

Effective 1/1/2025

77-11a-301 Return of seized property to claimant -- Generally.

- (1)
 - (a) An agency with custody of seized property, or the prosecuting attorney, may return the property to a claimant if the agency or the prosecuting attorney:
 - (i) determines that the agency does not need to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or
 - (ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.
 - (b) An agency with custody of seized property, or the prosecuting attorney, may not return property under this Subsection (1) if the property is subject to retention or preservation under Chapter 11c, Retention of Evidence.
- (2) An agency with custody of the seized property, or the prosecuting attorney, shall return the property to a claimant if:
 - (a) the claimant posts a surety bond or cash with the court in accordance with Section 77-11a-302;
 - (b) the court orders the return of property to the claimant for hardship purposes under Section 77-11a-303;
 - (c) a claimant establishes that the claimant is an innocent owner or an interest holder under Section 77-11a-304; or
 - (d) the court orders property retained as evidence to be returned to the claimant under Section 77-11a-305.
- (3)
 - (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the owner of the computer.
 - (b) The agency shall determine a reasonable cost to extract the data.
 - (c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.
- (4) If a natural resources officer for the Division of Law Enforcement seizes a vehicle, the Division of Law Enforcement shall return the vehicle to a claimant in accordance with Section 23A-5-201.
- (5) If an agency is not required, or is no longer required, to retain or preserve property as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to return or dispose of the property, the agency shall exercise due diligence in attempting to notify the claimant of the property to advise the claimant that the property is to be returned.
- (6)
 - (a) Before an agency may return seized property to a person claiming ownership of the property, the person shall establish that the person:
 - (i) is the owner of the property; and
 - (ii) may lawfully possess the property.
 - (b) The person shall establish ownership under Subsection (6)(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.
 - (c) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.
 - (d) The agency shall:
 - (i) retain a copy of the receipt; and
 - (ii) provide a copy of the receipt to the owner.

Amended by Chapter 80, 2024 General Session