

1-1 By: Keffer, Lucio III, Fallon H.B. No. 2486
 1-2 (Senate Sponsor - Hinojosa)
 1-3 (In the Senate - Received from the House May 14, 2015;
 1-4 May 14, 2015, read first time and referred to Committee on State
 1-5 Affairs; May 25, 2015, reported favorably by the following vote:
 1-6 Yeas 6, Nays 0; May 25, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15			X	
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the right of a person to enter the person's residence or
 1-21 former residence accompanied by a peace officer to recover certain
 1-22 personal property; creating an offense.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Title 4, Property Code, is amended by adding
 1-25 Chapter 24A to read as follows:

1-26 CHAPTER 24A. ACCESS TO RESIDENCE OR FORMER RESIDENCE TO RETRIEVE
 1-27 PERSONAL PROPERTY

1-28 Sec. 24A.001. DEFINITION. In this chapter, "peace officer"
 1-29 means a person listed under Article 2.12(1) or (2), Code of Criminal
 1-30 Procedure.

1-31 Sec. 24A.002. ORDER AUTHORIZING ENTRY AND PROPERTY
 1-32 RETRIEVAL; PEACE OFFICER TO ACCOMPANY. (a) If a person is unable to
 1-33 enter the person's residence or former residence to retrieve
 1-34 personal property belonging to the person or the person's dependent
 1-35 because the current occupant is denying the person entry, the
 1-36 person may apply to the justice court for an order authorizing the
 1-37 person to enter the residence accompanied by a peace officer to
 1-38 retrieve specific items of personal property.

1-39 (b) An application under Subsection (a) must:

1-40 (1) certify that the applicant is unable to enter the
 1-41 residence because the current occupant of the residence has denied
 1-42 the applicant access to the residence;

1-43 (2) certify that, to the best of the applicant's
 1-44 knowledge, the applicant is not:

1-45 (A) the subject of an active protective order
 1-46 under Title 4, Family Code, a magistrate's order for emergency
 1-47 protection under Article 17.292, Code of Criminal Procedure, or
 1-48 another court order prohibiting entry to the residence; or

1-49 (B) otherwise prohibited by law from entering the
 1-50 residence;

1-51 (3) allege that the applicant or the applicant's
 1-52 dependent requires personal items located in the residence,
 1-53 including medical records, medicine and medical supplies,
 1-54 clothing, child-care items, legal documents, financial documents,
 1-55 including checks or bank or credit cards, employment records,
 1-56 personal identification documents, educational or work-related
 1-57 books and supplies, including electronic devices, and items
 1-58 pertaining to personal safety;

1-59 (4) describe with specificity the items that the
 1-60 applicant intends to retrieve;

1-61 (5) allege that the applicant or the applicant's

2-1 dependent will suffer personal or financial harm if the items
 2-2 listed in the application are not retrieved promptly; and
 2-3 (6) include a lease or other documentary evidence that
 2-4 shows the applicant is currently or was formerly authorized to
 2-5 occupy the residence.

2-6 (c) On sufficient evidence of hardship and urgency, the
 2-7 justice of the peace may grant the application under this section
 2-8 and issue an order authorizing the applicant to enter the residence
 2-9 accompanied by a peace officer and retrieve the property listed in
 2-10 the application if the justice of the peace finds that:

2-11 (1) the applicant is unable to enter the residence
 2-12 because the current occupant of the residence has denied the
 2-13 applicant access to the residence to retrieve the applicant's
 2-14 personal property or the personal property of the applicant's
 2-15 dependent;

2-16 (2) the applicant is not:

2-17 (A) the subject of an active protective order
 2-18 under Title 4, Family Code, a magistrate's order for emergency
 2-19 protection under Article 17.292, Code of Criminal Procedure, or
 2-20 another court order prohibiting entry to the residence; or

2-21 (B) otherwise prohibited by law from entering the
 2-22 residence;

2-23 (3) there is a risk of personal or financial harm to
 2-24 the applicant or the applicant's dependent if the items listed in
 2-25 the application are not retrieved promptly; and

2-26 (4) the applicant is currently or was formerly
 2-27 authorized to occupy the residence according to a lease or other
 2-28 documentary evidence.

2-29 Sec. 24A.003. AUTHORIZED ENTRY PROCEDURES; DUTIES OF PEACE
 2-30 OFFICER. (a) If the justice of the peace grants an application
 2-31 under Section 24A.002, a peace officer shall accompany and assist
 2-32 the applicant in making the authorized entry and retrieving the
 2-33 items of personal property listed in the application.

2-34 (b) If the current occupant of the residence is present at
 2-35 the time of the entry, the peace officer shall provide the occupant
 2-36 with a copy of the court order authorizing the entry and property
 2-37 retrieval.

2-38 (c) Before removing the property listed in the application
 2-39 from the residence, the applicant must submit all property
 2-40 retrieved to the peace officer assisting the applicant under this
 2-41 section to be inventoried. The peace officer shall create an
 2-42 inventory listing the items taken from the residence, provide a
 2-43 copy of the inventory to the applicant, provide a copy of the
 2-44 inventory to the current occupant or, if the current occupant is not
 2-45 present, leave the copy in a conspicuous place in the residence, and
 2-46 return the property to be removed from the residence to the
 2-47 applicant. The officer shall file the original inventory with the
 2-48 court that issued the order authorizing the entry and property
 2-49 retrieval.

2-50 (d) A peace officer may use reasonable force in providing
 2-51 assistance under this section.

2-52 (e) A peace officer who provides assistance under this
 2-53 section in good faith and with reasonable diligence is not:

2-54 (1) civilly liable for an act or omission of the
 2-55 officer that arises in connection with providing the assistance; or

2-56 (2) civilly or criminally liable for the wrongful
 2-57 appropriation of any personal property by the person the officer is
 2-58 assisting.

2-59 Sec. 24A.004. IMMUNITY FROM LIABILITY. A landlord or a
 2-60 landlord's agent who permits or facilitates entry into a residence
 2-61 in accordance with a court order issued under this chapter is not
 2-62 civilly or criminally liable for an act or omission that arises in
 2-63 connection with permitting or facilitating the entry.

2-64 Sec. 24A.005. OFFENSE. (a) A person commits an offense if
 2-65 the person interferes with a person or peace officer entering a
 2-66 residence and retrieving personal property under the authority of a
 2-67 court order issued under Section 24A.002.

2-68 (b) An offense under this section is a Class B misdemeanor.

2-69 (c) It is a defense to prosecution under this section that

3-1 the actor did not receive a copy of the court order or other notice
3-2 that the entry or property retrieval was authorized.

3-3 Sec. 24A.006. HEARING; REVIEW. (a) The occupant of a
3-4 residence that is the subject of a court order issued under Section
3-5 24A.002, not later than the 10th day after the date of the
3-6 authorized entry, may file a complaint in the court that issued the
3-7 order alleging that the applicant has appropriated property
3-8 belonging to the occupant or the occupant's dependent.

3-9 (b) The court shall promptly hold a hearing on a complaint
3-10 submitted under this section and rule on the disposition of the
3-11 disputed property.

3-12 (c) This section does not limit the occupant's remedies
3-13 under any other law for recovery of the property of the occupant or
3-14 the occupant's dependent.

3-15 SECTION 2. This Act takes effect September 1, 2015.

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