

By: Buckingham, Bettencourt

S.B. No. 631

A BILL TO BE ENTITLED

AN ACT

relating to venue for the disposition of stolen property.

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

SECTION 1. Article 47.01a, Code of Criminal Procedure, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) If a criminal action relating to allegedly stolen property is not pending, a district judge, county court judge, statutory county court judge, or justice of the peace having jurisdiction as a magistrate in the 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 may hold a hearing to determine the right to possession of the property, upon the petition of an interested person, a county, a city, or the state. Jurisdiction under this article [~~section~~] is based solely on jurisdiction as a criminal magistrate under this code and not jurisdiction as a civil court. The court shall:

(1) order the property delivered to whoever has the superior right to possession, without conditions; [~~or~~]

(2) on the filing of a written motion before trial by an attorney representing the state, order the property delivered to whoever has the superior right to possession, subject to the

1 condition that the property be made available to the prosecuting
2 authority should it be needed in future prosecutions; or

3 (3) order the property awarded to the custody of the
4 peace officer, pending resolution of criminal investigations
5 regarding the property.

6 (d) Venue for a hearing under this article is in any
7 justice, county, statutory county, or district court in the county
8 in which the property is seized or in which the property was alleged
9 to have been stolen or in any municipal court in any municipality in
10 which the property is seized or in which the property was alleged to
11 have been stolen, except that the court may transfer venue to a
12 court in another county on the motion of any interested party.

13 (e) The person who has the superior right to possession of
14 the property, as determined in a hearing under Subsection (a), is
15 responsible for any transportation necessary to deliver the
16 property to the person as ordered under that subsection.

17 SECTION 2. Article 47.02, Code of Criminal Procedure, is
18 amended by amending Subsection (b) and adding Subsection (c) to
19 read as follows:

20 (b) On written consent of the prosecuting attorney and
21 following an order described by Subsection (a), any magistrate
22 having jurisdiction in the county in which the property was alleged
23 to have been stolen or, if the [a] criminal action for theft or any
24 other offense involving the illegal acquisition of property is
25 pending in another county, the county in which the action is pending
26 may hold a hearing to determine the right to possession of the
27 property. If it is proved to the satisfaction of the magistrate

1 that any person is a true owner of the property alleged to have been
2 stolen, and the property is under the control of a peace officer,
3 the magistrate may, by written order, direct the property to be
4 restored to that person.

5 (c) The owner of the property is responsible for any
6 transportation necessary to restore the property to the owner as
7 ordered under this article.

8 SECTION 3. This Act takes effect September 1, 2017.