

24-3-103 Property no longer needed as evidence -- Disposition of property.

- (1) When the prosecuting attorney determines that property no longer needs to be held as evidence, the prosecuting attorney may:
 - (a) petition the court to apply any property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;
 - (b) petition the court for an order transferring ownership of any weapons to the seizing agency for its use and disposal as the seizing agency determines, if the owner:
 - (i) is the person who committed the crime for which the weapon was seized; or
 - (ii) may not lawfully possess the weapon; or
 - (c) notify the agency that has possession of the property that the property may be:
 - (i) returned to the rightful owner, if the rightful owner may lawfully possess it; or
 - (ii) disposed of, if the property is contraband.
- (2) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.
- (3)
 - (a) Before the agency may release property to a person claiming ownership of the property, the person shall establish to the agency pursuant to Subsection (3)(b) that the person:
 - (i) is the rightful owner; and
 - (ii) may lawfully possess the property.
 - (b) The person shall establish ownership under Subsection (3)(a) by providing to the agency:
 - (i) identifying proof or documentation of ownership of the property; or
 - (ii) a notarized statement, if proof or documentation is not available.
- (4)
 - (a) When property is returned to the owner, a receipt listing in detail the property returned shall be signed by the owner.
 - (b) The receipt shall be retained by the agency and a copy shall be provided to the owner.
- (5) If the agency is unable to locate the rightful owner of the property or if the rightful owner is not entitled to lawfully possess the property, the agency may:
 - (a) apply the property to a public interest use;
 - (b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
 - (c) destroy the property if it is unfit for a public interest use or for sale.
- (6) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of its jurisdiction:
 - (a) permission to apply the property or the proceeds to public interest use; and
 - (b) the designation and approval of the public interest use of the property or the proceeds.

Enacted by Chapter 394, 2013 General Session