

BILL ANALYSIS

Senate Research Center
87R680 BEE-F

H.B. 1012
By: Dutton et al. (Zaffirini)
Criminal Justice
5/7/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, justice courts have broad jurisdiction to issue decrees granting persons access to a residence or former residence to retrieve personal property. When the person seeking such a decree, however, is a party in an ongoing divorce proceeding, a justice court is not the appropriate venue. The court in which a suit relating to the marriage relationship is pending or the court having jurisdiction of a divorce or annulment action should have the authority to grant an individual access to a residence to retrieve specific items of personal property while accompanied by a peace officer. H.B. 1012 would grant courts hearing a dissolution of marriage case exclusive jurisdiction to grant a party in the case access to a residence or former residence to retrieve personal property.

H.B. 1012 amends current law relating to access to a residence or former residence to retrieve certain personal property.

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 Section 24A.002, Property Code, as follows:

Sec. 24A.002. WRIT AUTHORIZING ENTRY AND PROPERTY RETRIEVAL; PEACE OFFICER TO ACCOMPANY. (a) Authorizes a person, if the person is unable to enter the person's residence or former residence to retrieve personal property belonging to the person or the person's dependent because the current occupant is denying the person entry, to apply for a writ, rather than to apply to the justice court for a writ, authorizing the person to enter the residence accompanied by a peace officer to retrieve specific items of personal property.

(a-1) Requires a person applying for a writ under this section to apply:

(1) if the person and the current occupant are parties to a pending suit under Title 1 (The Marriage Relationship), Family Code, to the court in which the suit is pending;

(2) if the person's right to possession of the items described in the application is subject to a decree of divorce or annulment to which the person and the current occupant are parties, to the court having jurisdiction of the divorce or annulment action; or

(3) if Subdivision (1) or (2) does not apply, to a justice court.

(b) Requires that an application under Subsection (a):

(1) and (2) makes no changes to these subdivisions;

(3) certify whether, to the best of the applicant's knowledge:

(A) the applicant and the current occupant are parties to a pending suit under Title 1, Family Code; or

(B) the applicant's right to possession of the items described in the application is subject to a decree of divorce or annulment to which the applicant and the current occupant are parties;

(4) allege that the applicant or the applicant's dependent requires personal items located in the residence that are only of certain types, including assistance animals or service animals, as defined by Section 121.002 (Definitions), Human Resources Code, used by the applicant or the applicant's dependent; wireless communication devices, as defined by Section 545.425(a) (relating to the definition of "wireless communication devices"), Transportation Code, of the applicant or the applicant's dependent; or tools, equipment, books, and apparatus used by the applicant in the applicant's trade or profession;

(5) - (7) makes nonsubstantive changes.

(c), (d), and (e) Makes conforming changes.

SECTION 2. Amends Sections 24A.0021(a), (b), and (c), Property Code, to make conforming changes.

SECTION 3. Amends Section 24A.003(a), Property Code, to make a conforming change.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2021.