

ENROLLED HOUSE
BILL NO. 1250

By: Bastin of the House

and

Brown of the Senate

An Act relating to property held by law enforcement agencies; amending 11 O.S. 1991, Section 34-104, which relates to disposition of property by municipal police department; adding method of disposition under certain circumstances; amending 22 O.S. 1991, Section 1325, which relates to disposition of property by county sheriff; adding method of disposition under certain circumstances; updating reference; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 34-104, is amended to read as follows:

Section 34-104. A. Any chief of police is authorized to dispose of personal property or money or legal tender as provided in this section or the charter of the municipality, which has come into his possession in any manner if:

1. The owner of the personal property or money or legal tender is unknown or has not claimed the property;
2. The property or money or legal tender has been in the custody of the chief of police for at least six (6) months; and
3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

B. The chief of police shall file an application in the district court in which the situs of government of the municipality is located requesting the authority of said court to conduct a sale of such personal property which has a fair market value of more than its face value. Said chief of police shall attach to his application a list describing such property including any identifying numbers and marks, the date said property came into his possession, and the name of the owner and the person in last possession, if different and his address, if known. The court shall set said application for hearing not less than ten (10) days nor more than twenty (20) days after filing of said application.

C. In any instance where said property has an actual or apparent value of more than Twenty-five Dollars (\$25.00), at least ten (10) days prior to the date of said hearing, notice of said hearing shall be sent by certified mail to each owner at his address as listed in said application. If the owner of any property with an actual or apparent value exceeding Five Hundred Dollars (\$500.00) is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in

the county where the property is in custody. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. Said notice shall be posted at the assigned place for the posting of municipal notices, and at two other public places in the municipality.

D. If no owner appears and establishes ownership to said property at the hearing, the court shall enter an order authorizing the chief of police to donate said property having value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by needy families or to sell said personal property for cash to the highest bidder, after at least five (5) days' notice of said sale has been published. The chief of police shall make a return of said donation or sale and the order of the court confirming said donation or sale shall vest title to said property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of said personal property shall be deposited in the municipal general fund.

E. All money or legal tender which has come into the possession of the chief of police pursuant to the circumstances provided for in subsection A of this section shall be transferred by the chief of police to the municipal clerk for deposit in the municipal general fund. Prior to any such transfer, the chief of police shall file an application in the district court requesting the court to enter an order authorizing him to transfer said money for deposit in the municipal general fund. The application shall describe the money or legal tender, any serial numbers, the date the same came into his possession, and the name of the owner and his address, if known. Upon filing the application which may be joined with an application as described in subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of said hearing shall be given as provided for in subsection C of this section. The notice shall state that upon failure of anyone to appear to prove ownership to said money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B of this section. If no one appears to claim and prove ownership to said money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

F. The provisions of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

G. The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. Such procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finders identity with the police department or other agent of the municipality. Only property in which the finder relinquishes any future claim to its ownership will be stored in municipal police property rooms.

H. The municipality may provide by ordinance that a percentage of the money or legal tender deposited in the municipal general fund

as provided in subsection D or E of this section may be paid as a finders fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the chief of police or other agent of the municipality.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1325, is amended to read as follows:

Section 1325. A. Any sheriff is authorized to ~~sell~~ dispose of personal property which has come into his possession, or deposit in the Sheriff's Training Fund, as hereafter provided, all money or legal tender of the United States which has come into his possession, whether said property or money be stolen, embezzled, lost, abandoned or otherwise, the owner of said property or money being unknown or not having claimed the same, and which the sheriff has held for at least six (6) months, and such property or money, or any part thereof, being no longer needed to be held as evidence or otherwise used in connection with any litigation.

B. The sheriff shall file an application in the district court of his county requesting the authority of said court to ~~conduct a sale~~ dispose of such personal property, and shall attach to his application a list describing such property, including all identifying numbers and marks, if any, the date said property came into his possession and the name of the owner and his address, if known. The court shall set said application for hearing not less than ten (10) days nor more than twenty (20) days after filing.

C. Notice shall be given of said hearing to each and every owner known and as set forth in said application by certified mail directed to his last-known address at least ten (10) days prior to the date of said hearing. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. In addition thereto notice of said hearing shall be posted in three public places in the county, one being the county courthouse at the regular place assigned for the posting of legal notices.

D. At the hearing, if no owner appears and establishes ownership to said property, the court shall enter an order authorizing the sheriff to donate property having a value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes or to sell said personal property to the highest bidder for cash, after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The sheriff shall make a return of said donation or sale and, when confirmed by said court, the order confirming said donation or sale shall vest in the recipient or purchaser title to said property so donated or purchased.

E. A sheriff, having in his possession money or legal tender under the circumstances provided in subsection A ~~above of this section~~ prior to appropriating the same for deposit into the Sheriff's Training Fund, shall file an application in the district court of his county requesting the court to enter an order authorizing him to so appropriate said money for deposit in said Sheriff's Training Fund. Said application shall describe the money or legal tender, together with serial numbers, if any, the date the same came into his possession, and the name of the owner and his address, if known. Upon filing, said application, which may be joined with an application as described in subsection B ~~above of this section~~, shall be set for hearing not less than ten (10) days nor more than twenty (20) days from the filing thereof, and notice of said hearing shall be given as provided in subsection C ~~above of this section~~. Such notice shall state that, upon no one appearing

to prove ownership to said money or legal tender, the same will be ordered by the court to be deposited in the Sheriff's Training Fund by the sheriff. Said notice may be combined with a notice to donate or sell personal property as set forth in subsection C above of this section. At the hearing, if no one appears to claim and prove ownership to said money or legal tender, the court shall order the same to be deposited by the sheriff in the Sheriff's Training Fund, as provided hereafter in subsection F of this section.

F. The money received from the sale of personal property as above provided, after payment of the court costs and other expenses, if any, together with all money in possession of said sheriff, which has been ordered by the court to be deposited in the Sheriff's Training Fund, shall be deposited in such fund which shall be a special fund with the county treasurer and may be expended upon the approval of the sheriff for the purchase of uniforms for the sheriff or his duly authorized deputies or for the purchase of equipment that may be used in crime prevention and detection. Said fund or any portion of it may be expended in providing expenses of the sheriff or any duly authorized deputy in attending official training courses at the Southwest Center for Law Enforcement Education, located on the campus of the University of Oklahoma. It is further provided that expenditure of an amount not to exceed fifty percent (50%) of the amount in said fund in any given fiscal year may be made by the sheriff to provide for the expenses of the sheriff or any duly authorized deputy in attending any police science courses held outside of the State of Oklahoma; and provided further that if said fund has an amount in excess of needs for the above purposes, any such excess may be transferred by the sheriff to the general fund of the county upon the written order of said sheriff.

SECTION 3. This act shall become effective November 1, 1995.

Passed the House of Representatives the 3rd day of April, 1995.

Speaker of the House of
Representatives

Passed the Senate the 20th day of March, 1995.

President of the Senate