

- SUBJECT:** Personal property exempt from seizure under an order of restitution
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Herrero, Carter, Burnam, Canales, Hughes, Schaefer, Toth
0 nays
2 absent — Leach, Moody
- WITNESSES:** For — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; (*Registered, but did not testify:* Bill Lewis, Mothers Against Drunk Driving)
Against — None
- BACKGROUND:** Property Code, sec. 42.001 describes the personal property exempt from garnishment attachment, execution, or other seizure. Under sec. 42.001(a), exempt property is property that has an aggregate fair market value, exclusive of the amount of any liens, security interests, or other charges encumbering the property, of:
- \$60,000 if the property is provided for a family; or
 - \$30,000 if the property is owned by a single adult who is not a member of a family.
- Under sec. 42.001 (b), the following property is exempt from seizure and is not included in the limitations set by sec. 42.001(a):
- current wages for personal services, except for the enforcement of court-ordered child support payments;
 - professionally prescribed health aids of a debtor or the debtor's dependent;
 - alimony, support or separate maintenance received or to be received by the debtor for the support of the debtor or the debtor's dependent; and
 - a Bible or other book containing sacred writings of a religion that is seized by certain creditors.

DIGEST: HB 2595 would amend Property Code, sec. 42.001 to add sec. 42.001(a-1) to describe personal property that would be exempt from garnishment attachment, execution, or other seizure under an order of restitution issued under Code of Criminal Procedure Art. 42.037. Exempt property would be property that had a maximum, aggregate, fair market value, exclusive of the amount of any liens, security interests, or other charges encumbering the property, of:

- \$20,000 if the property was provided for a family; or
- \$10,000 if the property was owned by a single adult who was not a member of a family.

The bill would take effect September 1, 2013 and would apply only to an order of restitution for an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 2595 would prioritize the ability to make crime victims whole above the financial comfort of the offenders who have harmed them. Restitution reinforces the idea that crime inflicts harm on innocent victims and serves as a means for rehabilitating offenders by forcing upon them the recognition of the consequences their crimes had on others as well as their own financial well-being. Current law does not fully acknowledge the importance of restitution and allows offenders under an order of restitution to exempt the same amount of personal property as people under civil judgments. Restitution is an important criminal justice tool that often is ignored or goes unpaid by the offender. Victims of crime deserve to have their restitution prioritized and would benefit from a lower exemption limit to provide a better opportunity to receive restitution.

The bill would not have an undue negative affect on a person attempting to reintegrate into society. Vehicles and the homestead already are exempt from seizure under restitution orders and would not count toward this exemption. The bill would affect only the exemption for personal property and would maintain a baseline exemption allowing these individuals the necessities, while ensuring that the importance of restitution was emphasized and utilized more often as a tool of justice.

The bill would protect families by setting the exemption higher for families than for individuals. The bill would allow for restitution to be prioritized, while maintaining the same ratio between families and individuals that exists in the current exemption.

OPPONENTS
SAY:

HB 2595 would represent a major change in the way personal property exemptions currently are handled. The bill would reduce by two-thirds the amount of personal property exempted for these kinds of individuals, which could have a deleterious effect on many of the families and individuals under restitution orders. Formerly incarcerated individuals often have trouble finding jobs and housing, so every bit helps. Lowering the personal property exemption would decrease the opportunity these individuals had to reintegrate smoothly. The more stress a person encounters during re-entry, including financial stress, the more likely that person is to re-offend. The current exemptions exist to allow for recovery while still ensuring that debtors are allowed basic necessities.

The bill would punish children and families for the crime of one family member. The personal property affected by this bill could include toys, jewelry, books, clothes, and other personal property of the offender's children and spouse. Although crime victims deserve restitution, it should not come at a great cost to other innocent people who happen to be related to offenders.

OTHER
OPPONENTS
SAY:

HB 2595 should exempt all the property excluded from the aggregate limit under the original exemptions. The bill would allow for exemption of the property exempt under Property Code, sec. 42.001(b). Wages for personal services, prescribed health aids, alimony received, and a Bible or other religious text would not explicitly be exempt from seizure under a restitution order and would count toward the aggregate limits of \$20,000 or \$10,000. These kinds of property are important to exempt for the benefit of their owners and should not be subject to seizure.