

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1203

By: Roberts, Pope (Tim), Piatt,
Liotta and Wright of the
House

and

Rozell of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 1991, Section 2-401, as last amended by Section 529, Chapter 133, O.S.L. 1997 (63 O.S. Supp. 1998, Section 2-401), which relates to prohibited acts; modifying certain distances; stating penalties; amending 63 O.S. 1991, Section 2-508, as last amended by Section 4, Chapter 347, O.S.L. 1996 (63 O.S. Supp. 1998, Section 2-508), which relates to disposition of seized property; authorizing the destruction of certain controlled dangerous substances; providing for samples to be taken and identified; requiring certain notice be given; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2-401, as last amended by Section 529, Chapter 133, O.S.L. 1997 (63 O.S. Supp. 1998, Section 2-401), is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, ~~or solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance or possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance~~ or to solicit the use of or use the services of a person

1 less than eighteen (18) years of age to cultivate, distribute or
2 dispense a controlled dangerous substance;

3 2. To create, distribute, transport with intent to distribute
4 or dispense, or possess with intent to distribute, a counterfeit
5 controlled dangerous substance; or

6 3. To distribute any imitation controlled substance as defined
7 by Section 2-101 of this title, except when authorized by the Food
8 and Drug Administration of the United States Department of Health
9 and Human Services.

10 B. Any person who violates the provisions of this section with
11 respect to:

12 1. A substance classified in Schedule I or II which is a
13 narcotic drug or lysergic acid diethylamide (LSD), upon conviction,
14 shall be guilty of a felony. ~~The~~ and shall be sentenced to a term
15 of imprisonment for not less than five (5) years nor more than life
16 and a fine for a violation of this paragraph shall be of not more
17 than One Hundred Thousand Dollars (\$100,000.00), which shall be in
18 addition to other punishment provided by law and shall not be
19 imposed in lieu of other punishment. Any sentence to the custody of
20 the Department of Corrections, ~~with or without postimprisonment~~
21 ~~supervision,~~ shall not be subject to statutory provisions for
22 suspended sentences, deferred sentences, or probation except when
23 the conviction is for a first offense;

24 2. Any other controlled dangerous substance classified in
25 Schedule I, II, III, or IV, upon conviction, shall be guilty of a
26 felony. ~~The~~ and shall be sentenced to a term of imprisonment for
27 not less than two (2) years nor more than life and a fine for a
28 violation of this paragraph shall be of not more than Twenty
29 Thousand Dollars (\$20,000.00), which shall be in addition to other
30 punishment provided by law and shall not be imposed in lieu of other
31 punishment. Any sentence to the custody of the Department of
32 Corrections, ~~with or without postimprisonment supervision,~~ shall not

1 be subject to statutory provisions for suspended sentences, deferred
2 sentences, or probation except when the conviction is for a first
3 offense;

4 3. A substance classified in Schedule V, upon conviction, shall
5 be guilty of a felony. ~~The~~ and shall be sentenced to a term of
6 imprisonment for not more than five (5) years and a fine for a
7 ~~violation of this paragraph shall be~~ of not more than One Thousand
8 Dollars (\$1,000.00), which shall be in addition to other punishment
9 provided by law and shall not be imposed in lieu of other
10 punishment;

11 4. An imitation controlled substance as defined by Section 2-
12 101 of this title, upon conviction, shall be guilty of a misdemeanor
13 and shall be sentenced to a term of imprisonment in the county jail
14 for a period of not more than one (1) year and a fine of not more
15 than One Thousand Dollars (\$1,000.00). A person convicted of a
16 second violation of the provisions of this paragraph shall be guilty
17 of a felony. ~~The~~ and shall be sentenced to a term of imprisonment
18 for not more than five (5) years and a fine for a second violation
19 ~~of this paragraph shall be~~ of not more than Five Thousand Dollars
20 (\$5,000.00), which shall be in addition to other punishment provided
21 by law and shall not be imposed in lieu of other punishment; or

22 5. Except when authorized by the Food and Drug Administration
23 of the United States Department of Health and Human Services, it
24 shall be unlawful for any person to manufacture, distribute, or
25 possess with intent to distribute a synthetic controlled substance.
26 Any person convicted of violating the provisions of this paragraph
27 is guilty of a felony. ~~The~~ and shall be punished by imprisonment in
28 the state penitentiary for a term not to exceed life and a fine
29 ~~shall~~ of not be more than Twenty-five Thousand Dollars (\$25,000.00),
30 which shall be in addition to other punishment provided by law and
31 shall not be imposed in lieu of other punishment. A second or
32 subsequent conviction for the violation of the provisions of this

1 paragraph is a felony. ~~The punishable by imprisonment in the state~~
2 penitentiary for a term of not less than ten (10) years nor more
3 than life and a fine for a second or subsequent violation of this
4 ~~paragraph shall be~~ of not more than One Hundred Thousand Dollars
5 (\$100,000.00), which shall be in addition to other punishment
6 provided by law and shall not be imposed in lieu of other
7 punishment.

8 C. Any person convicted of a second or subsequent felony
9 violation of the provisions of this section, except for paragraphs 4
10 and 5 of subsection B of this section or subsection E of this
11 section, shall be subject to punished by a term of imprisonment
12 twice that otherwise authorized and by twice the fine otherwise
13 authorized, which shall be in addition to other punishment provided
14 by law and shall not be imposed in lieu of other punishment.
15 Convictions for second or subsequent violations of the provisions of
16 this section shall not be subject to statutory provisions for
17 suspended sentences, deferred sentences, or probation.

18 D. Any person who is at least eighteen (18) years of age and
19 who violates the provisions of this section by using or soliciting
20 the use of services of a person less than eighteen (18) years of age
21 to distribute, dispense, transport with intent to distribute or
22 dispense or cultivate a controlled dangerous substance or by
23 distributing a controlled dangerous substance to a person under
24 eighteen (18) years of age is punishable by twice the fine and by
25 twice the imprisonment otherwise authorized.

26 E. Any person who violates any provision of this section by
27 transporting with intent to distribute or dispense, distributing or
28 possessing with intent to distribute a controlled dangerous
29 substance to a person, in or on, or within two thousand (2,000) feet
30 of the real property comprising a public or private elementary or
31 secondary school, public vocational school, public or private
32 college or university, or other institution of higher education,

1 recreation center or public park, including state parks and
2 recreation areas, or public housing project shall be punished by:

3 1. For a first offense, a term of imprisonment, or by the
4 imposition of a fine or by both, not exceeding twice that authorized
5 by the appropriate provision of this section and shall serve a
6 minimum of fifty percent (50%) of the sentence received prior to
7 becoming eligible for state correctional institution earned credits
8 toward the completion of said sentence; or

9 2. For a second or subsequent offense, a term of imprisonment
10 not exceeding three times that authorized by the appropriate
11 provision of this section and shall serve a minimum of ninety
12 percent (90%) of the sentence received prior to becoming eligible
13 for state correctional institution earned credits toward the
14 completion of said sentence.

15 F. Except as authorized by the Uniform Controlled Dangerous
16 Substances Act, it shall be unlawful for any person to manufacture
17 or attempt to manufacture any controlled dangerous substance. Any
18 person violating the provisions of this section with respect to the
19 unlawful manufacturing or attempting to unlawfully manufacture any
20 controlled dangerous substance, upon conviction, is guilty of a
21 felony. ~~The~~ and shall be punished by imprisonment in the State
22 Penitentiary for not less than twenty (20) years nor more than life
23 and by a fine ~~for a violation of this paragraph shall be~~ of not less
24 than Fifty Thousand Dollars (\$50,000.00), which shall be in addition
25 to other punishment provided by law and shall not be imposed in lieu
26 of other punishment.

27 Any sentence to the custody of the Department of Corrections,
28 ~~with or without postimprisonment supervision,~~ shall not be subject
29 to statutory provisions for suspended sentences, deferred sentences,
30 or probation. A person convicted of a second or subsequent
31 violation of the provisions of this subsection shall be required to
32 serve at least ten (10) years of such person's sentence before

1 becoming eligible for parole or any early release from
2 incarceration.

3 Any person convicted of any offense described in this section
4 may, in addition to the fine imposed, be assessed an amount not to
5 exceed ten percent (10%) of the fine imposed. Such assessment shall
6 be paid into a revolving fund for enforcement of controlled
7 dangerous substances created pursuant to Section 2-506 of this
8 title.

9 G. For purposes of this section, "public housing project" means
10 any dwelling or accommodations operated as a state or federally
11 subsidized multifamily housing project by any housing authority,
12 nonprofit corporation or municipal developer or housing projects
13 created pursuant to the Oklahoma Housing Authorities Act.

14 SECTION 2. AMENDATORY 63 O.S. 1991, Section 2-508, as
15 last amended by Section 4, Chapter 347, O.S.L. 1996 (63 O.S. Supp.
16 1998, Section 2-508), is amended to read as follows:

17 Section 2-508. A. Except as otherwise provided, all property
18 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
19 this title which is seized or surrendered pursuant to the provisions
20 of the Uniform Controlled Dangerous Substances Act, Section 2-101 et
21 seq. of this title, shall be destroyed. The destruction shall be
22 done by or at the direction of the Oklahoma State Bureau of
23 Investigation, who shall have the discretion prior to destruction to
24 preserve samples of the substance for testing. In any county with a
25 population of four hundred thousand (400,000) or more according to
26 the latest Federal Decennial Census, there shall be a located site,
27 approved by the Oklahoma State Bureau of Investigation, for the
28 destruction of the property. Any such property submitted to the
29 Oklahoma State Bureau of Investigation which it deems to be of use
30 for investigative training, educational, or analytical purposes may
31 be retained by the Oklahoma State Bureau of Investigation in lieu of
32 destruction.

1 B. 1. With respect to controlled dangerous substances seized
2 or surrendered pursuant to the provisions of the Uniform Controlled
3 Dangerous Substances Act, municipal police departments, sheriffs,
4 the Oklahoma Bureau of Narcotics and Dangerous Drugs Control
5 Commission, the Oklahoma Highway Patrol, and the Oklahoma State
6 Bureau of Investigation shall have the authority to destroy seized
7 controlled dangerous substances when the amount seized in a single
8 incident exceeds ten (10) pounds. The destroying agency shall:

- 9 a. photograph the seized substance with identifying case
10 numbers or other means of identification,
11 b. prepare a report describing the seized substance prior
12 to the destruction,
13 c. retain at least ten (10) pounds of the substance
14 randomly selected from the seized substance for the
15 purpose of evidence, and
16 d. obtain and retain samples of the substance from each
17 container, bale, brick, or other unit of substance
18 seized that is large enough for the destroying agency
19 and the defendant or suspect to have an independent
20 test performed on the substance for purposes of
21 identification.

22 2. If a defendant or suspect is known to the destroying agency,
23 the destroying agency shall give at least seven (7) days' written
24 notice to the defendant, suspect or counsel for the defendant or
25 suspect of:

- 26 a. the date, the time, and the place where the
27 photographing will take place and notice of the right
28 to attend the photographing,
29 b. the date, and the time where the destruction will be
30 conducted, and

1 c. the right to obtain samples of the controlled
2 dangerous substance for independent testing and use as
3 evidence.

4 3. The written notice shall also inform the defendant, suspect
5 or counsel for the defendant or suspect that the destroying agency
6 must be notified in writing within seven (7) days from receipt of
7 the notice of the intent of the suspect or defendant to obtain
8 random samples and make arrangements for the taking of samples. The
9 samples for the defendant or suspect must be taken by a person
10 licensed by the Drug Enforcement Administration. If the defendant
11 or counsel for the defendant fails to notify the destroying agency
12 in writing of an intent to obtain samples and fails to make
13 arrangements for the taking of samples, a sample taken pursuant to
14 subparagraph d of paragraph 1 of this subsection shall be made
15 available upon request of the defendant or suspect.

16 The representative samples, the photographs, the reports, and
17 the records made under this section and properly identified shall be
18 admissible in any court or administrative proceeding for any
19 purposes for which the seized substance itself would have been
20 admissible.

21 C. All other property not otherwise provided for in the Uniform
22 Controlled Dangerous Substances Act which has come into the
23 possession of the Oklahoma State Bureau of Narcotics and Dangerous
24 Drugs Control or a district attorney may be disposed of by order of
25 the district court when no longer needed in connection with any
26 litigation. If the owner of the property is unknown to the Bureau
27 or district attorney, the Bureau shall hold the property for at
28 least six (6) months prior to filing a petition for disposal with
29 the district court except for laboratory equipment which may be
30 forfeited when no longer needed in connection with litigation,
31 unless the property is perishable. The Director or district
32 attorney shall file a petition in the district court of Oklahoma

1 County or in the case of a district attorney, the petition shall be
2 filed in a county within the district attorney's jurisdiction
3 requesting the authority to:

4 1. Conduct a sale of the property;

5 2. Convert title of the property to the Oklahoma State Bureau
6 of Narcotics and Dangerous Drugs Control or to the district
7 attorney's office for donation or transfer in accordance with
8 subsection ~~H~~ I or ~~J~~ K of this section; or

9 3. Convert title of the property to the Oklahoma State Bureau
10 of Narcotics and Dangerous Drugs Control for the purpose of leasing
11 the property in accordance with subsection ~~I~~ J of this section.

12 The Director or district attorney shall attach to the petition a
13 list describing the property, including all identifying numbers and
14 marks, if any, the date the property came into the possession of the
15 Bureau or district attorney, and the name and address of the owner,
16 if known. The notice of the hearing of the petition for the sale of
17 the property, except laboratory equipment used in the processing,
18 manufacturing or compounding of controlled dangerous substances in
19 violation of the provisions of the Uniform Controlled Dangerous
20 Substances Act, shall be given to every known owner, as set forth in
21 the petition, by certified mail to the last-known address of the
22 owner at least ten (10) days prior to the date of the hearing.

23 Notice of a hearing on a petition for forfeiture or sale of
24 laboratory equipment used in the processing, manufacturing or
25 compounding of controlled dangerous substances in violation of the
26 Uniform Controlled Dangerous Substances Act shall not be required.

27 The notice shall contain a brief description of the property, and
28 the location and date of the hearing. In addition, notice of the
29 hearing shall be posted in three public places in the county, one
30 such place being the county courthouse at the regular place assigned
31 for the posting of legal notices. At the hearing, if no owner
32 appears and establishes ownership of the property, the court may

1 enter an order authorizing the Director or district attorney to
2 donate the property pursuant to subsection # I of this section, to
3 sell the property at a public auction to the highest bidder, or to
4 convert title of the property to the Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control for the purpose of leasing or
6 transferring the property pursuant to subsection ± J or ∫ K of this
7 section after at least ten (10) days' notice has been given by
8 publication in one issue of a legal newspaper of the county. If the
9 property is offered for sale at public auction and no bid is
10 received that exceeds fifty percent (50%) of the value of the
11 property, such value to be announced prior to the sale, the Director
12 or district attorney may refuse to sell the item pursuant to any bid
13 received. The Director or district attorney shall make a return of
14 the sale and, when confirmed by the court, the order confirming the
15 sale shall vest in the purchaser title to the property so purchased.
16 The money received from the sale shall be used for the purpose of
17 purchasing controlled dangerous substances to be used as evidence in
18 narcotic cases and fees for informers, or employees and other
19 associated expenses necessary to apprehend and convict violators of
20 the laws of the State of Oklahoma regulating controlled dangerous
21 substances. These funds shall be transferred to the agency special
22 account established pursuant to Section 7.2 of Title 62 of the
23 Oklahoma Statutes or the Bureau of Narcotics Revolving Fund or in
24 the case of a district attorney, the revolving fund in that district
25 for drug education and enforcement. The Director of the Bureau of
26 Narcotics and Dangerous Drugs Control and the Director of State
27 Finance are hereby authorized and directed to promulgate in writing
28 the necessary rules and regulations requiring strict accountability
29 relative to the expenditure of the above funds. In the case of a
30 district attorney, the accountability relative to the expenditure of
31 the fund shall be according to rules already existing for county
32 revolving funds.

1 ~~C.~~ D. At the request of the Department of Public Safety, the
2 district attorney or a designee of the district attorney may conduct
3 any forfeiture proceedings as described in Section 2-503 of this
4 title on any property subject to forfeiture as described in
5 ~~subsections~~ subsection A, B, or C of Section 2-503 of this title.
6 Except as provided in subsection A of this section, all other
7 property not otherwise provided for in the Uniform Controlled
8 Dangerous Substances Act which has come into the possession of the
9 Oklahoma Department of Public Safety may be disposed of by order of
10 the district court when no longer needed in connection with any
11 litigation. If the owner of the property is unknown to the
12 Department, the Department shall hold the property for at least six
13 (6) months prior to filing a petition for disposal with the district
14 court, unless the property is perishable. The Commissioner of
15 Public Safety shall file a petition in the district court of
16 Oklahoma County requesting the authority to conduct a sale of the
17 property or to convert title of the property to the Oklahoma
18 Department of Public Safety. The Commissioner of Public Safety
19 shall attach to the petition a list describing the property,
20 including all identifying numbers and marks, if any, the date the
21 property came into the possession of the Department, and the name
22 and address of the owner, if known. The notice of the hearing of
23 the petition for the sale of the property shall be given to every
24 known owner, as set forth in the petition, by certified mail to the
25 last-known address of the owner and party in last possession if
26 applicable, at least ten (10) days prior to the date of the hearing.
27 The notice shall contain a brief description of the property, and
28 the location and date of the hearing. In addition, notice of the
29 hearing shall be posted in three public places in the county, one
30 such place being the county courthouse at the regular place assigned
31 for the posting of legal notices. At the hearing, if no owner
32 appears and establishes ownership of the property, the court may

1 enter an order authorizing the Commissioner of Public Safety to
2 donate the property pursuant to subsection ~~¶~~ I of this section, to
3 sell the property to the highest bidder, or convert title of the
4 property to the Oklahoma Department of Public Safety for the purpose
5 of leasing or transferring the property pursuant to subsection ~~¶~~ J
6 or ~~¶~~ K of this section after at least five (5) days' notice has been
7 given by publication in one issue of a legal newspaper of the
8 county. The Commissioner of Public Safety shall make a return of
9 the sale and, when confirmed by the court, the order confirming the
10 sale shall vest in the purchaser title to the property so purchased.
11 The money received from the sale shall be deposited in the
12 Department of Public Safety Revolving Fund and shall be expended for
13 law enforcement purposes.

14 ~~D.~~ E. Except as provided in subsection A of this section, all
15 other property not otherwise provided for in the Uniform Controlled
16 Dangerous Substances Act which has come into the possession of the
17 Alcoholic Beverage Laws Enforcement Commission may be disposed of by
18 order of the district court when no longer needed in connection with
19 any litigation. If the owner of the property is unknown to the
20 Alcoholic Beverage Laws Enforcement Commission, the Commission shall
21 hold the property for at least six (6) months prior to filing a
22 petition for disposal with the district court, unless the property
23 is perishable. The Director of the Alcoholic Beverage Laws
24 Enforcement Commission shall file a petition in the district court
25 of Oklahoma County requesting the authority to conduct a sale of the
26 property or to convert title of the property to the Alcoholic
27 Beverage Laws Enforcement Commission. The Director of the Alcoholic
28 Beverage Laws Enforcement Commission shall attach to the petition a
29 list describing the property, including all identifying numbers and
30 marks, if any, the date the property came into the possession of the
31 Alcoholic Beverage Laws Enforcement Commission, and the name and
32 address of the owner, if known. The notice of the hearing of the

1 petition for the sale of the property shall be given to every known
2 owner, as set forth in the petition, by certified mail to the
3 last-known address of the owner at least ten (10) days prior to the
4 date of the hearing. The notice shall contain a brief description
5 of the property, and the location and date of the hearing. In
6 addition, notice of the hearing shall be posted in three public
7 places in the county, one such place being the county courthouse at
8 the regular place assigned for the posting of legal notices. At the
9 hearing, if no owner appears and establishes ownership of the
10 property, the court may enter an order authorizing the Director of
11 the Alcoholic Beverage Laws Enforcement Commission to donate the
12 property pursuant to subsection ~~H~~ I of this section or to sell the
13 property to the highest bidder after at least five (5) days' notice
14 has been given by publication in one issue of a legal newspaper of
15 the county. The Director of the Alcoholic Beverage Laws Enforcement
16 Commission shall make a return of the sale and, when confirmed by
17 the court, the order confirming the sale shall vest in the purchaser
18 title to the property so purchased. The money received from the
19 sale shall be deposited in the General Revenue Fund of the state.

20 ~~E.~~ F. Except as provided in subsection A of this section, all
21 other property not otherwise provided for in the Uniform Controlled
22 Dangerous Substances Act which has come into the possession of the
23 Oklahoma State Bureau of Investigation may be disposed of by order
24 of the district court when no longer needed in connection with any
25 litigation. If the owner of the property is unknown to the Bureau,
26 the Bureau shall hold the property for at least six (6) months prior
27 to filing a petition for disposal with the district court, unless
28 the property is perishable. The Director of the Oklahoma State
29 Bureau of Investigation shall file a petition in the district court
30 of Oklahoma County requesting the authority to conduct a sale of the
31 property or to convert title of the property to the Oklahoma State
32 Bureau of Investigation. The Director of the Oklahoma State Bureau

1 of Investigation shall attach to the petition a list describing the
2 property, including all identifying numbers and marks, if any, the
3 date the property came into the possession of the Bureau, and the
4 name and address of the owner, if known. The notice of the hearing
5 of the petition for the sale of the property shall be given to every
6 known owner, as set forth in the petition, by certified mail to the
7 last-known address of the owner and party in last possession if
8 applicable, at least ten (10) days prior to the date of the hearing.
9 The notice shall contain a brief description of the property, and
10 the location and date of the hearing. In addition, notice of the
11 hearing shall be posted in three public places in the county, one
12 such place being the county courthouse at the regular place assigned
13 for the posting of legal notices. At the hearing, if no owner
14 appears and establishes ownership of the property, the court may
15 enter an order authorizing the Director of the Oklahoma State Bureau
16 of Investigation to donate the property pursuant to subsection ~~H~~ I
17 of this section, to sell the property to the highest bidder, or
18 convert title of the property to the Oklahoma State Bureau of
19 Investigation for the purpose of leasing or transferring the
20 property pursuant to subsection ~~F~~ J or ~~F~~ K of this section after at
21 least five (5) days' notice has been given by publication in one
22 issue of a legal newspaper of the county. The Director of the
23 Oklahoma State Bureau of Investigation shall make a return of the
24 sale and, when confirmed by the court, the order confirming the sale
25 shall vest in the purchaser title to the property so purchased. The
26 money received from the sale shall be deposited in the OSBI
27 Revolving Fund and shall be expended for law enforcement purposes.

28 ~~F.~~ G. Except as provided in subsection A of this section, all
29 other property not otherwise provided for in the Uniform Controlled
30 Dangerous Substances Act which has come into the possession of the
31 Oklahoma Department of Corrections may be disposed of by order of
32 the district court when no longer needed in connection with any

1 litigation. If the owner of the property is unknown to the
2 Department, the Department shall hold the property for at least six
3 (6) months prior to filing a petition for disposal with the district
4 court, unless the property is perishable. The Director of the
5 Oklahoma Department of Corrections shall file a petition in the
6 district court of the county of seizure requesting the authority to
7 conduct a sale of the property or to convert title to the property
8 to the Oklahoma Department of Corrections. The Director of the
9 Oklahoma Department of Corrections shall attach to the petition a
10 list describing the property, including all identifying numbers and
11 marks, if any, the date the property came into possession of the
12 Department and the name and address of the owner, if known. The
13 notice of the hearing of the petition for the sale of the property
14 shall be given to every known owner, as set forth in the petition,
15 by certified mail to the last-known address of the owner and party
16 in last possession if applicable, at least ten (10) days prior to
17 the date of the hearing. The notice shall contain a brief
18 description of the property and the location and date of the
19 hearing. In addition, notice of the hearing shall be posted in
20 three public places in the county, one such place being the county
21 courthouse at the regular place assigned for the posting of legal
22 notices. At the hearing, if no owner appears and establishes
23 ownership of the property, the court may enter an order authorizing
24 the Director of the Oklahoma Department of Corrections to donate the
25 property pursuant to subsection # I of this section, to sell the
26 property to the highest bidder or convert title of the property to
27 the Oklahoma Department of Corrections after at least five (5) days'
28 notice has been given by publication in one issue of a legal
29 newspaper of the county. The Director of the Oklahoma Department of
30 Corrections shall make a return of the sale and when confirmed by
31 the court, the order confirming the sale shall vest in the purchaser
32 title to the property so purchased. Twenty-five percent (25%) of

1 the money received from the sale shall be disbursed to a revolving
2 fund in the office of the county treasurer of the county wherein the
3 property was seized, said fund to be used as a revolving fund solely
4 for enforcement of controlled dangerous substances laws, drug abuse
5 prevention and drug abuse education. The remaining seventy-five
6 percent (75%) shall be deposited in the Department of Corrections
7 Revolving Fund to be expended for equipment for probation and parole
8 officers and correctional officers.

9 ~~G.~~ H. Except as provided in subsection A of this section, all
10 other property not otherwise provided for in the Uniform Controlled
11 Dangerous Substances Act which has come into the possession of the
12 Office of the Attorney General may be disposed of by order of the
13 district court when no longer needed in connection with any
14 litigation. If the owner of the property is unknown to the Office,
15 the Office shall hold the property for at least six (6) months prior
16 to filing a petition for disposal with the district court, unless
17 the property is perishable. The Office of the Attorney General
18 shall file a petition in the district court of Oklahoma County
19 requesting the authority to conduct a sale of the property or to
20 convert title of the property to the Office of the Attorney General.
21 The Office of the Attorney General shall attach to the petition a
22 list describing the property, including all identifying numbers and
23 marks, if any, the date the property came into the possession of the
24 Office, and the name and address of the owner, if known. The notice
25 of the hearing of the petition for the sale of the property shall be
26 given to every known owner, as set forth in the petition, by
27 certified mail to the last-known address of the owner and party in
28 last possession, if applicable, at least ten (10) days prior to the
29 date of the hearing. The notice shall contain a brief description
30 of the property and the location and date of the hearing. In
31 addition, notice of the hearing shall be posted in three public
32 places in the county, one such place being the county courthouse at

1 the regular place assigned for the posting of legal notices. At the
2 hearing, if no owner appears and establishes ownership of the
3 property, the court may enter an order authorizing the Attorney
4 General to donate the property pursuant to subsection ~~H~~ I of this
5 section, to sell the property to the highest bidder, or convert
6 title of the property to the Office of the Attorney General for the
7 purpose of leasing or transferring the property pursuant to
8 subsection ~~F~~ J or ~~G~~ K of this section after at least five (5) days'
9 notice has been given by publication in one issue of a legal
10 newspaper of the county. The Attorney General shall make a return
11 of the sale and, when confirmed by the court, the order confirming
12 the sale shall vest in the purchaser title to the property so
13 purchased. The money received from the sale shall be deposited in
14 the Attorney General Law Enforcement Revolving Fund and shall be
15 expended for law enforcement purposes. The Office of the Attorney
16 General may enter into agreements with municipal, county or state
17 agencies to return to such an agency a percentage of proceeds of the
18 sale of any property seized by the agency and forfeited under the
19 provisions of this section.

20 ~~H~~ I. Any property, including but not limited to uncontaminated
21 laboratory equipment used in the processing, manufacturing or
22 compounding of controlled dangerous substances in violation of the
23 provisions of the Uniform Controlled Dangerous Substances Act, upon
24 a court order, may be donated for classroom or laboratory use by the
25 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
26 Oklahoma Department of Public Safety, district attorney, the
27 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma
28 Department of Corrections, or the Office of the Attorney General to
29 any public secondary school or vocational-technical school in this
30 state or any institution of higher education within The Oklahoma
31 State System of Higher Education.

32

1 ~~I.~~ J. Any vehicle or firearm which has come into the possession
2 and title vested in the Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control, the Oklahoma Department of Public Safety,
4 the Oklahoma State Bureau of Investigation, or the Office of the
5 Attorney General, may be offered for lease to any sheriff's office
6 or police department in this state on an annual basis to assist with
7 the enforcement of the provisions of the Uniform Controlled
8 Dangerous Substances Act. Each agency shall promulgate rules,
9 regulations and procedures for leasing vehicles and firearms. No
10 fully automatic weapons will be subject to the leasing agreement.
11 All firearms leased may be utilized only by C.L.E.E.T. certified
12 officers who have received training in the type and class of weapon
13 leased. Every lessee shall be required to submit an annual report
14 to the leasing agency stating the condition of all leased property.
15 A lease agreement may be renewed annually at the option of the
16 leasing agency. Upon termination of a lease agreement, the property
17 shall be returned to the leasing agency for sale or other
18 disposition. All funds derived from lease agreements or other
19 disposition of property no longer useful to law enforcement shall be
20 deposited in the agency's revolving fund and shall be expended for
21 law enforcement purposes.

22 ~~J.~~ K. Before disposing of any property pursuant to subsections
23 ~~B~~ C through ~~E~~ F of this section, the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, the Department of Public
25 Safety, the Alcoholic Beverage Laws Enforcement Commission, the
26 Oklahoma State Bureau of Investigation, the Office of the Attorney
27 General, or a district attorney shall notify the Department of
28 Corrections and the State Department of Vocational and Technical
29 Education of the identity of any such property in their possession.
30 The Department of Corrections and the State Department of Vocational
31 and Technical Education must respond within ten (10) days of such
32 notification, as to whether or not such property could be used in

1 the operations or training programs of either agency. Upon receipt
2 of the response, the agency or district attorney that issued the
3 notification shall negotiate as to which agency will be entitled to
4 the use of the property, the purpose of the use and the duration of
5 such use. Upon return of the property, the property may be disposed
6 of as otherwise provided in this section. The agencies and any
7 district attorney that are parties to any transfer of property
8 pursuant to this subsection shall enter into written agreements to
9 carry out any such transfer of property. Any such agreement may
10 also provide for the granting of title to any property being
11 transferred as the parties deem appropriate.

12 SECTION 3. This act shall become effective November 1, 1999.

13
14 47-1-6918 LAC 6/11/15
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32