

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 869

PRINTER NO. 2096

AMOUNT

See Fiscal Impact

FUND

General Fund Augmentation Revenue

DATE INTRODUCED

June 4, 2015

PRIME SPONSOR

Senator Folmer

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 869 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.

Senate Bill 869 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.

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;
- 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.

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This act shall take effect in 90 days.

FISCAL IMPACT:

The Office of Attorney General is required under 42 Pa. C.S.A. §6801 *et seq.*, 18 P.S. §1.7 *et seq.* and 42 Pa. C.S.A. §6801.1 *et seq.* to annually submit a statewide report to the Senate and House Appropriations and Judiciary Committees. 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.

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.

Assets Received by Forfeiture under the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act			
Revenue:	OAG	PSP	Counties
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
Totals:	\$151.62	\$12,629.26	\$2,944.49

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Assets Received by Forfeiture under the Controlled Substances Forfeitures Act				
Revenue:	OAG	PSP	Probation & Parole	Counties
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
Totals:	\$2,359,136.02	\$3,414,262.95	\$852.28	\$13,049,719.51

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The provisions of this legislation, establish a rebuttable presumption that, upon acquittal, forfeited property was lawfully possessed or used by the claimant, may result in a decrease in augmenting revenues (from the sale of seized property) to the OAG and PSP. The exact loss of augmenting revenues is indeterminate at this time and won't be realized until the Act is in effect for a period of time. The revenue losses will be determined on the number of successful petitions to the Courts of Common Pleas for the return of seized property to the claimants.

The following chart provides an estimate of potential reduction in augmentation to the Office of Attorney General and the Pennsylvania State Police with the enactment of this legislation.

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