

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 8

**PRINTER NO.** 719

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund Augmentation Revenue

**DATE INTRODUCED**

January 26, 2017

**PRIME SPONSOR**

Senator Folmer

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 8 amends Titles 4 (Amusements), 18 (Crimes and Offenses), 30 (Fish), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes to address the seizure and forfeiture of property that is related to criminal offenses. In general, Senate Bill 8 proposes significant changes to civil asset forfeiture in Pennsylvania in several key areas, including:

- Higher burdens of proof imposed on the Commonwealth;
- Protection for third-party owners by placing an additional burden of proof on the Commonwealth;
- Improved transparency in auditing and reporting;
- Specific and additional protection in real property cases by prohibiting the pre-forfeiture seizure of real property without a hearing, and;
- An extra level of protection for anyone acquitted of a related crime who is trying to get their property back.

Senate Bill 8 makes repeals and changes to Title 18 (Crimes and Offenses), Title 42 (Judiciary and Judicial Procedure), the Liquor Code and the Tax Reform Code and establishes a new Chapter 58 (Forfeiture of Assets) in Title 42. The legislation clarifies that certain offenses within the new Chapter 58 of Title 42 will be subjects of forfeiture. Terrorism offenses have been added to the list of offenses subject to forfeiture. Foreign and domestic assets related to terrorism are subject to forfeiture.

This legislation does the following:

- Outlines certain property and/or assets that shall be subject to forfeiture for offenses related to controlled substances;
- Establishes certain criteria that must be met in order for a law enforcement authority to seize assets under the Asset Forfeiture statute;
- Provides for annual reports from counties to the Attorney General and an annual report to the Appropriations Committee and the Judiciary Committee of the Senate of Pennsylvania and the Appropriations Committee and the Judiciary Committee of the House of Representatives;
- Establishes forfeiture procedures, including certain information that must be contained in the forfeiture petition filed with the court of common pleas and certain requirements of the claimant filing an answer to the petition;

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- Allows for a person aggrieved by a search and seizure of property to move for the return of the property seized by filing a motion in the court of common pleas in the judicial district where the property is located;
- Establishes procedures to be followed after acquittal;
- Clarifies that "acquittal" shall not include acceptance of Accelerated Rehabilitative Disposition or any other form of preliminary disposition, including plea agreements; and
- Provides for certain exceptions to forfeitures under this new Chapter 58 in Title 42.

This act shall take effect on July 1, 2017, or immediately, whichever is later.

### **FISCAL IMPACT:**

The Office of Attorney General is required to annually submit a statewide report to the Senate and House Appropriations and Judiciary Committees under the new Chapter 58 (Forfeiture of Assets) in Title 42. The report lists property forfeited under the Controlled Substances Forfeitures Act; the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act; and the Terrorism Forfeitures Act, as well as the proceeds derived from the sale of forfeited property and the use made of unsold property. Currently, these reports are mandated by 42 Pa. C.S.A. §6801 *et seq.* and 42 Pa. C.S.A. §6801.1 *et seq.*, which are being repealed in the legislation.

The following charts show the assets received by forfeiture under the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act and the Controlled Substances Forfeitures Act. The data shown is from Fiscal Year 2014-2015 (latest data available) for the Office of Attorney General (OAG), the Pennsylvania State Police (PSP), the Board of Probation and Parole and the Counties.

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<b>Assets Received by Forfeiture under the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act</b>			
<b>Revenue:</b>	<b>OAG</b>	<b>PSP</b>	<b>Counties</b>
Cash Forfeitures:		\$2,133.82	\$1,203.20
Sale of Forfeited Property:		\$10,495.44	\$416.90
Interest:	\$151.62		\$71.78
Other:			
Proceeds Received from Shared Forfeitures:			\$1,252.61
<b>Totals:</b>	<b>\$151.62</b>	<b>\$12,629.26</b>	<b>\$2,944.48</b>

<b>Assets Received by Forfeiture under the Controlled Substances Forfeitures Act</b>				
<b>Revenue:</b>	<b>OAG</b>	<b>PSP</b>	<b>Probation &amp; Parole</b>	<b>Counties</b>
Cash Forfeitures:	\$2,025,837.48	\$3,271,263.73	\$852.28	\$7,018,927.07
Sale of Forfeited Property:	\$191,662.12	\$142,999.22		\$1,335,779.20
Interest:	\$11,329.57			\$21,112.02
Other:				\$337,866.94
Restitution:	\$130,306.85			
Proceeds Received from Shared Forfeitures:				\$4,336,034.28
<b>Totals:</b>	<b>\$2,359,136.02</b>	<b>\$3,414,262.95</b>	<b>\$852.28</b>	<b>\$13,049,719.51</b>

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The following is a chart showing the amount of estimated revenue losses, by way of General Fund Augmentations, to the Office of Attorney General, the Pennsylvania State Police and the Board of Probation and Parole with the enactment of this legislation. It should be noted that the exact loss to the Commonwealth won't be realized until the Act is in effect for a period of time. The revenue loss will be determined on the number of successful petitions to the Courts of Common Pleas for the return of seized property to the claimants.

<b>Estimated Revenue Losses to the Office of Attorney General &amp; the Pennsylvania State Police Augmentations</b>			
<b>Percent of Revenue Loss:</b>	<b>OAG</b>	<b>PSP</b>	<b>Probation &amp; Parole</b>
5%	\$117,964.38	\$171,344.61	\$42.61
10%	\$235,928.76	\$342,689.22	\$85.23