

House Bill 484 (FLOOR SUBSTITUTE)

By: Representatives Jenkins of the 93rd, and Knox of the 14th, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,
2 relating to disposition of property seized, so as to change the provisions relating to the
3 disposition of personal property in custody of a law enforcement agency; to change
4 provisions relating to designation of custodian for introduced evidence, evidence logs,
5 storage, maintenance, and disposal of evidence; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
10 disposition of property seized, is amended by striking paragraph (1) of subsection (a) Code
11 Section 17-5-54, relating to disposition of personal property in custody of a law enforcement
12 agency, and inserting in lieu thereof the following:

13 "(a)(1) Except as ~~otherwise~~ provided in Code Sections 17-5-55 and 17-5-56 and
14 subsections (d), (e), and (f) of this Code section, when a law enforcement agency
15 assumes custody of any personal property which is the subject of a crime or has been
16 abandoned or is otherwise seized, a disposition of such property shall be made in
17 accordance with the provisions of this Code section. When a final verdict and judgment
18 is entered finding a defendant guilty of the commission of a crime, any personal property
19 used as evidence in the trial shall be returned to the rightful owner of the property. All
20 personal property in the custody of a law enforcement agency, including personal
21 property used as evidence in a criminal trial, which is unclaimed after a period of 90 days
22 following its seizure, or following the final ~~conviction~~ verdict and judgment in the case
23 of property used as evidence, and which is no longer needed in a criminal investigation
24 or for evidentiary purposes in accordance with Code Section 17-5-55 or 17-5-56 shall be

1 subject to disposition by the law enforcement agency. The sheriff, chief of police, or
 2 other executive officer of a law enforcement agency shall make application to the
 3 superior court for an order to retain, sell, or discard such property. In the application the
 4 officer shall state each item of personal property to be retained, sold, or discarded. Upon
 5 the superior court's granting an order for the law enforcement agency to retain such
 6 property, the law enforcement agency shall retain such property for official use. Upon
 7 the superior court's granting an order which authorizes that the property be discarded, the
 8 law enforcement agency shall dispose of the property as other salvage or nonserviceable
 9 equipment. Upon the superior court's granting an order for the sale of personal property,
 10 the officer shall provide for a notice to be placed once a week for four weeks in the legal
 11 organ of the county specifically describing each item and advising possible owners of
 12 items of the method of contacting the law enforcement agency; provided, however, that
 13 miscellaneous items having an estimated fair market value of \$75.00 or less may be
 14 advertised or sold, or both, in lots. Such notice shall also stipulate a date, time, and place
 15 said items will be placed for public sale if not claimed. Such notice shall also stipulate
 16 whether said items or groups of items are to be sold in blocks, by lot numbers, by entire
 17 list of items, or separately."

18 SECTION 2.

19 Said article is further amended by striking subsection (a) of Code Section 17-5-55, relating
 20 to designation of custodian for introduced evidence, evidence logs, storage, maintenance, and
 21 disposal of evidence, and inserting in lieu thereof the following:

22 "(a) In all criminal cases, the court shall designate either the clerk of court, the court
 23 reporter, or any other officer of the court to be the custodian of any property that is
 24 introduced into evidence during the pendency of the case. Property introduced into
 25 evidence shall be identified or tagged with an exhibit number. After verdict and judgment
 26 has been entered in any criminal case, the person who has custody of the physical evidence
 27 introduced in the case shall inventory the evidence and create an evidence log within 30
 28 days of the entry of the judgment. Within 30 days following the creation of the evidence
 29 log, physical evidence shall be returned to the rightful owner of the property unless the
 30 physical evidence itself is necessary for the appeal of the case, for a new trial, or for
 31 purposes of complying with this Code section or Code Section 17-5-56. The evidence log
 32 shall contain the case number, style of the case, description of the item, exhibit number, the
 33 name of the person creating the evidence log, and the location where the physical evidence
 34 is stored. After the evidence log is completed, the judge shall designate the clerk of court,
 35 the prosecuting attorney, or the law enforcement agency involved in prosecuting the case
 36 to obtain and store the evidence, and a notation shall appear in the evidence log indicating

1 the transfer of evidence. If evidence is transferred to any other party, the evidence log shall
2 be annotated to show the identity of the person or entity receiving the evidence, the date
3 of the transfer, and the location of the evidence. The signature of any person or entity to
4 which physical evidence is transferred shall be captured through electronic means that will
5 be linked to the evidence log or the use of a property transfer form that will be filed with
6 the evidence log. When physical evidence, other than audio or video recordings, is
7 transferred to any person or entity, a photograph or other visual image of the evidence shall
8 be made and placed in the case file."

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SECTION 3.

10 All laws and parts of laws in conflict with this Act are repealed.