

BILL ANALYSIS

Senate Research Center

S.B. 367
By: Whitmire
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Class C prisoners may be booked into jail with property that is too large to be stored in the jail. These items, such as large bags, bicycles, and hard hats, must be taken to a property room for storage. These items are not held as evidence, but instead are simply stored for safekeeping until the individual is released.

Current law requires a person designated by a municipality to mail a notice to the last known address of the owner of abandoned or unclaimed property by certified mail. This notice provides a description of the property held and states that if the owner does not claim such property within 90 days from the date of the notice, such property will be disposed of. A provision to allow notification in person is absent in current law.

S.B. 367 provides a more effective and efficient means of providing notice to persons arrested for misdemeanors—a written notice at the time the prisoner is released. This legislation adds a provision to Section 18.17 (Disposition of Abandoned or Unclaimed Property), Code of Criminal Procedure, to allow the option of presenting a written notice in person to an individual being released from jail on a misdemeanor offense. If the written notice is presented and signed for by the property owner, the time frame for claiming the property is reduced from 90 days to 30 days.

S.B. 367 amends current law relating to the disposition of abandoned or unclaimed property seized at the time of certain arrests.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

(d-1) Authorizes the law enforcement agency, notwithstanding Subsection (a) (relating to unclaimed or abandoned personal property), (b) (relating to mailing of notice to last known address of owner of property), (c) (relating to fair market value of property and published notice in paper), or (d) (relating to a sale of property published in a newspaper), 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, to provide notice to the owner at the time the owner is taken into or released from custody. Requires the owner, on receiving the notice, to sign the notice and attach a thumbprint to the notice. Requires that the notice include a description of the property being held; the address where the property is being held; and 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) Requires the law enforcement agency holding the property, 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, 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. Authorizes the person designated by the municipality, the purchasing agent, or the sheriff to sell or donate the property without mailing or publishing an additional notice as required by Subsection (b), (c), or (d). Requires that the sale proceeds, after deducting the reasonable expense of keeping and disposing of the property, be deposited in the treasury of the municipality or county disposing of the property.

SECTION 2. Makes application of Article 18.17, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2013.