

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Keffer, Lucio III, Fallon

H.B. No. 2486

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

22 (1) certify that the applicant is unable to enter the  
23 residence because the current occupant of the residence has denied  
24 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  
10 dependent requires personal items located in the residence,  
11 including medical records, medicine and medical supplies,  
12 clothing, child-care items, legal documents, financial documents,  
13 including checks or bank or credit cards, employment records,  
14 personal identification documents, educational or work-related  
15 books and supplies, including electronic devices, and items  
16 pertaining to personal safety;

17           (4) describe with specificity the items that the  
18 applicant intends to retrieve;

19           (5) allege that the applicant or the applicant's  
20 dependent will suffer personal or financial harm if the items  
21 listed in the application are not retrieved promptly; and

22           (6) include a lease or other documentary evidence that  
23 shows the applicant is currently or was formerly authorized to  
24 occupy the residence.

25           (c) On sufficient evidence of hardship and urgency, the  
26 justice of the peace may grant the application under this section  
27 and issue an order authorizing the applicant to enter the residence

1 accompanied by a peace officer and retrieve the property listed in  
2 the application if the justice of the peace finds that:

3 (1) the applicant is unable to enter the residence  
4 because the current occupant of the residence has denied the  
5 applicant access to the residence to retrieve the applicant's  
6 personal property or the personal property of the applicant's  
7 dependent;

8 (2) the applicant is not:

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

13 (B) otherwise prohibited by law from entering the  
14 residence;

15 (3) there is a risk of personal or financial harm to  
16 the applicant or the applicant's dependent if the items listed in  
17 the application are not retrieved promptly; and

18 (4) the applicant is currently or was formerly  
19 authorized to occupy the residence according to a lease or other  
20 documentary evidence.

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

26 (b) If the current occupant of the residence is present at  
27 the time of the entry, the peace officer shall provide the occupant

1 with a copy of the court order authorizing the entry and property  
2 retrieval.

3 (c) Before removing the property listed in the application  
4 from the residence, the applicant must submit all property  
5 retrieved to the peace officer assisting the applicant under this  
6 section to be inventoried. The peace officer shall create an  
7 inventory listing the items taken from the residence, provide a  
8 copy of the inventory to the applicant, provide a copy of the  
9 inventory to the current occupant or, if the current occupant is not  
10 present, leave the copy in a conspicuous place in the residence, and  
11 return the property to be removed from the residence to the  
12 applicant. The officer shall file the original inventory with the  
13 court that issued the order authorizing the entry and property  
14 retrieval.

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

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

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

21 (2) civilly or criminally liable for the wrongful  
22 appropriation of any personal property by the person the officer is  
23 assisting.

24 Sec. 24A.004. IMMUNITY FROM LIABILITY. A landlord or a  
25 landlord's agent who permits or facilitates entry into a residence  
26 in accordance with a court order issued under this chapter is not  
27 civilly or criminally liable for an act or omission that arises in

1 connection with permitting or facilitating the entry.

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

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

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

10 Sec. 24A.006. HEARING; REVIEW. (a) The occupant of a  
11 residence that is the subject of a court order issued under Section  
12 24A.002, not later than the 10th day after the date of the  
13 authorized entry, may file a complaint in the court that issued the  
14 order alleging that the applicant has appropriated property  
15 belonging to the occupant or the occupant's dependent.

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

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

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

ADOPTED

MAY 27 2015

*Leta Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *J. J. King*

1 Amend H.B. No. 2486 (senate committee printing) in SECTION 1  
2 of the bill as follows:

3 (1) In added Section 24A.002(b)(3), Property Code (page 1,  
4 lines 51-52), between "applicant's" and "dependent", insert  
5 "minor".

6 (2) In added Section 24A.002(b)(3), Property Code (page 1,  
7 lines 52-58), strike all of Subdivision (3) after "residence" and  
8 substitute the following:

9 that are only of the following types:

- 10 (A) medical records;  
11 (B) medicine and medical supplies;  
12 (C) clothing;  
13 (D) child-care items;  
14 (E) legal or financial documents;  
15 (F) checks or bank or credit cards in the name of  
16 the applicant;  
17 (G) employment records; or  
18 (H) personal identification documents;

19 (3) In added Section 24A.002(b)(5), Property Code (page 2,  
20 line 1), strike "or financial".

21 (4) Immediately after added Section 24A.002(b), Property  
22 Code (page 2, between lines 5 and 6), insert the following  
23 appropriately lettered subsections:

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

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

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

1           (3) is in an amount required by the justice; and  
2           (4) is conditioned on the applicant paying all damages  
3 and costs adjudged against the applicant for wrongful property  
4 retrieval.

5           ( ) The applicant shall deliver the bond to the justice of  
6 the peace issuing the order for the justice's approval. The bond  
7 shall be filed with the justice court.

8           (5) In added Section 24A.002(c), Property Code (page 2, line  
9 6), strike "hardship and urgency" and substitute the following:  
10 urgency and potential harm to the health and safety of any person  
11 and after sufficient notice to the current occupant and an  
12 opportunity to be heard

13           (6) In added Section 24.002(c)(3), Property Code (page 2,  
14 line 23), strike "or financial".

15           (7) In added Section 24A.002(c)(3), Property Code (page 2,  
16 line 25), strike "and".

17           (8) In added Section 24A.002(c)(4), Property Code (page 2,  
18 line 28), strike the underlined period and substitute the  
19 following:

20 ; and

21           (5) the current occupant received notice of the  
22 application and was provided an opportunity to appear before the  
23 court to contest the application.

24           (9) Reletter subsections of added Section 24A.002, Property  
25 Code, and cross-references to those subsections as necessary.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 28, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2486** by Keffer (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.), **As Passed 2nd House**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Property Code to permit an individual to apply to a justice court for an order authorizing the person to enter a residence accompanied by a peace officer to retrieve items of personal property. The bill would permit a court to issue an order authorizing the applicant to enter the residence accompanied by a peace officer. The bill specifies a landlord who enters into a residence in accordance with a court order is not civilly or criminally liable for an act that arises in facilitating the entry.

The bill creates a Class B misdemeanor for an individual to interfere with a person or peace officer entering a residence and retrieving personal property under the authority of a court order. The bill would permit an occupant of a residence to file a complaint in a court. Upon receiving a complaint, a court would be required to hold a hearing on the complaint and rule on the disposition of the disputed property.

The Office of Court Administration reported no significant fiscal impact is anticipated.

**Local Government Impact**

The bill would increase the workload of local courts and police departments; however, no significant fiscal implication to units of local government is anticipated.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, SD, EK, FR, CL, AM, JP, KKR



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 15, 2015**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2486** by Keffer (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.), **As Engrossed**

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, AG, SD, EK, FR, CL, AM, JP, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 24, 2015**

**TO:** Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2486** by Keffer (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.), **Committee Report 1st House, Substituted**

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** UP, FR, SD, EK, CL, AM, JP, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 20, 2015**

**TO:** Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2486** by Keffer (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.), **As Introduced**

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