

SUBJECT: Court procedures for returning stolen property

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Galloway, Keel, Nixon, A. Reyna

0 nays

3 absent—Dunnam, Farrar, Hinojosa

WITNESSES: For — Steven J. Bosser, Tarrant County District Attorney's Office; Rider
Scott

Against — None

BACKGROUND : Under the Code of Criminal Procedure, a judge or justice of the piece may hold a hearing to determine the right of possession of allegedly stolen property if a criminal action relating to the property is not pending. The venue for a hearing is any municipal, justice, county, statutory county, district court or municipal court in the county or municipality in which the property is seized.

The court may order the stolen property turned over to a claimant if it is satisfied that the person is the true owner. The court may also require a bond of the property's claimant if it has any doubt about the ownership of the property.

DIGEST: HB 2592 would amend the Code of Criminal Procedure to allow a magistrate to hold a hearing to determine the right of possession of allegedly stolen property regardless of whether or not a criminal action was pending. If ownership could not be determined, the court could require the claimant to post a bond to secure the return of the property or order the sheriff to hold the property until it directed otherwise.

The bill would provide that the venue for a hearing was the court within the county where the property was located.

The bill would take effect September 1, 1997, and apply only to allegedly stolen property that came into the custody of a peace officer on or after that date.

**SUPPORTERS
SAY:**

HB 2592 would help facilitate the return of stolen property to its rightful owner. Current law has been interpreted as requiring that the criminal case be settled before the stolen property can be returned, creating a hardship in cases where the property is a motor vehicle. People with only one family vehicle now are not able to recover their car until the criminal case is disposed of, a process that could take several years. With HB 2592, victims could petition a court to hold a possession hearing anytime after the property was recovered rather than having to wait several years.

Hearings before magistrates to determine possession of property are rarely held because of case backlogs and the fact that priority is given to the more serious offenses. In addition, victims are being unfairly penalized because they have to pay storage fees of at least \$15 a day. It was never the intent of the current law to deprive owners of their property for long periods of time. This bill would help clarify the intent of the law and retain the safeguard of allowing the property to be made available to the prosecuting authority if needed in future proceedings.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

A related bill, HB 887 by West, would amend the Code of Criminal Procedure to allow a court where a trial was pending to authorize that property be restored to the owner with the requirement that it be made available for prosecution purposes if necessary.