

## **BILL ANALYSIS**

C.S.H.B. 884  
By: Murphy  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law requires a county purchasing agent, a person designated by a municipality, or a county sheriff to mail a notice by certified mail to the last known address of the owner of certain abandoned or unclaimed property seized by a peace officer. This notice provides a description of property being held and a deadline by which the property will be disposed of if left unclaimed. Interested parties note that owners of such property who are confined in prison often possess large items that are stored in law enforcement agency rooms for several months and that the majority of these items remain unclaimed. The parties contend that unnecessary costs may be incurred in sending certified mail to an address where the property owner may or may not reside and that it is important to provide for the delivery of such notification in person.

C.S.H.B. 884 seeks to remedy this situation by providing the option of presenting the notice to claim certain abandoned and unclaimed property to the owner at the time the owner is taken into or released from custody.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 884 amends the Code of Criminal Procedure to authorize a law enforcement agency, if a peace officer seizes unclaimed or abandoned personal property, other than money, whiskey, wine, beer, and contraband subject to forfeiture, at the time the owner of the property is arrested for an offense punishable as a Class C misdemeanor to provide notice to the owner at the time the owner is taken into or released from custody. The bill requires the owner, on receiving such notice, to sign the notice and attach a thumbprint to the notice. The bill establishes requirements relating to the notice, including requiring the notice to include a statement that if the owner does not claim the property before the 31st day after the date the owner is released from custody, the property will be disposed of and the proceeds of the property, after deducting the reasonable expense of keeping and disposing of the property, will be placed in the treasury of the municipality or county providing the notice. The bill requires the law enforcement agency holding the property, if the property for which such notice is provided is not claimed by the owner before that deadline, to deliver the property for disposition to a person designated by the municipality or to the purchasing agent or sheriff of the county in which the property was seized, as applicable. The bill authorizes such persons to sell or donate the property without mailing or publishing an additional notice. The bill requires the sale proceeds, after deducting the reasonable expense of keeping and disposing of the property, to be deposited in the treasury of the municipality or county disposing of the property.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 884 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Article 18.17, Code of Criminal Procedure, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1) Notwithstanding Subsection (a), (b), (c), or (d), if property described by Subsection (a), other than money, is seized by a peace officer at the time the owner of the property is arrested for an offense punishable as a Class C misdemeanor, the peace officer may provide notice to the owner at the time the owner is released from custody.

The notice must:

(1) be signed by the owner on receipt;  
(2) describe the property being held;  
(3) state the name and address of the officer holding the property; and  
(4) state that if the owner does not claim the property before the 31st day after the date the owner signs the notice, the property will be disposed of and the proceeds of the property, after deducting the reasonable expense of keeping and disposing of the property, will be placed in the treasury of the municipality or county providing the notice.

(d-2) If the property for which notice is provided under Subsection (d-1) is not claimed by the owner before the 31st day after the date the owner signed the notice, the peace officer shall deliver the property for disposition to a person designated by the municipality or to the purchasing agent or sheriff of the county in which the property was seized, as applicable. The person designated by the municipality, the purchasing agent, or the sheriff may sell or donate the property without mailing or publishing an additional notice as required by Subsection (b), (c), or (d). The sale proceeds, after deducting the reasonable expense of keeping and disposing of the property, must be deposited in the treasury

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 18.17, Code of Criminal Procedure, is amended by adding Subsections (d-1) and (d-2) to read as follows:

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

The notice must include:

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

(d-2) If the property for which notice is provided under Subsection (d-1) is not claimed by the owner before the 31st day after the date the owner is released from custody, the law enforcement agency holding the property shall deliver the property for disposition to a person designated by the municipality or to the purchasing agent or sheriff of the county in which the property was seized, as applicable. The person designated by the municipality, the purchasing agent, or the sheriff may sell or donate the property without mailing or publishing an additional notice as required by Subsection (b), (c), or (d). The sale proceeds, after deducting the reasonable expense of keeping and disposing of the property, must be deposited

of the municipality or county disposing of the property.

SECTION 2. Article 18.17, Code of Criminal Procedure, as amended by this Act, applies to personal property seized or taken into custody on or after the effective date of this Act. Personal property seized or taken into custody before the effective date of this Act is governed by the law in effect on the date the property is seized or taken into custody, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

in the treasury of the municipality or county disposing of the property.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.