

SENATE BILL No. 303

By Senators Faust-Goudeau, Abrams, Donovan, Kerschen, Masterson, McGinn,
O'Donnell, Petersen and Wagle

1-24

1 AN ACT concerning firearms; relating to the Sedgwick county regional
2 forensic science center; disposition of stolen weapons; forfeiture of
3 firearms; amending K.S.A. 2013 Supp. 21-6307 and 60-4117 and
4 repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2013 Supp. 21-6307 is hereby amended to read as
8 follows: 21-6307. (a) Upon conviction of a violation or upon adjudication
9 as a juvenile offender for a violation of subsections (a)(1) through (a)(6) or
10 (a)(10) through (a)(14) of K.S.A. 2013 Supp. 21-6301, 21-6302, 21-6304,
11 21-6305 or subsection (a)(1) or (a)(2) of 21-6308, and amendments
12 thereto, any weapon seized in connection therewith shall remain in the
13 custody of the trial court.

14 (b) Any stolen weapon so seized and detained, when no longer
15 needed for evidentiary purposes, shall be returned to the person entitled to
16 possession, if known. All other confiscated weapons when no longer
17 needed for evidentiary purposes, shall in the discretion of the trial court,
18 be:

19 (1) Destroyed;

20 (2) forfeited to the law enforcement agency seizing the weapon for
21 use within such agency, for sale to a properly licensed federal firearms
22 dealer, for trading to a properly licensed federal firearms dealer for other
23 new or used firearms or accessories for use within such agency or for
24 trading to another law enforcement agency for that agency's use; ~~or~~

25 (3) forfeited to the Kansas bureau of investigation for law
26 enforcement, testing, comparison or destruction by the Kansas bureau of
27 investigation forensic laboratory; *or*

28 (4) *forfeited to the Sedgwick county regional forensic science center*
29 *for testing, comparison and other forensic science purposes.*

30 (c) If weapons are sold as authorized by subsection (b), the proceeds
31 of the sale shall be credited to the asset seizure and forfeiture fund of the
32 seizing agency.

33 Sec. 2. K.S.A. 2013 Supp. 60-4117 is hereby amended to read as
34 follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments
35 thereto: (a) When property is forfeited under this act, the law enforcement

1 agency may:

2 (1) Retain such property for official use or transfer the custody or
3 ownership to any local, state or federal agency, subject to any lien
4 preserved by the court;

5 (2) destroy or use for investigative or training purposes, any illegal or
6 controlled substances and equipment or other contraband, provided that
7 materials necessary as evidence shall be preserved;

8 (3) sell property which is not required by law to be destroyed and
9 which is not harmful to the public:

10 (A) All property, except real property, designated by the seizing
11 agency to be sold shall be sold at public sale to the highest bidder for cash
12 without appraisal. The seizing agency shall first cause notice of the sale to
13 be made by publication at least once in an official county newspaper as
14 defined by K.S.A. 64-101, and amendments thereto. Such notice shall
15 include the time, place, and conditions of the sale and description of the
16 property to be sold. Nothing in this subsection shall prevent a state agency
17 from using the state surplus property system and such system's procedures
18 shall be sufficient to meet the requirements of this subsection.

19 (B) Real property may be sold pursuant to subsection (A), or the
20 seizing agency may contract with a real estate company, licensed in this
21 state, to list, advertise and sell such real property in a commercially
22 reasonable manner.

23 (C) No employee or public official of any agency involved in the
24 investigation, seizure or forfeiture of seized property may purchase or
25 attempt to purchase such property; or

26 (4) salvage the property, subject to any lien preserved by the court.

27 (b) When firearms are forfeited under this act, the firearms, in the
28 discretion of the seizing agency, shall be:

29 (1) Destroyed;

30 (2) used within the seizing agency for official purposes;

31 (3) traded to another law enforcement agency for use within such
32 agency or;

33 (4) given to the Kansas bureau of investigation for law enforcement,
34 testing, comparison or destruction by the Kansas bureau of investigation
35 forensic laboratory; or

36 (5) given to the Sedgwick county regional forensic science center for
37 testing, comparison and other forensic science purposes.

38 (c) The proceeds of any sale shall be distributed in the following
39 order of priority:

40 (1) For satisfaction of any court preserved security interest or lien, or
41 ~~in the case of a violation, as defined by subsection (h) of K.S.A. 60-4104 if~~
42 *the conduct or offense giving rise to forfeiture is medicaid fraud, as*
43 *described in K.S.A. 2013 Supp. 21-5925 through 21-5934, and*

1 amendments thereto, the proceeds shall be remitted to the state treasurer in
2 accordance with the provisions of K.S.A. 75-4215, and amendments
3 thereto. Upon receipt of such remittance, the state treasurer shall deposit
4 the entire amount into the state treasury to the credit of the medicaid fraud
5 reimbursement fund;

6 (2) thereafter, for payment of all proper expenses of the proceedings
7 for forfeiture and disposition, including expenses of seizure, inventory,
8 appraisal, maintenance of custody, preservation of availability, advertising,
9 service of process, sale and court costs;

10 (3) reasonable attorney fees:

11 (A) If the plaintiff's attorney is a county or district attorney, an
12 assistant, or another governmental agency's attorney, fees shall not exceed
13 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in
14 an uncontested forfeiture nor 20% of the total proceeds, less the amounts
15 of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be
16 deposited in the county or city treasury and credited to the special
17 prosecutor's trust fund. Moneys in such fund shall not be considered a
18 source of revenue to meet normal operating expenditures, including salary
19 enhancement. Such fund shall be expended by the county or district
20 attorney, or other governmental agency's attorney through the normal
21 county or city appropriation system and shall be used for such additional
22 law enforcement and prosecutorial purposes as the county or district
23 attorney or other governmental agency's attorney deems appropriate,
24 including educational purposes. All moneys derived from past or pending
25 forfeitures shall be expended pursuant to this act. The board of county
26 commissioners shall provide adequate funding to the county or district
27 attorney's office to enable such office to enforce this act. Neither future
28 forfeitures nor the proceeds therefrom shall be used in planning or
29 adopting a county or district attorney's budget;

30 (B) if the plaintiff's attorney is the attorney general and the conduct
31 ~~and or~~ offense giving rise to forfeiture is ~~pursuant to subsection (h) of~~
32 ~~K.S.A. 60-4104~~ *medicaid fraud, as described in K.S.A. 2013 Supp. 21-*
33 *5925 through 21-5934*, and amendments thereto, fees shall not exceed
34 15% of the total proceeds, less the amounts of subsection (c)(1) and (2) in
35 an uncontested forfeiture nor 20% of the total proceeds, less the amounts
36 of subsection (c)(1) and (2) in a contested forfeiture. Such fees shall be
37 remitted to the state treasurer in accordance with the provisions of K.S.A.
38 75-4215, and amendments thereto. Upon receipt of each such remittance,
39 the state treasurer shall deposit the entire amount in the state treasury to
40 the credit of the medicaid fraud prosecution revolving fund. Moneys paid
41 into the medicaid fraud prosecution revolving fund pursuant to this
42 subsection shall be appropriated to the attorney general for use by the
43 attorney general in the investigation and prosecution of medicaid fraud and

1 abuse; or

2 (C) if the plaintiff's attorney is a private attorney, such reasonable
3 fees shall be negotiated by the employing law enforcement agency;

4 (4) repayment of law enforcement funds expended in purchasing of
5 contraband or controlled substances, subject to any interagency agreement.

6 (d) Any proceeds remaining shall be credited as follows, subject to
7 any interagency agreement:

8 (1) If the law enforcement agency is a state agency, the entire amount
9 shall be deposited in the state treasury and credited to such agency's state
10 forfeiture fund. There is hereby established in the state treasury the
11 following state funds: Kansas bureau of investigation state forfeiture fund,
12 Kansas attorney general's state medicaid fraud forfeiture fund, Kansas
13 highway patrol state forfeiture fund, Kansas department of corrections
14 state forfeiture fund and Kansas national guard counter drug state
15 forfeiture fund. Expenditures from the Kansas bureau of investigation state
16 forfeiture fund shall be made upon warrants of the director of accounts and
17 reports issued pursuant to vouchers approved by the attorney general or by
18 a person or persons designated by the attorney general. Expenditures from
19 the Kansas attorney general's state medicaid fraud forfeiture fund shall be
20 made upon warrants of the director of accounts and reports issued pursuant
21 to vouchers approved by the attorney general or by a person or persons
22 designated by the attorney general. Expenditures from the Kansas highway
23 patrol state forfeiture fund shall be made upon warrants of the director of
24 accounts and reports issued pursuant to vouchers approved by the
25 superintendent of the highway patrol or by a person or persons designated
26 by the superintendent. Expenditures from the Kansas department of
27 corrections state forfeiture fund shall be made upon warrants of the
28 director of accounts and reports issued pursuant to vouchers approved by
29 the secretary of the department of corrections or by a person or persons
30 designated by the secretary. Expenditures from the Kansas national guard
31 counter drug state forfeiture fund shall be made upon warrants of the
32 director of accounts and reports issued pursuant to vouchers approved by
33 the adjutant general of Kansas or by a person or persons designated by the
34 adjutant general. Each agency shall compile and submit a forfeiture fund
35 report to the legislature on or before February 1 of each year. Such report
36 shall include, but not be limited to: (A) The fund balance on December 1;
37 (B) the deposits and expenditures for the previous 12-month period ending
38 December 1. Upon the effective date of this act, the director of accounts
39 and reports is directed to transfer each agency's balance in the state special
40 asset forfeiture fund to the agency's new, state forfeiture fund. All
41 liabilities of the state special asset forfeiture fund existing prior to such
42 date are hereby imposed on the Kansas bureau of investigation state
43 forfeiture fund, Kansas highway patrol state forfeiture fund and the Kansas

1 department of corrections state forfeiture fund. The state special asset
2 forfeiture fund is hereby abolished.

3 (2) If the law enforcement agency is a city or county agency, the
4 entire amount shall be deposited in such city or county treasury and
5 credited to a special law enforcement trust fund. Each agency shall
6 compile and submit annually a special law enforcement trust fund report to
7 the entity which has budgetary authority over such agency and such report
8 shall specify, for such period, the type and approximate value of the
9 forfeited property received, the amount of any forfeiture proceeds
10 received, and how any of those proceeds were expended.

11 (3) Moneys in the Kansas bureau of investigation state forfeiture
12 fund, Kansas highway patrol state forfeiture fund, Kansas department of
13 corrections state forfeiture fund, the special law enforcement trust funds
14 and the Kansas national guard counter drug state forfeiture fund shall not
15 be considered a source of revenue to meet normal operating expenses.
16 Such funds shall be expended by the agencies or departments through the
17 normal city, county or state appropriation system and shall be used for
18 such special, additional law enforcement purposes as the law enforcement
19 agency head deems appropriate. Neither future forfeitures nor the proceeds
20 from such forfeitures shall be used in planning or adopting a law
21 enforcement agency's budget.

22 (4) Moneys in the Kansas attorney general's medicaid fraud forfeiture
23 fund shall defray costs of the attorney general in connection with the
24 duties of investigating and prosecuting medicaid fraud and abuse.

25 Sec. 3. K.S.A. 2013 Supp. 21-6307 and 60-4117 are hereby repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.