

RETENTION OF EVIDENCE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill requires the retention of recorded evidence in sexual abuse cases for a specified period of time.

Highlighted Provisions:

This bill:

requires a peace officer's employing agency to retain recordings of minor children interviewed during an investigation into sexual abuse cases for a specified period of time.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-24-2, as last amended by Laws of Utah 2005, Chapter 126

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-24-2** is amended to read:

77-24-2. Property not needed as evidence -- Return procedure.

(1) Property which is not needed as evidence shall be returned to the owner, if the



28 owner may lawfully possess it, or disposed of in accordance with this chapter.

29 (2) (a) When the peace officer or the officer's employing agency becomes aware that
30 the property is not needed as evidence, the officer or the agency shall inform the prosecuting
31 attorney that the property is not needed and provide a description and details of ownership.

32 (b) When the prosecuting attorney is informed or otherwise becomes aware that the
33 property is not needed as evidence, the prosecutor shall authorize release of the property to the
34 owner.

35 (c) When the peace officer or the officer's employing agency becomes aware that any
36 property is to be returned to its owner, the officer or employing agency shall exercise due
37 diligence in attempting to notify the rightful owner that the property is to be returned.

38 (d) If the property is a weapon, the peace officer shall dispose of it in accordance with
39 Section 76-10-525.

40 (e) (i) Upon proof of ownership and of lawfulness of possession satisfactory to the
41 evidence custodian, the custodian shall release the property to the owner.

42 (ii) If the evidence custodian is unable to locate an owner of the property or if the
43 owner is not entitled to lawfully possess the property, the agency having custody of the
44 property shall dispose of the property in accordance with Section 77-24-4.

45 (3) (a) When property is received in evidence, the clerk of the court last receiving it
46 shall retain the property or the clerk shall return the property to the custody of the peace officer.
47 The property shall be retained by the clerk or the officer until all direct appeals and retrials are
48 final, at which time the property shall be returned to the owner in accordance with this chapter.
49 If the property was seized for forfeiture, it shall be held and disposed of as provided in Title 24,
50 Chapter 1, Utah Uniform Forfeiture Procedures Act.

51 (b) If the prosecuting attorney considers it necessary to retain control over the
52 evidence, in anticipation of possible collateral attacks upon the judgment or for use in a
53 potential prosecution, he may decline to authorize return of the property to the owner.

54 (4) If a peace officer or the officer's employing agency records an interview of a minor
55 child during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or
56 76-5-404.1, the peace officer's employing agency shall retain a copy of the recording for
56a **15** **18**
57 years following the date of the last recording unless the prosecuting attorney requests in writing
58 that the recording be retained for an additional period of time.

Legislative Review Note
as of 1-27-12 9:37 AM

Office of Legislative Research and General Counsel