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## DIGEST

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HB 742 Original

2018 Regular Session

Danahay

**Abstract:** Provides for the procedure by which unclaimed property seized in connection with a criminal investigation under the jurisdiction of a municipal police department is disposed.

Present law provides for the procedure for the disposal of certain unclaimed property seized in connection with any criminal investigation under the jurisdiction of any district attorney, municipal police department, or state investigative agency.

In such cases, present law provides as follows:

- (1) After the lapse of one year from the date the property was seized, the district attorney of the parish in which the noncontraband property is located is authorized to petition any court in that parish having proper jurisdiction for the disposal of the property in any lawful manner.
- (2) Before any district attorney petitions the court, he shall cause an advertisement of his intention to seek approval of the court to be placed in the newspaper designated as the official journal of the parish one time at least ten days prior to filing of his petition, and he shall mail a copy of the advertisement to the last known owner of the property at his last known address, postage prepaid, if the owner is known.
- (3) The district attorney is required to determine if any of the property for which disposal is sought is subject to a prior recorded mortgage, lien or security interest held by a federally insured financial institution.
- (4) The petition of the district attorney shall make specific recommendations as to the manner of disposal for each item of unclaimed noncontraband property and pray for the court to order its disposal.
- (5) The court shall order the disposal of the noncontraband property according to the specific recommendations contained in the district attorney's petition or in any legal manner within the sole discretion of the court.
- (6) All items of property designated by the court for sale shall be sold either by public sale, without appraisal, or by public auction conducted by a licensed auctioneer, without appraisal.
- (7) If the manner of disposal ordered by the court generates any direct revenue, the proceeds

shall be distributed in the following order of priority:

- (a) For satisfaction of the costs of the proceedings to dispose of noncontraband unclaimed property.
  - (b) 30% to the district attorney to defer the expenses of bringing any such action before the court.
  - (c) The remaining funds to the investigative agency that stored, maintained, insured, or bore the administrative costs related to maintaining the property seized in criminal investigations.
- (8) Weapons released to the district attorney, municipal police department, or state investigative agency by the court shall become the property of that office, department, or agency and may be disposed of or issued in any manner which that office, department, or agency deems appropriate.

Proposed law removes applicability of present law for unclaimed property seized in connection with a criminal investigation of a municipal police department and enacts a separate provision of law to provide a procedure for the disposal of unclaimed property seized in connection with any criminal investigation under the jurisdiction of any municipal police department. With respect to the procedure for disposal of unclaimed property seized in connection with a criminal investigation of a municipal police department, the effect of proposed law is as follows:

- (1) Amends present law to authorize the chief of police, instead of the district attorney, to file the petition for the disposal of such property and requires the chief of police to advertise in the official journal of the municipality his intention to petition the court.
- (2) If the manner of disposal ordered by the court generates any direct revenue, amends present law to change how such proceeds are distributed as follows:
  - (a) For satisfaction of the costs of the proceedings to dispose of noncontraband unclaimed property.
  - (b) The remainder of the funds to the investigative agency that stored, maintained, insured, or bore the administrative costs related to maintaining the property seized in criminal investigations.
- (3) Otherwise retains present law.

(Amends C.Cr.P. Arts. 228.3(1), (2), and (5) and 228.4(intro. para.), (1), and (7); Adds C.Cr.P. Art. 228.5)