with controlled substance offenses. Strikes language providing that judicial forfeiture of property associated with a controlled substance offense must be held within 180 days of filing the demand but in no event before the conclusion of the criminal proceeding. Because a conviction would be required for judicial forfeiture, this language is replaced with a requirement that the hearing be held as soon as possible and, in any event, no later than 90 days after the criminal proceeding.

Section

- 3** **Weapons, phone cloning, bullet resistant vests.** Strikes language that would allow such property to be forfeited without a conviction.

- 4** **Motor vehicles subject to forfeiture.** Strikes language that would allow forfeiture of a vehicle in a drive-by shooting to be forfeited without a conviction.