

By: Cook of Colorado

H.B. No. 2293

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of seized weapons.

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

SECTION 1. Articles 18.19(c) and (e), Code of Criminal Procedure, are amended to read as follows:

(c) If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed or forfeited to the state for use by the law enforcement agency holding the weapon. If the magistrate does not order the return, destruction, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction or forfeiture of the weapon from the magistrate. Notwithstanding any other provision of this subsection, if the magistrate determines that returning the weapon to the person found

1 in possession of the weapon would cause that person to violate
2 Section 46.04, Penal Code, the magistrate shall order the weapon
3 destroyed or forfeited to the state for use by the law enforcement
4 agency holding the weapon.

5 (e) If the person found in possession of a weapon is
6 convicted of or receives deferred adjudication for an offense
7 involving the use of the weapon, before the 61st day after the date
8 of conviction or order of deferred adjudication the court entering
9 judgment of conviction or entering an order of deferred
10 adjudication shall order destruction of the weapon or forfeiture to
11 the state for use by the law enforcement agency holding the weapon.
12 If the court entering judgment of conviction or entering an order of
13 deferred adjudication does not order the destruction or forfeiture
14 of the weapon within the period prescribed by this subsection, the
15 law enforcement agency holding the weapon may request an order of
16 destruction or forfeiture of the weapon from a magistrate.

17 SECTION 2. The change in law made by this Act applies only
18 to a weapon seized on or after the effective date of this Act. A
19 weapon seized before the effective date of this Act is covered by
20 the law in effect when the weapon was seized, and the former law is
21 continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2005.