

AN ACT

relating to the right of a person to enter the person's residence or former residence accompanied by a peace officer to recover certain personal property; creating an offense.

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

SECTION 1. Title 4, Property Code, is amended by adding Chapter 24A to read as follows:

CHAPTER 24A. ACCESS TO RESIDENCE OR FORMER RESIDENCE TO RETRIEVE  
PERSONAL PROPERTY

Sec. 24A.001. DEFINITION. In this chapter, "peace officer" means a person listed under Article 2.12(1) or (2), Code of Criminal Procedure.

Sec. 24A.002. ORDER AUTHORIZING ENTRY AND PROPERTY RETRIEVAL; PEACE OFFICER TO ACCOMPANY. (a) If a person is unable to enter the person's residence or former residence to retrieve personal property belonging to the person or the person's dependent because the current occupant is denying the person entry, the person may apply to the justice court for an order authorizing the person to enter the residence accompanied by a peace officer to retrieve specific items of personal property.

(b) An application under Subsection (a) must:

(1) certify that the applicant is unable to enter the residence because the current occupant of the residence has denied the applicant access to the residence;

1           (2) certify that, to the best of the applicant's  
2 knowledge, the applicant is not:

3           (A) the subject of an active protective order  
4 under Title 4, Family Code, a magistrate's order for emergency  
5 protection under Article 17.292, Code of Criminal Procedure, or  
6 another court order prohibiting entry to the residence; or

7           (B) otherwise prohibited by law from entering the  
8 residence;

9           (3) allege that the applicant or the applicant's minor  
10 dependent requires personal items located in the residence that are  
11 only of the following types:

12           (A) medical records;

13           (B) medicine and medical supplies;

14           (C) clothing;

15           (D) child-care items;

16           (E) legal or financial documents;

17           (F) checks or bank or credit cards in the name of  
18 the applicant;

19           (G) employment records; or

20           (H) personal identification documents;

21           (4) describe with specificity the items that the  
22 applicant intends to retrieve;

23           (5) allege that the applicant or the applicant's  
24 dependent will suffer personal harm if the items listed in the  
25 application are not retrieved promptly; and

26           (6) include a lease or other documentary evidence that  
27 shows the applicant is currently or was formerly authorized to

1 occupy the residence.

2 (c) Before the justice of the peace may issue an order under  
3 this section, the applicant must execute a bond that:

4 (1) has two or more good and sufficient non-corporate  
5 sureties or one corporate surety authorized to issue bonds in this  
6 state;

7 (2) is payable to the occupant of the residence;

8 (3) is in an amount required by the justice; and

9 (4) is conditioned on the applicant paying all damages  
10 and costs adjudged against the applicant for wrongful property  
11 retrieval.

12 (d) The applicant shall deliver the bond to the justice of  
13 the peace issuing the order for the justice's approval. The bond  
14 shall be filed with the justice court.

15 (e) On sufficient evidence of urgency and potential harm to  
16 the health and safety of any person and after sufficient notice to  
17 the current occupant and an opportunity to be heard, the justice of  
18 the peace may grant the application under this section and issue an  
19 order authorizing the applicant to enter the residence accompanied  
20 by a peace officer and retrieve the property listed in the  
21 application if the justice of the peace finds that:

22 (1) the applicant is unable to enter the residence  
23 because the current occupant of the residence has denied the  
24 applicant access to the residence to retrieve the applicant's  
25 personal property or the personal property of the applicant's  
26 dependent;

27 (2) the applicant is not:

1           (A) the subject of an active protective order  
2 under Title 4, Family Code, a magistrate's order for emergency  
3 protection under Article 17.292, Code of Criminal Procedure, or  
4 another court order prohibiting entry to the residence; or

5           (B) otherwise prohibited by law from entering the  
6 residence;

7           (3) there is a risk of personal harm to the applicant  
8 or the applicant's dependent if the items listed in the application  
9 are not retrieved promptly;

10           (4) the applicant is currently or was formerly  
11 authorized to occupy the residence according to a lease or other  
12 documentary evidence; and

13           (5) the current occupant received notice of the  
14 application and was provided an opportunity to appear before the  
15 court to contest the application.

16           Sec. 24A.003. AUTHORIZED ENTRY PROCEDURES; DUTIES OF PEACE  
17 OFFICER. (a) If the justice of the peace grants an application  
18 under Section 24A.002, a peace officer shall accompany and assist  
19 the applicant in making the authorized entry and retrieving the  
20 items of personal property listed in the application.

21           (b) If the current occupant of the residence is present at  
22 the time of the entry, the peace officer shall provide the occupant  
23 with a copy of the court order authorizing the entry and property  
24 retrieval.

25           (c) Before removing the property listed in the application  
26 from the residence, the applicant must submit all property  
27 retrieved to the peace officer assisting the applicant under this

1 section to be inventoried. The peace officer shall create an  
2 inventory listing the items taken from the residence, provide a  
3 copy of the inventory to the applicant, provide a copy of the  
4 inventory to the current occupant or, if the current occupant is not  
5 present, leave the copy in a conspicuous place in the residence, and  
6 return the property to be removed from the residence to the  
7 applicant. The officer shall file the original inventory with the  
8 court that issued the order authorizing the entry and property  
9 retrieval.

10 (d) A peace officer may use reasonable force in providing  
11 assistance under this section.

12 (e) A peace officer who provides assistance under this  
13 section in good faith and with reasonable diligence is not:

14 (1) civilly liable for an act or omission of the  
15 officer that arises in connection with providing the assistance; or

16 (2) civilly or criminally liable for the wrongful  
17 appropriation of any personal property by the person the officer is  
18 assisting.

19 Sec. 24A.004. IMMUNITY FROM LIABILITY. A landlord or a  
20 landlord's agent who permits or facilitates entry into a residence  
21 in accordance with a court order issued under this chapter is not  
22 civilly or criminally liable for an act or omission that arises in  
23 connection with permitting or facilitating the entry.

24 Sec. 24A.005. OFFENSE. (a) A person commits an offense if  
25 the person interferes with a person or peace officer entering a  
26 residence and retrieving personal property under the authority of a  
27 court order issued under Section 24A.002.

1       (b) An offense under this section is a Class B misdemeanor.

2       (c) It is a defense to prosecution under this section that  
3 the actor did not receive a copy of the court order or other notice  
4 that the entry or property retrieval was authorized.

5       Sec. 24A.006. HEARING; REVIEW. (a) The occupant of a  
6 residence that is the subject of a court order issued under Section  
7 24A.002, not later than the 10th day after the date of the  
8 authorized entry, may file a complaint in the court that issued the  
9 order alleging that the applicant has appropriated property  
10 belonging to the occupant or the occupant's dependent.

11       (b) The court shall promptly hold a hearing on a complaint  
12 submitted under this section and rule on the disposition of the  
13 disputed property.

14       (c) This section does not limit the occupant's remedies  
15 under any other law for recovery of the property of the occupant or  
16 the occupant's dependent.

17       SECTION 2. This Act takes effect September 1, 2015.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2486 was passed by the House on May 13, 2015, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2486 on May 29, 2015, by the following vote: Yeas 139, Nays 3, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2486 was passed by the Senate, with amendments, on May 27, 2015, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor