

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB225

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

2. Patron: Freitas

3. Committee: House Subcommittee for Courts of Justice

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: Preliminary (see Item 8 below).

8. Fiscal Implications: In accordance with current law, the Forfeited Asset Sharing Program at the Department of Criminal Justice Services (DCJS) only regulates asset seizures and forfeitures stemming from the distribution, sale, or manufacture of a controlled substance or marijuana including prescription drugs and controlled synthetics. Current law also provides that the proceeds from these forfeitures are returned to law enforcement agencies to be expended on law enforcement expenses and ten percent goes to DCJS. Other forfeitures are returned to the State 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.

According to DCJS, in FY 2019 there were 366 cases that had pending court dates at the time of forfeiture. The total monies disbursed on these cases was \$220,794.88. There were also 154 cases that 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-reported to DCJS monies sent to the State Literary Fund in FY 2019 totaled \$353,279.88. However, DCJS does not collect criminal charge information on Literary Fund contributions. As such, it is unknown how much of the revenue

deposited into the Literary Fund would be impacted in the future because the value and amount of forfeited assets varies from year to year.

Since the proposed legislation allows owners of 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 period is unknown at this time. However, it is not possible to estimate the potential amount of such storage costs.

The Virginia State Police does not anticipate a fiscal impact as a result of the proposed legislation.

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: This bill is identical to HB1522.