

Effective 5/9/2017

Superseded 5/5/2021

24-2-103 Property seized by a peace officer -- Custody and control of property.

- (1)
 - (a) When property is seized by a peace officer, the peace officer or the officer's employing agency shall provide a receipt to the person from whom the property was seized.
 - (b) The receipt shall describe the:
 - (i) property seized;
 - (ii) date of seizure; and
 - (iii) name and contact information of the officer's employing agency.
 - (c) In addition to the receipt, the person from whom the property was seized shall be provided with information regarding the forfeiture process, including:
 - (i) important time periods in the forfeiture process;
 - (ii) what happens to the property upon conviction or acquittal; and
 - (iii) how to make a claim for the return of the property.
 - (d) A copy of the receipt shall be maintained by the agency.
 - (e) If custody of the property is transferred to another agency, a copy of the receipt under Subsection (1)(a) shall be provided with the property.
- (2) The agency responsible for maintaining the property shall:
 - (a) hold all seized property in safe custody until it can be disposed of as provided in this title; and
 - (b) maintain a record of the property that includes:
 - (i) a detailed inventory of all property seized;
 - (ii) the name of the person from whom it was seized; and
 - (iii) the agency's case number.
- (3) Property seized under this title is not recoverable by replevin, but is considered in the agency's custody subject only to the orders of the court or the official having jurisdiction.
- (4) All controlled substances or other contraband that is seized by a peace officer may be processed for evidentiary or investigative purposes, including sampling or other preservation procedure prior to disposal or destruction.
- (5)
 - (a) An agency shall deposit property in the form of cash or other readily negotiable instruments into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.
 - (b) Each agency shall have written policies for the identification, tracking, management, and safekeeping of seized property, which shall include a prohibition against the transfer, sale, or auction of seized property to any employee of the agency.
- (6) If a peace officer or the officer's employing agency records an interview of a minor child during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or 76-5-404.1, the agency shall retain a copy of the recording for 18 years following the date of the last recording unless the prosecuting attorney requests in writing that the recording be retained for an additional period of time.
- (7) Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act, governs the disposition of property held by a pawn or secondhand business in the course of its business.