



CAMERON COUNTY JUSTICE COURTS

INSTRUCTIONS FOR OBTAINING AN ORDER FOR RETRIEVAL OF PROPERTY

Chapter 24A of the Texas Property Code outlines the procedures and what items may be retrieved from a former residence. If a 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, the person may apply to the justice court for an order authorizing the person to enter the residence accompanied by a peace officer to retrieve specific items of personal property.

An application to a justice court must certify that the applicant is unable to enter the residence because the current occupant of the residence has denied the applicant access to the residence. The applicant must also certify to the court that, to the best of the applicant's knowledge, the applicant is not the subject of an active protective order under Title 4 of the Family Code, a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, or another court order prohibiting entry to the residence or otherwise prohibited by law from entering the residence. The applicant must also allege that the applicant or the applicant's dependent requires personal items located in the residence that are only of the following types:

- Medical Records
- Medicine and Medical Supplies
- Clothing
- Child-care items
- Legal or Financial Documents
- Checks or Bank or Credit cards in the name of the applicant
- Employment Records
- Personal Identification Documents

The application must specifically name the items that the Applicant intends to retrieve. The applicant must also allege that the applicant or the applicant's dependent will suffer personal harm if the items listed in the application are not retrieved promptly and the applicant must include a lease or other documentary evidence that shows the applicant is currently or was formerly authorized to occupy the residence.

Before a justice of the peace may issue an order under this section, the applicant must execute a bond that has two or more good sureties or one corporate surety authorized to issue bonds in this state. The justice of the peace will determine the amount of the bond. The bond must be payable to the occupant of the residence and is conditioned on the applicant paying all damages and costs adjudged against the applicant for wrongful property retrieval. The applicant shall deliver the bond to the justice of the peace issuing the order for the justice's approval and the bond shall be filed with the court.

On sufficient evidence of urgency and potential harm to the health and safety of any person and after sufficient notice to the current occupant and an opportunity to be heard, the justice of the peace may grant the application under this section and issue an order authorizing the applicant to enter the residence accompanied by a peace officer and retrieve the property listed in the application if the justice of the peace finds the applicant is unable to enter the residence because the current occupant of the residence has denied the applicant access to the residence to retrieve the applicant's personal property or personal property of the applicant's dependent. The justice of the peace must make a finding of all matters concerning this order as outlined in Section 24A.002 of the Texas Property Code.

Section 24A.003 states in whole or part if a justice of the peace grants an application under Section 24A.002, a peace officer shall accompany and assist the applicant in making the authorized entry and retrieving of the items of personal property listed in the application. If the current occupant of the residence is present at the time of the entry, the peace officer shall provide the occupant with a copy of the court order authorizing the entry and property retrieval.

Before removing the property listed in the application from the residence, the applicant must submit all property retrieved to the peace officer assisting the applicant under this section to be inventoried. The peace officer shall create an inventory listing the items taken from the residence, provide a copy of the inventory to the applicant, provide a copy of the inventory to the current occupant, or if the current occupant is not present, leave the copy in a conspicuous place in the residence, and return the property to be removed from the residence to the applicant. The officer shall file the original inventory with the court that issued the order authorizing the entry and property retrieval. A peace officer may use reasonable force in providing assistance under this section.

Section 24A.005 A person commits an offense if the person interferes with the person or peace officer entering a residence and retrieving person property under the authority of a court ordered issued under Section 24.002, Texas Property Code (class B misdemeanor).

Section 24A.006 The occupant of a residence that is the subject of a court order issued under section 24A.002, not later than the 10th day after the date of the authorized entry, may file a complaint in the court that issued the order alleging that the applicant has appropriated property belonging to the occupant or the occupant's dependent. The court shall promptly hold a hearing on a complaint submitted under this section and rule on the disposition of the disputed property.

This section does not limit the occupant's remedies under any other law for recovery of the property of the occupant or the occupant's dependent.

THESE INSTRUCTIONS AND INFORMATION IS A BRIEF SUMMARY OF THE LAWS AND PROCEDURES THAT APPLY TO AN ORDER FOR RETRIEVAL OF PROPERTY IN JUSTICE COURT. THEY ARE NOT INTENDED TO BE EXHAUSTIVE AND ANY QUESTIONS OR INTERPRETATION SHOULD BE BASED UPON YOUR OWN RESEARCH AND/OR THE ADVICE OF YOUR ATTORNEY.

CAUSE NO. _____

APPLICANT

§ IN THE JUSTICE COURT
§
§ PRECINCT NO. _____
§
§ _____ COUNTY, TEXAS

APPLICATION FOR WRIT OF RETRIEVAL

The undersigned Applicant makes this Application for a Writ of Retrieval of personal property found at the following location, which is a residence in which Applicant is, or was previously, authorized to occupy ("Residence"):

LOCATION OF RESIDENCE: _____

Occupant is _____, who is currently occupying the residence and may be given notice of this Application at the above-listed Residence or at the following address(es):

_____ Fax: _____
_____ Phone: _____
_____ E-Mail: _____

The following is a **listing and specific description** of the items that I seek to be allowed to retrieve from the Residence (*Attach separate sheet, if necessary*):

I certify that all of the following statements are true:

- 1) The Items listed in this Application are **ONLY** of the following types: medical records, medicine and medical supplies, clothing, child-care items, legal or financial documents (including electronic records), checks or bank or credit cards in the name of Applicant, employment records, and personal identification documents.
- 2) I will suffer personal harm and/or the personal health and safety of myself or others within my care will likely be at risk if I am unable to retrieve the items, and I have an urgent need to retrieve the items from the Residence.
- 3) I have attached a lease, sworn statement or other documentary evidence showing that I am, or was previously, authorized to occupy the Residence. I am currently unable to enter the Residence because the current occupant named above has denied me access to the Residence or poses a clear and present danger of family violence to myself or my dependents.
- 4) I am not the subject of an active protective order under Title 4, Family Code, a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, or any court order prohibiting my entry into the Residence; or otherwise prohibited by law from entering into the Residence.

Applicant's Signature

Date

Address & Phone Number

CAUSE NO. _____

APPLICANT

§ IN THE JUSTICE COURT
§
§ PRECINCT NO. _____
§
§ _____ COUNTY, TEXAS

WRIT OF RETRIEVAL

WHEREAS, Applicant has made his/her Application for a Writ of Retrieval regarding the following location ("Residence"): _____; and

WHEREAS, Applicant has posted an acceptable bond with the Court in such form and amount as approved by the Judge in this matter; and

WHEREAS, the Court finds that:

Occupant of the Residence has denied the Applicant access to the Residence to retrieve the Applicant's personal property or the personal property of the Applicant's dependent(s) or poses a clear and present danger of family violence to Applicant or the Applicant's dependent(s);

The Applicant is not the subject of an active protective order under Title 4, Family Code, a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, or another court order prohibiting entry to the residence or otherwise prohibited by law from entering into the Residence;

There is risk of personal harm to the Applicant or the Applicant's dependent(s) if the items listed in the Application are not retrieved promptly;

The Applicant is currently or was formerly authorized to occupy the Residence according to a lease or other documentary evidence acceptable to the Court; and

The Occupant received notice of the Application and was provided an opportunity to appear before the Court to contest the Application.

THEREFORE, IT IS ORDERED that a Writ of Retrieval for the items of personal property only as specifically listed by Applicant in the Application and approved by this Court is hereby **GRANTED**.

IT IS FURTHER ORDERED that a Constable or Sheriff or their deputy or permanent reserve deputy holding a permanent peace officer license shall accompany and assist the Applicant in making the authorized entry into the Residence and retrieving items of personal property as specifically listed by Applicant in the Application and approved by this Court.

IT IS FURTHER ORDERED that the Applicant shall submit all property retrieved from the Residence to the peace officer to be inventoried by the officer. The officer shall provide a copy of the inventory to the applicant, a copy to the occupant or if the occupant is not present, leave the copy in a conspicuous place in the residence, and shall file the original inventory with this Court.

ISSUED AND SIGNED this ____ day of _____, 20__.

JUSTICE OF THE PEACE, PRECINCT _____

COUNTY, TX