

Custody and Disposition of Property Seized by Law Enforcement; SB 367

SB 367 makes various amendments to the statute governing custody and disposition of property seized by law enforcement, as follows.

The bill specifies that seized property shall be returned to its rightful owner or disposed of in accordance with the statute if no criminal charges are filed or prosecution is declined. The bill clarifies the procedure to be followed for filing a copy of the receipt provided when property is seized under a search warrant and allow for electronic filing of the receipt.

The bill adds “dangerous drugs” to provisions allowing for the taking of representative samples of and subsequent destruction or disposing of hazardous materials, and the use of such samples as evidence. The bill defines “dangerous drugs” and “representative sample.”

The bill allows a sheriff to designate someone to hold a sale of unclaimed property.

The bill amends a provision regarding disposition of a seized weapon when the individual from whom the weapon was seized is not convicted to clarify that, upon verifying whether the weapon is stolen, if the weapon is stolen or was seized from an individual the agency knows is not the owner of the weapon, the agency shall notify the owner of the weapon that the weapon may be retrieved.

If the weapon was seized from a juvenile, the agency is required to notify the parent or legal guardian of the juvenile that the weapon may be retrieved by the parent or legal guardian. If the agency determines there is no other more appropriate person to retrieve the weapon, the agency is required to notify the person from whom the weapon was seized that the weapon may be retrieved.

The bill adds a provision stating that, if the agency determines the individual authorized to retrieve a weapon under the above provisions is prohibited by state or federal law from possessing the seized weapon, the agency shall notify the individual that the weapon will not be returned due to the disqualification, which is described in the notice. The agency is prohibited from disposing of the weapon for 60 days after this notice to allow the individual to bring an action in an appropriate court challenging the agency’s determination. After 60 days, the agency may dispose of the weapon as provided by law, unless otherwise directed by the court.

An owner of a weapon prohibited by law from possessing the weapon is allowed to request the agency to transfer the weapon to a designated properly licensed federal firearms dealer or to bring an action in an appropriate court to request an order to transfer the weapon, as allowed by law.