

## **BILL ANALYSIS**

Senate Research Center  
85R5137 AJZ-F

S.B. 631  
By: Buckingham  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Article 47.01, Code of Criminal Procedure, provides for how a person recovers stolen property. If there is no pending criminal case, a judge may hold a hearing to determine who has lawful right of possession. However, the hearing must be held in the county in which the property is being held. If a person in one county has property stolen from them, they might have to travel across the state to attend the hearing to recover their property, incurring a large personal cost to the victim.

For example, if someone living in Bell County becomes the victim of theft and their property is recovered in Harris County, they would be forced to incur the costs of over six hours travel time, and food and lodging during the hearing process, which can take multiple days.

S.B. 631 would modify Articles 47.01(a) and (d) and Article 47.02(b) to allow the hearing to take place in: (1) the county where the property is being held; (2) the county where the property was believed to be stolen; (3) the municipality where the property is being held; and (4) the municipality where the property was believed to be stolen.

S.B. 631 provides victims of crimes and law enforcement with greater flexibility in returning property to the rightful owner.

As proposed, S.B. 631 amends current law relating to venue for the disposition of stolen property.

### **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 Articles 47.01a(a) and (d), Code of Criminal Procedure, as follows:

(a) Authorizes certain judges, including a justice of the peace having jurisdiction as a magistrate in a county in which the property is held or in which the property was alleged to have been stolen or a municipal judge having jurisdiction as a magistrate in the municipality in which the property is being held or in which the property was alleged to have been stolen, if a criminal action relating to allegedly stolen property is not pending, to hold a hearing to determine the right to possession of the property, upon the petition of an interested person, county, city, or state. Makes conforming and nonsubstantive changes.

(d) Provides that venue for a hearing under this article (Restoration When No Trial Is Pending) is in any justice, county, statutory county, or district court in the county in which the property is seized or in which the property was alleged to have been stolen or in any municipal court in any municipality in which the property is seized or in which the property was alleged to have been stolen, except on the motion of any interested party the court is authorized to transfer venue to a court in another county.

SECTION 2. Amends Article 47.02(b), Code of Criminal Procedure, to authorize any magistrate having jurisdiction in the county in which the property was alleged to have been stolen or, if the criminal action for theft or any other offense involving the illegal acquisition of property is pending in another county, the county in which an action is pending, on written consent of the prosecuting attorney and following an order described by Subsection (a) (relating to the court's requirement to order the property in a certain case to be restored to a certain person), to hold a hearing to determine the right to possession of the property.

SECTION 3. Effective date: September 1, 2017.