

BILL ANALYSIS

Senate Research Center

H.B. 2184
By: Smith (Harris)
Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Current law regarding the disposition of seized weapons provides unclear time frames in which courts and magistrates must function and sometimes leads to confusion over who a person is required to contact to request the return of a seized weapon. The law has resulted in an excessive accumulation of seized weapons in the storage of evidence and established circuitous methods by which individuals are entitled to retrieve their weapons. H.B. 2184 clarifies and modifies provisions regarding the disposition of certain seized weapons.

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 Article 18.19, Code of Criminal Procedure, to require the magistrate to whom the seizure of a weapon was reported, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, to notify in writing the person found in possession that the person is entitled to the weapon upon written request to the magistrate, rather than the court in which he was convicted. Requires the magistrate to order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. Requires the magistrate, if the weapon is not requested before the 61st day after the date of notification, to order the weapon, before the 121st day after the date of notification, destroyed or forfeited to the state for use by the law enforcement agency holding the weapon. Authorizes the law enforcement agency holding the weapon to request an order of destruction or forfeiture of the weapon from the magistrate, if the magistrate does not order the return, destruction, or forfeiture of the weapon within the applicable period prescribed by this section. Provides that a person either convicted or receiving deferred adjudication under Chapter 46, Penal Code, is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication, rather than the law enforcement agency holding the weapon. Requires the court entering the judgment to order the weapon destroyed or forfeited to the state for use by the law enforcement agency holding the weapon if the person does not request the weapon before the 61st day after the date of the judgment of conviction or the order placing the person on deferred adjudication. Requires that before the 61st day after the date of conviction the court entering judgment of conviction, if the person found in possession of a weapon is convicted of an offense involving the use of the weapon, shall order destruction of the weapon or forfeiture to the state for use by the law enforcement agency holding the weapon. Authorizes the law enforcement agency holding the weapon to request an order of destruction or forfeiture of the weapon from a magistrate, if the court entering judgment of conviction does not order the destruction or forfeiture of the weapon within the period prescribed by this subsection.

SECTION 2. Effective date: September 1, 2001. Provides that this Act applies only to a weapon forfeited on or after that date.