

**SENATE BILL No. 367**

By Committee on Judiciary

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to property seized by law enforcement; requiring officers to file copies  
3 of receipts with the court when property is seized under a search  
4 warrant; providing requirements and procedures for destruction or  
5 disposition of dangerous drugs and return or disposition of weapons;  
6 amending K.S.A. 2021 Supp. 22-2512 and repealing the existing  
7 section.  
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2021 Supp. 22-2512 is hereby amended to read as  
11 follows: 22-2512. (a) Property seized under a search warrant or validly  
12 seized without a warrant shall be safely kept by the ~~officer~~ agency seizing  
13 the ~~same~~ property unless otherwise directed by the magistrate, and shall be  
14 so kept as long as necessary for the purpose of being produced as evidence  
15 on any trial. *If no criminal charges are filed or prosecution is declined, the*  
16 *property shall be returned to its rightful owner or disposed of in*  
17 *accordance with this section.* The property seized may not be taken from  
18 the ~~officer~~ agency having it in custody so long as it is or may be required  
19 as evidence in any trial. The officer seizing the property shall give a  
20 receipt to the person detained or arrested particularly describing each  
21 article of property being held ~~and~~. *When property is seized under a search*  
22 *warrant, the officer seizing the property shall file a copy of such receipt*  
23 *with the magistrate before whom the person detained or arrested is taken*  
24 *who issued the search warrant. Such copy may be filed electronically in a*  
25 *manner and form prescribed by the court.* ~~Where~~ *When* seized property is  
26 no longer required as evidence in the prosecution of any indictment or  
27 information, the court ~~which~~ *that* has jurisdiction of such property may  
28 transfer the ~~same~~ property to the jurisdiction of any other court, including  
29 courts of another state or federal courts, ~~where~~ *if* it is shown to the  
30 satisfaction of the court that such property is required as evidence in any  
31 prosecution in such other court.

32 (b) (1) Notwithstanding the provisions of subsection (a) and with the  
33 approval of the affected court, any law enforcement officer who seizes  
34 *dangerous drugs or hazardous materials* as evidence related to a criminal  
35 investigation may collect representative samples of such *dangerous drugs*  
36 *or hazardous materials*; and lawfully destroy or dispose of, or direct

1 another person to lawfully destroy or dispose of, the remaining quantity of  
2 such *dangerous drugs or hazardous materials*.

3 (2) In any prosecution, representative samples of *dangerous drugs or*  
4 *hazardous materials* accompanied by photographs, videotapes, laboratory  
5 analysis reports or other means used to verify and document the identity  
6 and quantity of the ~~material~~ *drugs or materials* shall be deemed competent  
7 evidence of such ~~hazardous~~ *drugs or materials* and shall be admissible in  
8 any proceeding, hearing or trial as if such *drugs or materials* had been  
9 introduced as evidence.

10 (3) As used in this section, ~~the term:~~

11 (A) "*Dangerous drugs*" means any drug, substance or immediate  
12 precursor included in any of the schedules designated in K.S.A. 65-4105,  
13 65-4107, 65-4109 and 65-4111, and amendments thereto;

14 (B) "hazardous materials" means any substance ~~which~~ *that* is capable  
15 of posing an unreasonable risk to health, safety and property. It shall  
16 include any substance ~~which~~ *that* by its nature is explosive, flammable,  
17 corrosive, poisonous, radioactive, a biological hazard or a material ~~which~~  
18 *that* may cause spontaneous combustion. It shall include, but not be  
19 limited to, substances listed in the table of hazardous materials contained  
20 in the code of federal regulations title 49 and national fire protection  
21 association's fire protection guide on hazardous materials; *and*

22 (C) "*representative sample*" means an amount large enough to  
23 contain a testable amount of a substance without destroying the sample  
24 completely.

25 (4) The provisions of this subsection shall not apply to ammunition  
26 and components thereof.

27 (c) When ~~property~~ seized *property* is no longer required as evidence,  
28 it shall be disposed of as follows:

29 (1) Property stolen, embezzled, obtained by false pretenses, or  
30 otherwise obtained unlawfully from the rightful owner thereof shall be  
31 restored to the owner;

32 (2) money shall be restored to the owner unless it was contained in a  
33 slot machine or otherwise used in unlawful gambling or lotteries, in which  
34 case it shall be forfeited; and shall be paid to the state treasurer pursuant to  
35 K.S.A. 20-2801, and amendments thereto;

36 (3) property ~~which~~ *that* is unclaimed or the ownership of which is  
37 unknown shall be sold at public auction to be held by the sheriff, *or the*  
38 *sheriff's designee*, and the proceeds, less the cost of sale and any storage  
39 charges incurred in preserving it, shall be paid to the state treasurer  
40 pursuant to K.S.A. 20-2801, and amendments thereto;

41 (4) articles of contraband shall be destroyed, except that any such  
42 articles the disposition of which is otherwise provided by law shall be  
43 dealt with as so provided and any such articles the disposition of which is

1 not otherwise provided by law and which may be capable of innocent use  
2 may in the discretion of the court be sold and the proceeds disposed of as  
3 provided in subsection (c)(3);

4 (5) explosives, bombs and like devices, ~~which~~ *that* have been used in  
5 the commission of crime; may be returned to the rightful owner; or, in the  
6 discretion of the court having jurisdiction of the property, destroyed or  
7 forfeited to the Kansas bureau of investigation;

8 (6) (A) except as provided in subsections (c)(6)(B) and (d), any  
9 weapon or ammunition, in the discretion of the court having jurisdiction of  
10 the property, shall be:

11 (i) Forfeited to the law enforcement agency seizing the weapon for  
12 use within such agency, for sale to a properly licensed federal firearms  
13 dealer, for trading to a properly licensed federal firearms dealer for other  
14 new or used firearms or accessories for use within such agency or for  
15 trading to another law enforcement agency for that agency's use;

16 (ii) forfeited to the Kansas bureau of investigation for law  
17 enforcement, testing or comparison by the Kansas bureau of investigation  
18 forensic laboratory;

19 (iii) forfeited to a county regional forensic science center; or other  
20 county forensic laboratory for testing, comparison or other forensic  
21 science purposes; or

22 (iv) forfeited to the Kansas department of wildlife; ~~and parks and~~  
23 ~~tourism~~ for use pursuant to the conditions set forth in K.S.A. 32-1047, and  
24 amendments thereto.

25 (B) Except as provided in subsection (d), any weapon ~~which~~ *that*  
26 cannot be forfeited pursuant to subsection (c)(6)(A) due to the condition of  
27 the weapon, and any weapon ~~which~~ *that* was used in the commission of a  
28 felony as described in K.S.A. 2021 Supp. 21-5401, 21-5402, 21-5403, 21-  
29 5404 or 21-5405, and amendments thereto, shall be destroyed.

30 (7) controlled substances forfeited for violations of K.S.A. 2021  
31 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt  
32 with as provided under K.S.A. 60-4101 through 60-4126, and amendments  
33 thereto;

34 (8) unless otherwise provided by law, all other property shall be  
35 disposed of in such manner as the court in its sound discretion shall direct.

36 (d) (1) If a weapon is seized from an individual and the individual is  
37 not convicted of ~~or adjudicated as a juvenile offender~~ for the violation for  
38 which the weapon was seized, then within 30 days after the declination or  
39 conclusion of prosecution of the case against the individual, including any  
40 period of appeal, the law enforcement agency that seized the weapon shall  
41 verify ~~that whether~~ the weapon is ~~not~~ stolen, ~~and upon such verification~~  
42 ~~shall notify the person from whom it was seized that the weapon may be~~  
43 ~~retrieved.~~ *If the weapon is stolen or was seized from an individual whom*

1 *the agency knows is not the owner of the weapon, the law enforcement*  
2 *agency shall notify the owner of the weapon that such weapon may be*  
3 *retrieved. If the weapon was seized from a juvenile, the agency shall notify*  
4 *the parent or legal guardian of the juvenile that such weapon may be*  
5 *retrieved by the parent or legal guardian. If the agency determines there is*  
6 *no other more appropriate person described in this paragraph to retrieve*  
7 *the weapon, the agency shall notify the person from whom the weapon was*  
8 *seized that such weapon may be retrieved. Such notification shall include*  
9 *the location where such weapon may be retrieved.*

10 *(2) If the law enforcement agency determines that the individual*  
11 *authorized to retrieve a weapon pursuant to paragraph (1) is prohibited*  
12 *by state or federal law from possessing the seized weapon, the agency*  
13 *shall notify the individual that the weapon will not be returned due to the*  
14 *disqualifying law, which shall be described in the notice. The law*  
15 *enforcement agency shall not dispose of such weapon for 60 days after the*  
16 *notice was given to provide a period for the individual to bring an action*  
17 *in an appropriate court challenging the agency's determination. The law*  
18 *enforcement agency may dispose of the weapon as provided by law 60*  
19 *days after the notice described in paragraph (1) is given unless otherwise*  
20 *directed by the court. An owner of a weapon who is prohibited by law from*  
21 *possessing the weapon may either: (A) Request the law enforcement*  
22 *agency to transfer the weapon to a properly licensed federal firearms*  
23 *dealer designated by the owner; or (B) bring an action in an appropriate*  
24 *court to request a court order to transfer the weapon as allowed by law.*

25 *(e) If weapons are sold as authorized by subsection (c)(6)(A), the*  
26 *proceeds of the sale shall be credited to the asset seizure and forfeiture*  
27 *fund of the seizing agency.*

28 *(f) For purposes of this section, the term "weapon" means a weapon*  
29 *described in K.S.A. 2021 Supp. 21-6301, and amendments thereto.*

30 *Sec. 2. K.S.A. 2021 Supp. 22-2512 is hereby repealed.*

31 *Sec. 3. This act shall take effect and be in force from and after its*  
32 *publication in the statute book.*