

By: Eckhardt

S.B. No. 352

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain proceedings or procedures involving the  
3 disposition of certain contraband or abandoned or unclaimed  
4 property.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 18.17(d-1), Code of Criminal Procedure,  
7 is amended to read as follows:

8 (d-1) Notwithstanding Subsection (a), (b), (c), or (d), if  
9 property described by Subsection (a), other than money, is seized  
10 by a peace officer at the time the owner of the property is arrested  
11 for an offense punishable as a Class C misdemeanor, the law  
12 enforcement agency shall ~~may~~ provide notice to the owner at the  
13 time the owner is taken into or released from custody. On  
14 receiving the notice, the owner must sign the notice and attach a  
15 thumbprint to the notice. The notice must include:

- 16 (1) a description of the property being held;  
17 (2) the address where the property is being held; and  
18 (3) a statement that if the owner does not claim the  
19 property before the 31st day after the date the owner is released  
20 from custody, the property will be disposed of and the proceeds of  
21 the property, after deducting the reasonable expense of keeping and  
22 disposing of the property, will be placed in the treasury of the  
23 municipality or county providing the notice.

24 SECTION 2. Articles 18.18(b), (e), (f), and (g), Code of

1 Criminal Procedure, are amended to read as follows:

2 (b) If there is no prosecution or conviction following  
3 seizure, the magistrate to whom the return was made shall notify in  
4 writing the person found in possession of the alleged gambling  
5 device or equipment, altered gambling equipment or gambling  
6 paraphernalia, gambling proceeds, prohibited weapon, obscene  
7 device or material, child pornography, scanning device or  
8 re-encoder, criminal instrument, or dog-fighting equipment that  
9 the state may initiate a proceeding to destroy or forfeit the  
10 property seized and that the person may contest the destruction or  
11 forfeiture by appearing before the magistrate on the 30th day after  
12 the date the notice was posted [~~to show cause why the property~~  
13 ~~seized should not be destroyed or the proceeds forfeited~~]. [~~The~~  
14 ~~magistrate, on the motion of the law enforcement agency seizing a~~  
15 ~~prohibited weapon, shall order the weapon destroyed or forfeited to~~  
16 ~~the law enforcement agency seizing the weapon, unless a person~~  
17 ~~shows cause as to why the prohibited weapon should not be destroyed~~  
18 ~~or forfeited. A law enforcement agency shall make a motion under~~  
19 ~~this section in a timely manner after the time at which the agency~~  
20 ~~is informed in writing by the attorney representing the state that~~  
21 ~~no prosecution will arise from the seizure.~~]

22 (e) Any person interested in the alleged gambling device or  
23 equipment, altered gambling equipment or gambling paraphernalia,  
24 gambling proceeds, prohibited weapon, obscene device or material,  
25 child pornography, scanning device or re-encoder, criminal  
26 instrument, or dog-fighting equipment seized must appear before the  
27 magistrate on the 30th [~~20th~~] day following the date the notice was

1 mailed or posted. Failure to timely appear forfeits any interest  
2 the person may have in the property or proceeds seized, and no  
3 person after failing to timely appear may contest destruction or  
4 forfeiture.

5 (f) If a person timely appears before the magistrate in  
6 accordance with Subsection (e) [~~to show cause why the property or~~  
7 ~~proceeds should not be destroyed or forfeited~~], the magistrate  
8 shall conduct a hearing regarding whether the property or proceeds  
9 should be destroyed or forfeited [~~on the issue~~] and determine the  
10 nature of property or proceeds and the person's interest  
11 therein. The state has the burden of proving that the state is  
12 entitled to destroy or forfeit the property or proceeds by proving  
13 [~~Unless the person proves~~] by a preponderance of the evidence that  
14 the property or proceeds are [~~is not~~] gambling equipment, altered  
15 gambling equipment, gambling paraphernalia, a gambling device,  
16 gambling proceeds, a prohibited weapon, an obscene device or  
17 material, child pornography, a criminal instrument, a scanning  
18 device or re-encoder, or dog-fighting equipment. If the state  
19 proves by a preponderance of the evidence that the state is entitled  
20 to destroy or forfeit the property or proceeds [~~and that he is~~  
21 ~~entitled to possession~~], the magistrate shall dispose of the  
22 property or proceeds in accordance with Subsection [~~Paragraph~~] (a)  
23 [~~of this article~~]. If the state fails to prove by a preponderance  
24 of the evidence that the state is entitled to destroy or forfeit the  
25 property or proceeds, the property or proceeds, including the  
26 interest earned on the proceeds if the proceeds were deposited in an  
27 interest-bearing bank account under Article 18.183(a)(1), must be

1 returned to the interested party not later than the 61st day after  
2 the date of the magistrate's ruling.

3 (g) For purposes of this article:

4 (1) "criminal instrument" has the meaning defined in  
5 the Penal Code;

6 (2) "gambling device or equipment, altered gambling  
7 equipment or gambling paraphernalia" has the meaning defined in the  
8 Penal Code;

9 (3) "gambling proceeds" means:

10 (A) proceeds gained from the commission of an  
11 offense under Chapter 47, Penal Code; and

12 (B) property acquired with proceeds described by  
13 Paragraph (A);

14 (4) "prohibited weapon" has the meaning defined in the  
15 Penal Code;

16 (5) [~~4~~] "dog-fighting equipment" means:

17 (A) equipment used for training or handling a  
18 fighting dog, including a harness, treadmill, cage, decoy, pen,  
19 house for keeping a fighting dog, feeding apparatus, or training  
20 pen;

21 (B) equipment used for transporting a fighting  
22 dog, including any automobile, or other vehicle, and its  
23 appurtenances which are intended to be used as a vehicle for  
24 transporting a fighting dog;

25 (C) equipment used to promote or advertise an  
26 exhibition of dog fighting, including a printing press or similar  
27 equipment, paper, ink, or photography equipment; or

1 (D) a dog trained, being trained, or intended to  
2 be used to fight with another dog;

3 (6) [~~(5)~~] "obscene device" and "obscene" have the  
4 meanings assigned by Section 43.21, Penal Code;

5 (7) [~~(6)~~] "re-encoder" has the meaning assigned by  
6 Section 522.001, Business & Commerce Code;

7 (8) [~~(7)~~] "scanning device" has the meaning assigned  
8 by Section 522.001, Business & Commerce Code; and

9 (9) [~~(8)~~] "obscene material" and "child pornography"  
10 include digital images and the media and equipment on which those  
11 images are stored.

12 SECTION 3. Article 18.183, Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 18.183. DEPOSIT OR STORAGE OF MONEY PENDING  
15 DISPOSITION; CIVIL ACTION. (a) If money is seized by a law  
16 enforcement agency in connection with a violation of Chapter 47,  
17 Penal Code, the state or the political subdivision of the state that  
18 employs the law enforcement agency:

19 (1) may deposit the money in an interest-bearing bank  
20 account in the jurisdiction of the agency that made seizure or in  
21 the county in which the money was seized until a final judgment is  
22 rendered concerning the violation or in a forfeiture proceeding  
23 under Article 18.18 arising out of the violation; and

24 (2) if the money is not deposited in an  
25 interest-bearing bank account under Subdivision (1), shall deposit  
26 or store the money in a readily accessible and secure manner until a  
27 final judgment is rendered concerning the violation or in a

1 forfeiture proceeding under Article 18.18 arising out of the  
2 violation.

3 (b) If a final judgment is rendered concerning a violation  
4 of Chapter 47, Penal Code, or in a forfeiture proceeding under  
5 Article 18.18 arising out of the violation, money seized in  
6 connection with the violation that has been placed in an  
7 interest-bearing bank account shall be distributed according to  
8 this chapter, with any interest being distributed in the same  
9 manner and used for the same purpose as the principal.

10 (c) If the state or a political subdivision of the state  
11 fails to comply with Subsection (a)(2), a person may bring a civil  
12 action against the state or the political subdivision for damages  
13 incurred by the failure. Sovereign immunity of this state and  
14 governmental immunity of a political subdivision to suit and from  
15 liability are waived to the extent of liability created by this  
16 subsection.

17 SECTION 4. The changes in law made by this Act apply only to  
18 property or proceeds seized on or after the effective date of this  
19 Act. Property or proceeds seized before the effective date of this  
20 Act are governed by the law in effect on the date the property or  
21 proceeds were seized, and the former law is continued in effect for  
22 that purpose. For purposes of this section, property or proceeds  
23 were seized before the effective date of this Act if any portion of  
24 the property or proceeds were seized before that date.

25 SECTION 5. This Act takes effect September 1, 2025.