

BILL ANALYSIS

Senate Research Center

S.B. 631
By: Buckingham
Criminal Justice
6/23/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article 47.01, Code of Criminal Procedure, provides for how a person recovers stolen property. If there is no pending criminal case, a judge may hold a hearing to determine who has lawful right of possession. However, the hearing must be held in the county in which the property is being held. If a person in one county has property stolen from them, they might have to travel across the state to attend the hearing to recover their property, incurring a large personal cost to the victim.

For example, if someone living in Bell County becomes the victim of theft and their property is recovered in Harris County, they would be forced to incur the costs of over six hours travel time, and food and lodging during the hearing process, which can take multiple days.

S.B. 631 would modify Articles 47.01(a) and (d) and Article 47.02(b) to allow the hearing to take place in: (1) the county where the property is being held; (2) the county where the property was believed to be stolen; (3) the municipality where the property is being held; and (4) the municipality where the property was believed to be stolen.

S.B. 631 provides victims of crimes and law enforcement with greater flexibility in returning property to the rightful owner. (Original Author's / Sponsor's Statement of Intent)

S.B. 631 amends current law relating to venue for the disposition of stolen property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 47.01a, Code of Criminal Procedure, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Authorizes certain judges, including a justice of the peace having jurisdiction as a magistrate in a county in which the property is held or in which the property was alleged to have been stolen or a municipal judge having jurisdiction as a magistrate in the municipality in which the property is being held or in which the property was alleged to have been stolen, if a criminal action relating to allegedly stolen property is not pending, to hold a hearing to determine the right to possession of the property, upon the petition of an interested person, county, city, or the state. Makes nonsubstantive changes.

(d) Provides that venue for a hearing under this article (Restoration When No Trial is Pending) is in any justice, county, statutory county, or district court in the county in which the property is seized or in which the property was alleged to have been stolen or in any municipal court in any municipality in which the property is seized or in which the property was alleged to have been stolen, except that on the motion of any interested party, the court is authorized to transfer venue to a court in another county.

(e) Provides that the person who has the superior right to possession of the property, as determined in a hearing under Subsection (a), is responsible for any transportation necessary to deliver the property to the person as ordered under that subsection.

SECTION 2. Amends Article 47.02, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes any magistrate having jurisdiction in the county in which the property was alleged to have been stolen or, if the criminal action for theft or any other offense involving the illegal acquisition of property is pending in another county, the county in which an action is pending, on written consent of the prosecuting attorney and following an order described by Subsection (a) (relating to the court's requirement to order the property in a certain case to be restored to a certain person), to hold a hearing to determine the right to possession of the property.

(c) Provides that the owner of the property is responsible for any transportation necessary to restore the property to the owner as ordered under this article (Restored on Trial).

SECTION 3. Effective date: September 1, 2017.