

Effective 3/29/2014

Superseded 5/10/2016

13-32a-115 Investigation phase -- Victim's responsibilities -- Property disposition.

- (1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:
 - (a) positively identify to law enforcement the item stolen or lost;
 - (b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and
 - (c) give a sworn statement under penalty of law that:
 - (i) claims ownership of the property;
 - (ii) references the original theft or loss; and
 - (iii) identifies the perpetrator if known.
- (2) The pawn or secondhand business shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:
 - (a) during the course of a criminal investigation the actual physical possession by law enforcement of an article purchased or pawned is essential for the purpose of fingerprinting the property, chemical testing of the property, or if the property contains unique or sensitive personal identifying information; or
 - (b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.
- (3)
 - (a) Upon the commencement of a criminal prosecution, any article subject to a hold for investigation under this chapter may be seized by the law enforcement agency which requested the hold.
 - (b) Subsequent disposition of the property shall be consistent with Section 24-3-103 regarding property not needed as evidence and this chapter.
 - (c) If a conflict exists between the provisions of Section 24-3-103 regarding property not needed as evidence and this chapter, this chapter takes precedence regarding property held by pawn or secondhand businesses.
- (4) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless a pawned or sold article has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.