

By: Puente

H.B. No. 2317

A BILL TO BE ENTITLED

AN ACT

relating to the seizure of property by law enforcement and to the treatment of that property in a criminal proceeding.

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

SECTION 1. Articles 2.21(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) At any time during or after a criminal proceeding, the court reporter shall release for safekeeping any firearm or contraband received as an exhibit in that proceeding to:

(1) the sheriff; or

(2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the firearm or contraband or produced the firearm or contraband at the proceeding [~~for safekeeping any firearm or contraband received by the court as an exhibit in that proceeding~~].

(c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of firearms or contraband and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by Chapter 18 [~~of this code~~].

SECTION 2. Article 18.09, Code of Criminal Procedure, is amended to read as follows:

Art. 18.09. SHALL SEIZE ACCUSED AND PROPERTY. When the

1 property which the officer is directed to search for and seize is  
2 found he shall take possession of the same and carry it before the  
3 magistrate. He shall also arrest any person whom he is directed to  
4 arrest by the warrant and immediately take such person before the  
5 magistrate. For purposes of this chapter, "seizure," in the  
6 context of property, means the restraint of property, whether by  
7 physical force or by a display of an officer's authority, and  
8 includes the collection of property or the act of finding or taking  
9 possession of property.

10 SECTION 3. Article 59.01(8), Code of Criminal Procedure, is  
11 amended to read as follows:

12 (8) "Seizure" means the restraint of property by a  
13 peace officer under Article 59.03(a) or (b) of this code, whether  
14 the officer restrains the property by physical force or by a display  
15 of the officer's authority, and includes the collection of property  
16 or the act of finding or taking possession of property.

17 SECTION 4. This Act takes effect September 1, 2005.