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MEMORANDUM

To: Senate Committee on Judiciary
From: Jenna Moyer, Assistant Revisor of Statutes
Date: February 22, 2019
Subject: SB133 – Clarifying when receipt of property seized by law enforcement should be sent to the court and who seized weapons should be returned to.

Senate Bill 133 amends K.S.A. 2018 Supp. 22-2512 to clarify procedures related to custody and disposition of property that has been seized by law enforcement under the Kansas code of criminal procedure. Current law requires the officer seizing the property to safely keep the property until it is no longer required as evidence. Subsection (a) clarifies that if criminal charges are not filed, the property must be returned to its owner or disposed of in accordance with this section. After seizure of property pursuant to a search warrant, this bill clarifies that the officer who seized the property must file a copy of the receipt describing the property with the magistrate who issued the warrant.

Subsection (b) adds “dangerous drugs” to the requirements relating to disposal or destruction of hazardous materials seized after representative samples are preserved. The bill also defines “dangerous drugs” and “representative sample” in subsection (b)(3).

Subsection (d)(1) amends requirements for weapons that are seized, adding provisions that if the weapon was stolen or seized from someone who is not the rightful owner, the law enforcement agency must notify the owner of the weapon that the owner can pick up the weapon. If the weapon has been seized from a juvenile, the law enforcement agency must notify the juvenile’s parent or legal guardian that the weapon can be picked up.

Subsection (d)(2) adds new language that if the law enforcement agency determines the rightful owner of the weapon is prohibited from possessing the weapon, the agency must notify this individual that the weapon is not being kept for the case but will not be returned due to the disqualifying law. After this notice is given, the law enforcement agency must wait 60 days before disposing of the weapon to allow time for the individual to challenge the agency’s determination in court. Language is also added that allows an owner prohibited from possession the weapon to transfer the weapon to a licensed dealer.