

**24-3-104 Petition to return property held as evidence.**

- (1)
  - (a) A person claiming ownership of property held as evidence may file a petition with the court for the return of the property.
  - (b) The petition may be filed in:
    - (i) the court in which criminal proceedings have commenced regarding the conduct for which the property is held as evidence; or
    - (ii) the district court of the jurisdiction where the property was seized, if there are no pending criminal proceedings.
  - (c) A copy of the petition shall be served on the prosecuting attorney and the agency which has possession of the property.
- (2) The court shall provide an opportunity for an expedited hearing. After the opportunity for an expedited hearing, the court may order that the property be:
  - (a) returned to the rightful owner as determined by the court;
  - (b) applied directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the rightful owner in an amount set by the court;
  - (c) converted to a public interest use;
  - (d) held for further legal action;
  - (e) sold at public auction and the proceeds of the sale applied to a public interest use; or
  - (f) destroyed.
- (3) Before the court can order property be returned to a person claiming ownership of property, the person shall establish by clear and convincing evidence that the person:
  - (a) is the rightful owner; and
  - (b) may lawfully possess the property.
- (4) If the court orders the property to be returned, the agency that possesses the property shall return the property to the claimant as expeditiously as possible.

Enacted by Chapter 394, 2013 General Session