

SUBJECT: Excluding prison inmate property claims from the Theft Liability Act

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Parker, White, Allen, Riddle, Rose, J.D. Sheffield, Toth
0 nays

WITNESSES: For — None

Against — None

On — Sharon Howell, Texas Department of Criminal Justice, Office of General Counsel

BACKGROUND: Under the Texas Theft Liability Act, found in the Civil Practice and Remedies Code, ch. 134, a person who commits theft is liable for the resulting damages. Civil lawsuits can be brought under the act and damages can be recovered from a person who commits theft. Damages can be recovered for the amount of actual damages plus up to \$1,000. Winners of suits also receive court costs and reasonable attorney's fees.

DIGEST: CSHB 2877 would specify that the Theft Liability Act did not apply to claims made by inmates housed in facilities operated by the Texas Department of Criminal Justice for property lost, damaged, or confiscated by TDCJ employees.

The bill would take effect September 1, 2013.

SUPPORTERS SAY: CSHB 2877 would stop frivolous and harassing lawsuits being filed by prison inmates against correctional staff. Inmates are using the Theft Liability Act to sue correctional officers claiming theft of items that have been confiscated appropriately. These lawsuits routinely are found to be frivolous and thrown out by courts, wasting judicial time and resources. In addition, the state must spend resources defending the employees, and the accused employees must go through the hassle of dealing with the suits, even though courts reject them.

The inmate grievance system is a fair, robust mechanism for handling inmates' claims of lost, stolen, or damaged property, and this should be used instead of frivolous lawsuits under the Theft Liability Act. The fact that in fiscal 2012 TDCJ found or replaced property in about 3,940 claims and paid for property for two claims illustrates that the system works.

**OPPONENTS
SAY:**

The grievance system has been criticized as being unfair to inmates and should be studied before the state closes an avenue currently available to inmates with complaints about the handling of their personal property. If suits brought under the Theft Liability Act are frivolous, courts can and do throw them out.