

## CHAPTER 967

## H.B. No. 665

## AN ACT

relating to the disposition of exhibits in a criminal case.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 2.21, Code of Criminal Procedure, is amended to read as follows:

Art. 2.21. DUTY OF CLERKS. (a) Each clerk of the district or county court shall receive and file all papers and exhibits in respect to criminal proceedings, issue all process in such cases, and perform all other duties imposed upon them by law.

(b) Any firearm or contraband received by a court [clerk] as an exhibit in any criminal proceeding shall [may] be placed [by the clerk] in the hands of the sheriff for safekeeping at any time during the pendency of such proceeding or thereafter.

(c) The sheriff shall receive and hold [such] exhibits *consisting of firearms or contraband* and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by Chapter 18 of this code.

(d) *In this article, "eligible exhibit" means an exhibit filed with the clerk that:*

- (1) *is not a firearm or contraband;*
- (2) *has not been ordered by the court to be returned to its owner; and*
- (3) *is not an exhibit in another pending criminal action.*

(e) *An eligible exhibit may be disposed of as provided by this article:*

(1) *on or after the first anniversary of the date on which a conviction becomes final in the case, if the case is a misdemeanor or a felony for which the sentence imposed by the court is five years or less; or*

(2) *on or after the second anniversary of the date on which a conviction becomes final in the case, if the case is a non-capital felony for which the sentence imposed by the court is greater than five years.*

(f) *A clerk in a county with a population of 1.7 million or more may dispose of an eligible exhibit on the date provided by Subsection (e) of this article if on that date the clerk has not received a request for the exhibit from either the attorney representing the state in the case or the attorney representing the defendant.*

(g) *A clerk in a county with a population of less than 1.7 million must provide written notice by mail to the attorney representing the state in the case and the attorney representing the defendant before disposing of an eligible exhibit.*

(h) *The notice under Subsection (g) of this article must:*

- (1) *describe the eligible exhibit;*
- (2) *give the name and address of the court holding the exhibit; and*
- (3) *state that the eligible exhibit will be disposed of unless a written request is received by the clerk before the 31st day after the date of notice.*

(i) *If a request is not received by a clerk covered by Subsection (g) of this article before the 31st day after the date of notice, the clerk may dispose of the eligible exhibit.*

(j) *If a request is timely received, the clerk shall deliver the eligible exhibit to the person making the request if the court determines the requestor is the owner of the eligible exhibit.*

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; passed by the Senate on May 27, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.