

BILL ANALYSIS

Senate Research Center
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S.B. 494
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Criminal Justice
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DIGEST AND PURPOSE

Currently, the Code of Criminal Procedure mandates that weapons seized in connection with an offense under the Penal Code are to be destroyed or forfeited to the state for use by the law enforcement agency holding the weapons in certain cases. As proposed, S.B. 494 requires the weapons to be forfeited to the Department of Public Safety (DPS) which will then determine if the weapons will be destroyed, transferred to a law enforcement agency, or sold at a public sale to licensed firearms dealers. S.B. 494 sets out time limits for the forfeiture and storage of the weapons.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Safety Commission in SECTION 1 (Article 18.19, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 18.19, Code of Criminal Procedure, by amending Subsections (d) and (e) and adding Subsections (f)-(h), as follows:

- (d) Makes conforming changes.
- (e) Requires the court entering judgment of conviction, subject to the provisions of Subsection (f), to order the weapon to be forfeited to the state, rather than destroyed, if the person found in possession of a weapon is convicted of an offense involving the use of the weapon.
- (f) Requires the court to enter an order requiring the agency to destroy the weapon or permitting the agency to use the weapon for a law enforcement purpose, if the law enforcement agency holding a weapon ordered forfeited under Subsection (d) or (e) is the law enforcement agency of a municipality that has a population of 30,000 or less.
- (g) Requires a law enforcement agency other than one described by Subsection (f) to transfer a forfeited weapon to the Department of Public Safety (department) not later than 90 days after the court orders forfeiture.
- (h) Requires the department to determine the value of a weapon when it has been forfeited to the department. Requires the department to destroy weapons of no value or transfer weapons of value to a designated law enforcement agency or sold at public sale not later than the 120th day after the weapon was transferred to the department. Authorizes only a firearms dealer licensed under 18 U.S.C. Section 923 to purchase a weapon at a public sale under this subsection. Authorizes the department to extend the sale of the weapons from 120 days to 180 days if it is determined that there are not enough weapons to hold a public sale before the 120th day. Requires the department to transfer the weapon to a law enforcement agency if the department is unable to meet the deadline established by this subdivision.

Authorizes the department to retain five percent of funds received from sales under this

subsection to assist the department in administering this subsection. Requires the comptroller to deposit the remainder of funds received from sales to the credit of the law enforcement safety account in the general revenue fund. Authorizes the legislature to appropriate money from the account to the criminal justice division of the governor's office, which can only use the funds to make grants to local law enforcement agencies that participate in the disposition of seized weapons under Subsection (g) for the purchase of safety equipment. Requires the Public Safety Commission to adopt rules to carry out the provisions of this subsection.

SECTION 2. Effective date: September 1, 2001.

Make application of this Act prospective.