

BILL ANALYSIS

C.S.H.B. 4933
By: Curry
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State law currently provides for the disposition of a weapon that is seized in connection with an alleged offense for which no prosecution or conviction occurs. Specifically, the existing process provides for the return of the weapon to the applicable person on request and allows law enforcement agencies to dispose of unclaimed weapons through public sale, destruction, or forfeiture for official use as ordered by a magistrate. The bill author has informed the committee of concerns that this process can unjustly deprive individuals of their property, even when they have not been convicted of a crime. C.S.H.B. 4933 seeks to address these concerns by streamlining and clarifying the process for returning a seized weapon when no charges are filed or when a person is not convicted of an offense involving the weapon.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4933 amends the Code of Criminal Procedure to revise the duties of a magistrate to whom a weapon seizure was reported in connection with an offense involving the use of a weapon or a Penal Code weapons offense, other than one involving a prohibited weapon, and who determines there will be no prosecution or conviction for the offense, as follows:

- with respect to the duty to notify the person found in possession of the weapon that the person is entitled to the weapon on written request to the magistrate:
 - clarifies the deadline for making that notification as not later than the 60th day after the date the magistrate makes the determination;
 - changes the method of notification from written notice to certified mail;
 - includes among the recipients the person's attorney of record, if applicable; and
 - removes the specification that the entitlement to the weapon is conditioned on written request to the magistrate;
- replaces the duty to order the weapon returned to the person before the 61st day after the date the magistrate receives a request from the person with the duty to order the weapon immediately released and returned to the person not later than the 60th day after the date of notification; and
- with respect to the duty to order unclaimed weapons destroyed, sold at public sale, or forfeited to the state for certain uses before the 121st day after the date of notification:

- changes the circumstance triggering that duty from the weapon not being requested before the 61st day after the date of notification to the weapon not being claimed before the first anniversary of the date of notification;
- removes the deadline for the magistrate's order; and
- includes a requirement for the magistrate to issue an order revoking the order to release and return the weapon, in addition to issuing an order for the destruction, sale, or forfeiture of the weapon.

The bill applies to the disposition of a weapon on or after the bill's effective date, regardless of whether the weapon was seized by a law enforcement agency before, on, or after that date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4933 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While the introduced and substitute both clarify the deadline by which the magistrate must notify the applicable person of their entitlement to the weapon, the substitute makes the following additional changes regarding the duty to notify that the introduced did not make:

- changes the method of notification to certified mail;
- includes among the recipients the person's attorney of record, if applicable; and
- removes the specification that the entitlement to the weapon is conditioned on written request to the magistrate.

While the introduced and substitute both require the magistrate to order the weapon returned to the applicable person not later than the 60th day after the date of notification, the substitute includes a specification absent from the introduced that the weapon be immediately released by that deadline.

The introduced removed the duty of the magistrate, if the weapon is not requested before a specified deadline, to order the weapon destroyed, sold at public sale, or forfeited to the state before the 121st day after the date of notification and removed related procedures, including an authorization for the law enforcement agency holding the weapon to request an order of destruction, sale, or forfeiture of the weapon if the magistrate does not order such action within the applicable period. The substitute does not remove that duty or those procedures and instead revises the duty as follows, whereas the introduced did not:

- changes the circumstance that triggers the duty to the weapon not being claimed before the first anniversary of the date of notification;
- removes the deadline for the magistrate's order; and
- includes a requirement for the magistrate to issue an order revoking the order to release and return the weapon.