

By: Whitmire

S.B. No. 907

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authority of a peace officer to make an arrest outside
3 of the officer's jurisdiction or to seize property while making the
4 arrest.

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

6 SECTION 1. Article 14.03(g), Code of Criminal Procedure, is
7 amended to read as follows:

8 (g)(1) A peace officer listed in Subdivision (4), Article
9 2.12, Code of Criminal Procedure, may arrest a person who anywhere
10 in this state commits an offense within the officer's presence or
11 view, including an offense under Subtitle C, Title 7,
12 Transportation Code.

13 (2) A peace officer listed in Subdivision (1), (2),
14 (3), [~~(4)~~], or (5), Article 2.12, who is licensed under Chapter 1701
15 [~~415~~], Occupations [~~Government~~] Code, and is outside of the
16 officer's jurisdiction may arrest without a warrant a person who
17 anywhere in this state commits an [any] offense within the
18 officer's presence or view, except that an officer described by
19 this subdivision who is outside the officer's jurisdiction may
20 arrest a person for a violation of Subtitle C, Title 7,
21 Transportation Code, only if the offense is committed in the county
22 in which the peace officer serves as an elected official or in which
23 the law enforcement agency employing the peace officer is located
24 [officer is listed in Subdivision (4), Article 2.12]. For the

1 purposes of this subdivision, a municipal law enforcement agency
2 that serves a municipality located in more than one county is
3 located in each county in which the municipality is located.

4 (3) A peace officer making an arrest under this
5 subsection shall as soon as practicable after making the arrest
6 notify a law enforcement agency having jurisdiction where the
7 arrest was made. The law enforcement agency shall then take custody
8 of the person committing the offense and take the person before a
9 magistrate in compliance with Article 14.06.

10 SECTION 2. Article 59.03, Code of Criminal Procedure, is
11 amended by amending Subsection (c) and adding Subsection (e) to
12 read as follows:

13 (c) Except as provided by Subsection (e), a [A] peace
14 officer who seizes property under this chapter has custody of the
15 property, subject only to replevy under Article 59.02 of this code
16 or an order of a court. A peace officer who has custody of property
17 shall provide the attorney representing the state with a sworn
18 statement that contains a schedule of the property seized, an
19 acknowledgment that the officer has seized the property, and a list
20 of the officer's reasons for the seizure. Not later than 72 hours
21 after the seizure, the peace officer shall:

22 (1) place the property under seal;

23 (2) remove the property to a place ordered by the
24 court; or

25 (3) require a law enforcement agency of the state or a
26 political subdivision to take custody of the property and move it to
27 a proper location.

1 (e) A peace officer who seizes property under this chapter
2 while making an arrest outside of the officer's jurisdiction has
3 temporary custody of the property. A peace officer who has
4 temporary custody of property under this subsection shall as soon
5 as practicable after seizing the property notify a law enforcement
6 agency having jurisdiction in the county in which the property was
7 seized. A law enforcement agency properly notified under this
8 subsection shall take custody of the property seized in accordance
9 with this chapter. This subsection does not apply to a peace
10 officer who is acting as part of an active multi-jurisdictional
11 task force. Property seized by a peace officer who is acting as
12 part of an active multi-jurisdictional task force is governed by:

13 (1) the agreement creating the task force; or

14 (2) the procedures described by Subsection (c),
15 regardless of whether the officer seizes the property while making
16 an arrest outside of the officer's jurisdiction.

17 SECTION 3. The change in law made by Article 59.03, Code of
18 Criminal Procedure, as amended by this Act, applies only to a
19 seizure made on or after the effective date of this Act. A seizure
20 made before the effective date of this Act is covered by the law in
21 effect when the seizure was made, and the former law is continued in
22 effect for that purpose.

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