

1                                   **RETENTION OF EVIDENCE AMENDMENTS**

2   2012 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Brad R. Wilson**

5   Senate Sponsor: Jerry W. Stevenson

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7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12                   This bill:

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

16 **Money Appropriated in this Bill:**

17                   None

18 **Other Special Clauses:**

19                   None

20 **Utah Code Sections Affected:**

21 AMENDS:

22                   **77-24-2**, as last amended by Laws of Utah 2005, Chapter 126

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

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

26                   **77-24-2. Property not needed as evidence -- Return procedure.**

27                   (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 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.