

ENROLLED SENATE
BILL NO. 342

By: Crain of the Senate

and

Sullivan, Tibbs and
Thompson of the House

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 1325, which relates to procedures for returning unclaimed property; updating statutory references; updating language; modifying notice requirements; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 1325, is amended to read as follows:

Section 1325. A. Any sheriff's office or campus police agency as authorized under ~~Section 360.15 et seq. of Title 74 of the Oklahoma Statutes~~ the Oklahoma Campus Security Act is authorized to dispose of by public sale, destruction, donation, or transfer for use to a governmental subdivision personal property which has come into its possession, or deposit in a special fund, as hereafter provided, all money or legal tender of the United States which has come into its possession, whether ~~said~~ the property or money be stolen, embezzled, lost, abandoned or otherwise, the owner of ~~said~~ the property or money being unknown or not having claimed the same, and which the sheriff or campus police agency 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. Where personal property held under the circumstances provided in subsection A of this section is determined by the agency

having custody to be unsuitable for disposition by public sale due to its condition or assessed by agency personnel as having limited or no resale value, it may be destroyed, discarded as solid waste or donated to a charitable organization designated by the U.S. Internal Revenue Service as a 501(c)(3) nonprofit organization. Where disposition by destruction, discard, or donation is made of personal property, a report describing the property by category and quantity, and indicating what disposition was made for each item or lot, shall be submitted to the presiding judge of the district court within ten (10) days following the disposition.

C. Where disposition by public sale is appropriate, the sheriff's office or campus police agency shall file an application in the district court of its county requesting the authority of ~~said~~ the court to dispose of such personal property, and shall attach to ~~his~~ the application a list describing ~~such~~ the property, including all identifying numbers and marks, if any, the date ~~said~~ the property came into ~~its~~ the possession of the sheriff's office or campus police agency and the name and address of the owner, if known. The court shall set ~~said~~ the application for hearing not less than ten (10) days nor more than twenty (20) days after filing.

D. ~~Notice~~ Written notice shall be given by the sheriff's office or campus police agency of ~~said~~ the hearing to each and every owner known and as set forth in ~~said~~ the application by certified first-class mail, postage prepaid, and directed to their the last-known address of the owner at least ten (10) days prior to the date of said the hearing. ~~Said~~ The notice shall contain a brief description of the property of said the owner and the place and date of the hearing. In addition thereto, notice of said the 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 or shall be published in a newspaper authorized by law to publish legal notices in the county in which the property is located. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in a newspaper of general circulation which is published in an adjoining county. The notice shall state the name of the owner being notified by publication and shall be published at least ten (10) days prior to the date of the hearing.

E. At the hearing, if no owner appears and establishes ownership to ~~said~~ the property, the court shall enter an order authorizing the sheriff's office or campus police agency 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~~ the personal property to the highest bidder for cash, after at least five (5) ~~days~~ days of notice has been given by publication in one issue of a legal newspaper of the county. The sheriff's office or campus police agency shall make a return of ~~said~~ the donation or sale and, when confirmed by ~~said~~ the court, the order confirming ~~said~~ the donation or sale shall vest in the recipient or purchaser title to ~~said~~ the property so donated or purchased.

F. A sheriff's office having in its possession money or legal tender under the circumstances provided in subsection A of this section, prior to appropriating the same for deposit into a special fund, shall file an application in the district court of its county requesting the court to enter an order authorizing it to so appropriate ~~said~~ the money for deposit in ~~said~~ the special fund. Said The application shall describe the money or legal tender, together with serial numbers, if any, the date the same came into the possession of the sheriff's office or campus police agency, and the name and address of the owner, if known. Upon filing, ~~said~~ the application, which may be joined with an application as described in subsection C 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~~ the hearing shall be given as provided in subsection D of this section. Such The notice shall state that, upon no one appearing to prove ownership to ~~said~~ the money or legal tender, the same will be ordered by the court to be deposited in the special fund by the sheriff's office or campus police agency. Said The notice may be combined with a notice to sell personal property as set forth in subsection D of this section. At the hearing, if no one appears to claim and prove ownership to ~~said~~ the money or legal tender, the court shall order the same to be deposited by the sheriff's office or campus police agency in the special fund, as provided in subsection H of this section.

G. Where a sheriff's office or campus police agency has in its possession under the circumstances provided in subsection A of this section, personal property deemed to have potential utility to that

sheriff's office, campus police agency or another governmental subdivision, prior to appropriating the personal property for use, the sheriff's office or campus police agency shall file an application in the district court requesting the court to enter an order authorizing it to so appropriate or transfer the property for use. The application shall describe the property, together with serial numbers, if any, the date the property came into the possession of the sheriff's office or campus police agency and the name and address of the owner, if known. Upon filing, the application, which may be joined with an application as described in subsection C of this section, shall be set for hearing not less than ten (10) days nor more than twenty (20) days from the filing thereof. Notice of the hearing shall be given as provided in subsection D of this section. The notice shall state that, upon no one appearing to prove ownership to the personal property, the property will be ordered by the court to be delivered for use by the sheriff's office or campus police agency or its authorizing institution or transferred to another governmental subdivision for its use. The notice may be combined with a notice to sell personal property as set forth in subsection D of this section. At the hearing, if no one appears to claim and prove ownership to the personal property, the court shall order the property to be available for use by the sheriff's office or campus police agency or delivered to an appropriate person for use by the authorizing institution or another governmental subdivision.

H. 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~~ the sheriff's office or campus police agency, which has been ordered by the court to be deposited in the special fund, shall be deposited in such fund which shall be separately maintained by ~~said~~ the sheriff's office in a special fund with the county treasurer or campus police agency to be expended upon the approval of the sheriff or head of the campus police agency for the purchase of equipment, materials or supplies that may be used in crime prevention, education, training or programming. ~~Said~~ The fund or any portion of it may be expended in paying the expenses of the sheriff or any duly authorized deputy or employee of the campus police agency to attend law enforcement or public safety training courses which are conducted by the Oklahoma Council on Law Enforcement Education and Training (CLEET) or other certified trainers, providers, or agencies.

I. The disposition of biological evidence, as defined by Section ~~±~~ 1372 of this ~~act~~ title, shall be governed by the provisions set forth in Section ~~±~~ 1372 of this ~~act~~ title.

SECTION 2. This act shall become effective November 1, 2009.

Passed the Senate the 14th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 18th day of May, 2009.

Presiding Officer of the House
of Representatives