

BILL ANALYSIS

Senate Research Center
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H.B. 1421
By: Perry et al. (Estes)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, law enforcement agencies are authorized to seize and hold firearms involved in the commission of certain weapons-related offenses until a court makes a ruling regarding the disposition of the weapon. The weapon may be returned within a specified time to the rightful owner if the court determines that there will be no prosecution or conviction for an offense involving the weapon seized. However, when the return of the weapon is prohibited, the court may order the weapon to be destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory. H.B. 1421 seeks to add the option for the court to sell such a seized weapon strictly to a federally licensed firearms dealer at a public sale by the law enforcement agency in possession of the weapon or by a licensed auctioneer.

H.B. 1421 amends current law relating to 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, by amending Subsections (c), (d), and (e), and adding Subsection (d-1), as follows:

(c) Requires the magistrate, if the seized weapon is not requested before the 61st day after the date of notification, to, before the 121st day after the date of notification, order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802 (Auctioneers), Occupations Code, or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. Authorizes the law enforcement agency holding the weapon, if the magistrate does not order the return, destruction, sale, or forfeiture of the weapon within the applicable period prescribed by this subsection, to request an order of destruction, sale, or forfeiture of the weapon from the magistrate. Authorizes only a firearms dealer licensed under 18 U.S.C. Section 923 to purchase a weapon at public sale under this subsection. Requires that proceeds from the sale of a seized weapon under this subsection be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f) (relating to entitling the clerk of the court in which a forfeiture proceeding was held to court costs in that proceeding as in other civil proceedings), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(d) Requires the court entering the judgment on a convicted person to order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court if certain criteria are met.

(d-1) Authorizes only a firearms dealer licensed under 18 U.S.C. Section 923 to purchase a weapon at public sale under Subsection (d). Requires that proceeds from the sale of a seized weapon under Subsection (d) be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(e) Requires 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, before the 61st day after the date of conviction to order destruction of the weapon, sale at public sale by the law enforcement agency holding the weapon or by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeiture to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court. Authorizes the law enforcement agency holding the weapon, if the court entering judgment of conviction does not order the destruction, sale, or forfeiture of the weapon within the period prescribed by this subsection, to request an order of destruction, sale, or forfeiture of the weapon from a magistrate. Authorizes only a firearms dealer licensed under 18 U.S.C. Section 923 to purchase a weapon at public sale under this subsection. Requires that proceeds from the sale of a seized weapon under this subsection be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

SECTION 2. Effective date: September 1, 2013.