

SENATE BILL REPORT

SB 5060

As of January 9, 2019

Title: An act relating to the burden of proof in civil asset forfeiture hearings.

Brief Description: Changing the burden of proof in certain civil asset forfeiture hearings.

Sponsors: Senator Hasegawa.

Brief History:

Committee Activity: Law & Justice: 1/24/19.

Brief Summary of Bill

- Changes the standard of proof in civil forfeiture for drug cases from the preponderance of the evidence to clear, cogent, and convincing evidence.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: Civil forfeiture provisions in drug cases provide that no property right exists in the controlled substances themselves, in the equipment or materials used to manufacture the substances, or in the money and property intended to be used as payment or proceeds traceable to the sale or exchange of controlled substances. Conveyances used or intended for use to facilitate the sale, delivery, or receipt of controlled substances are subject to forfeiture, unless used without the knowledge or consent of the true owner.

Real property that is being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which has been acquired in whole or in part with proceeds, is subject to forfeiture. If the forfeited real property is encumbered by a security interest, it is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the prohibited act. The community property interest in real property may not be forfeited if the person did not participate in the violation.

Real or personal property subject to forfeiture may be seized by any state Board of Pharmacy inspector or law enforcement officer upon process. If any person notifies the seizing agency

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in writing of the person's claim of ownership or right to possession of the property, a hearing is held before the chief officer of the seizing agency unless the person removes the matter to a court of competent jurisdiction. The burden of proof in court is on the seizing agency by a preponderance of the evidence.

Summary of Bill: For cases that are removed to the court, the seizing agency has the burden of proof by clear, cogent, and convincing evidence instead of by a preponderance of the evidence.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.