

STATEMENT OF PURPOSE

RS25826

This legislation changes the current code regarding civil asset forfeitures in several regards. Notably, modifications include: (1) vehicles would not be subject to forfeiture in connection with mere possession of a controlled substance; they would have to have been used in connection with trafficking offenses as enumerated, or to comprise ill-gotten gains; (2) property that is merely in proximity to a controlled substance is not subject to forfeiture absent a meaningful connection to a violation of the chapter; (3) presence of U.S. currency, without other evidence of wrongdoing, is not sufficient cause for a seizure or forfeiture; (4) creating a right of replevin of property while proceedings are pending provided the owners can show necessity and security; (5) courts must determine whether a property forfeiture is proportionate to the crime alleged, as is currently reflected in case law; (6) innocent owners are absolved of having to pay the state's costs associated with the seizure; (7) law enforcement may retain forfeited property with judicial approval; and (8) reporting requirements regarding forfeited property are instituted.

FISCAL NOTE

There is no appropriation required from the General Fund. There are expected to be de minimis costs associated with the Idaho State Police generating a reporting form, as well as some unquantifiable attorney and court costs at the state and local level associated with those civil forfeiture cases involving the replevin process. It is anticipated that these additional costs will be absorbed within existing budgets. The Idaho State Police and counties receive proceeds of forfeited property and will continue to do so. Law enforcement indicates that, as to property seized, they are already adhering to standards that would be codified by this legislation, therefore there should be little if any negative impact to the amount of forfeiture proceeds collected by local law enforcement and ISP.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).