

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB1522ER

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Simon

3. Committee: Passed both houses

4. Title: Forfeiture of property used in connection with the commission of crimes; finding of guilt required.

5. Summary: The proposed legislation requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the person whose property is the subject of the forfeiture action has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced. The bill provides that property may be forfeited even though no finding of guilt is made if (i) the forfeiture is ordered by the court pursuant to a plea agreement or (ii) the owner has not submitted a written demand for the return of the property within 21 days from the date the stay terminates.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final (see Item 8 below).

8. Fiscal Implications: Currently, asset seizures and forfeitures stemming from the distribution, sale, or manufacture of a controlled substance or marijuana including prescription drugs and controlled synthetics are available to law enforcement agencies, less 10 percent, under the Forfeited Asset Sharing Program, which is managed by the Department of Criminal Justice Services (DCJS). The 10 percent is retained by DCJS for administrative costs incurred by DCJS to manage and operate the asset-sharing program. Monies from forfeiture are also deposited into the Literary Fund. The Literary Fund provides low-interest loans for school construction, grants under the interest rate subsidy program, debt service for technology funding, and support for the state's share of teacher retirement required by the Standards of Quality.

The value and amount of forfeited assets vary from year to year. According to DCJS, in FY 2019 there were approximately 366 cases that had pending court dates at the time of forfeiture. The total monies disbursed in these cases were \$220,794.88. Additionally, 154 cases did not have reported criminal charges at the time of forfeiture. The disbursement amounts of these cases totaled \$778,511.04.

Virginia law enforcement agencies self-report to DCJS the monies sent to the Literary Fund. In FY 2019, a total of \$353,279.88 was deposited into the Literary Fund. However, DCJS

does not collect criminal charge information on Literary Fund contributions. As such, the impact on the Literary Fund cannot be determined at this time.

Since the proposed legislation allows owners of the seized property only 21 days to request the return of their property, any fiscal impact on public safety agencies arising from the costs of storing seized property for such a period is unknown at this time.

There is no fiscal impact on the Virginia State Police, and the impact on local law enforcement agencies cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Criminal Justice Services; Commonwealth's Attorneys; Virginia State Police; State Literary Fund; local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.