



2021 OFFICIAL GUIDE

BIOLOGICAL & EVIDENCE LAWS BY STATE

Assembled by University of North Carolina School of Law's Pro Bono Program

MARCH 1, 2021

IAPE INC

PRODUCED BY UNIVERSITY OF NORTH CAROLINA
SCHOOL OF LAW'S PRO BONO PROGRAM

PROPERTY AND EVIDENCE LAWS 2021

This document was assembled by University of North Carolina School of Law's Pro Bono Program. The data found in this 265-page document are the results of the student's research of the various state statutes relating to property and evidence.

This is a comprehensive guide, but you **may or may not find all of the codes related to all property room statutes** such as Found, Abandoned, and Safekeeping Property in your state. Again, the focus of the search was Biological Evidence. We do believe the provided table of statutes will be a very helpful resource.



Alabama Property and Evidence Laws

Alabama Statute	Description	Synopsis
§36-18-24	DNA Database	<ul style="list-style-type: none"> • The Director of Forensic Sciences is hereby authorized to create and establish a DNA database for the purpose of <ul style="list-style-type: none"> ○ Assisting law enforcement where biological evidence is received or recovered ○ Supporting identification research and protocol development of DNA forensic methods ○ Creating and maintaining DNA quality control standards ○ Assisting in the recovery or identification of human remains from natural or mass disasters ○ Assisting in other humanitarian purposes • Director will determine what records should be included • Persons convicted or involuntarily confined after May 6, 1994 will have their data included if they are convicted of a felony, confined as result of a felony conviction, or convicted or confined for charges under Chapter 6 Title 13A • Data base will include data from people arrested on or after October 1, 2010 for any felony offense or for any sexual offense including but not limited to, those that would require registration to the Alabama Sex Offender Registration and Community Notification Act
§36-18-20	Declaration of Purpose (DNA Database)	<ul style="list-style-type: none"> •
§36-18-21	Definitions	<ul style="list-style-type: none"> • Director = director of forensic Sciences • Incarceration Facility is any place of lawful involuntary confinement, partial or total, limited or unlimited, for criminals convicted pursuant to Alabama law, including but not limited to, <ul style="list-style-type: none"> ○ Halfway houses, drug or alcohol abuse treatment facilities, mental hospitals, parole or probation facilities
§36-18-22	Powers of Director	<ul style="list-style-type: none"> • Director has the power to collect, accept, analyze, test and store DNA samples, create maintain or exchange NA records ; and analyze, type and record any and all genetic markers contained in or derived from DNA and use any and all such information to identify criminal suspects.



Alabama Property and Evidence Laws

Alabama Statute	Description	Synopsis
§36-18-25	Collection of DNA samples from convicted persons	<ul style="list-style-type: none"> • All persons convicted of a criminal offense on or after May 6, 1994 shall submit to taking a DNA sample • Director must promulgate rules and regulation to ensure they are taken in a medically approved manner • Anyone on probation as of May 6, 1994 may be asked to submit a DNA sample, and refusing is violation of probation • DNA sample obtained in good faith shall have been obtained in accordance with the requirements of this chapter and its use in accordance with this chapter is authorized until a circuit court orders it should be expunged
§36-18-26	Expungement of DNA Records	<ul style="list-style-type: none"> • Upon the reversal of conviction, the director shall be authorized and empowered to expunge DNA records upon request of the person from whom the sample was taken
§36-18-27	Disclosure of DNA records	<ul style="list-style-type: none"> • Disclosed only to <ul style="list-style-type: none"> ○ Criminal justice agencies for law enforcement identification purposes ○ In judicial proceedings if otherwise admissible ○ For criminal defense purposes to a defendant
§36-18-28	Penalties	<ul style="list-style-type: none"> • Class C felony to disclose improperly
§36-18-29	Penalty for false entry or alteration of records	<ul style="list-style-type: none"> • Class B felony
§36-18-30	Admissibility of evidence relating to use of genetic markers	<ul style="list-style-type: none"> • Genetic markers derived from the DNA are admissible evidence
§36-18-31	Statistical Database	<ul style="list-style-type: none"> • Director can create a statistical DNA population database without identifiable information
45-2-231-42	Records of abandoned and stolen firearms; sale or destruction (specifically under Baldwin County, Alabama and may not be state-wide)?	<ul style="list-style-type: none"> • The sheriff shall keep a record of all abandoned and stolen firearms, not subject to disposition by general law with certain identifying information • Sheriff may sell or destroy the firearms if the owner does not claim them within six months of the date the sheriff obtained them. • Sheriff may sell firearms to gun dealers who have an active business license for at least one year immediately prior to the date of the sale in Baldwin County; highest sealed bid, cash basis, proceeds go to the office of the sheriff • Sheriff may establish a procedure to destroy firearms and may expend necessary funds



Alabama Property and Evidence Laws

Alabama Statute	Description	Synopsis
§15-18-200	Motion by persons convicted of capital offense for forensic DNA testing and analysis	<ul style="list-style-type: none"> • Apply through written motion to the circuit court that entered the sentence for DNA testing on specific evidence if that evidence was secured in relation to the investigation or prosecution and it is still available for testing as of the date of the motion
§45-26-21.04	Claim of Property (Elmore County)** Alabama has 67 counties and each has its own sheriff and its own rules for claim of property	<ul style="list-style-type: none"> • Owner of any abandoned or stolen property recovered by the Sheriff's department including firearms may claim the property at any time prior to its sale by submitting sufficient proof of ownership as determined by the sheriff and by paying any reasonable expenses incurred
§41-9-655.01	Reporting requirements for certain property seized for forfeiture in connection with a criminal event	<ul style="list-style-type: none"> • All property seized for forfeiture in connection with a criminal event shall be reported to the uniform crime reporting system operated by the Alabama State Law Enforcement Agency on behalf of the Alabama Justice Information Commission • Commission shall develop rules for reporting property seized pursuant to this section and the following information is required (including but not limited to, the following)
Alabama Rule of Criminal Procedure 3.13	Unlawfully seized property	<ul style="list-style-type: none"> • Person aggrieved by an unlawful search and seizure may move the court for return of the property sized on the ground that they are entitled to lawful possession of the property which was illegally seized. • Judge will receive evidence on any issue of fact necessary to the decision of the motion • If granted, property restored • If this motion is made or comes on for a hearing after an indictment or information is filed, it shall be treated as a motion to suppress evidence
§15-5-2	Grounds for issuance	<ul style="list-style-type: none"> • Seems to refer to warrant for seizure of property; may be issued under one of the following grounds: <ul style="list-style-type: none"> ○ (1) where property was stolen or embezzled ○ (2) where it was used as a means of committing a felony; ○ (3) where it is in the possession of any person with the intent to use it at a means of committing a public offense or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its discovery.



Alabama Property and Evidence Laws

Alabama Statute	Description	Synopsis
§15-5-10	Taking of property	<ul style="list-style-type: none"> • If taken according to 15-5-2(1) property may be taken from the house or place where it is concealed and from the person who stole or embezzled or whoever is in possession • If taken according to 15-5-2(2) property may be taken from the house or place where it is concealed and from the person in possession • If taken according to 15-5-2(3) property may be taken from person in possession, from any house or other place occupied by him or under his control or from the possession of the person to whom the property was delivered
§15-5-11	Receipt for property taken	<ul style="list-style-type: none"> • Officer must leave receipt with person from which he takes property
§15-5-13	Contents of return; copies to be furnished	<ul style="list-style-type: none"> • Officer must specify with particularity the property taken, the applicant for the warrant and the persons from whose possession the property was taken are entitled to the a copy of the return, signed by a judge
§15-5-14	Disposition of taken property by court if property stolen or embezzled.	<ul style="list-style-type: none"> • When property taken under a search warrant, it will be delivered to the court issuing the warrant • If property was stolen or embezzled the court shall cause it to be delivered to the owner, on satisfactory proof of his title and the payment by him of all fees • If issued because it was being used to commit felony or given to someone to hide it from authorities, officer effecting the warrant must retain possession, subject to the order of the court
§15-5-16	Restoration of taken property to defendant; property to be forwarded to court if not restored	<ul style="list-style-type: none"> • If taken property does not seem to match the property on the warrant, must be restored to the person from which it was taken
§9-17-22	Illegal oil, gas or product – Seizure, condemnation and sale	<ul style="list-style-type: none"> • All illegal oil, gas and illegal product shall be contraband, forfeiture to the state of Alabama and shall be seized



Alaska Property and Evidence Laws

Alaska Statute	Description	Synopsis
12.36.030	Disposal of unclaimed property used as evidence	<ul style="list-style-type: none"> • Property used as evidence (includes wrongfully taken or damaged property) and unclaimed by owner within 1 year after final disposition of the case shall be disposed of • by sale in same manner as a sale upon execution • if property is subject to AS 34.45.110-34.45.780, then follow AS 34.45.110-34.45.780
34.45.110 - 120	General rules for taking custody of unclaimed intangible property	<ul style="list-style-type: none"> • All intangible property that has remained unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned • Intangible property is subject to the custody of the state as unclaimed property if the last known address of the apparent owner is in state • (other
34.45.760(11)	Definition of intangible property	<ul style="list-style-type: none"> • money, checks, drafts, etc. • security deposits, credit balances, unpaid wages, etc. • stocks and other equity interests • amounts due and payable under insurance policies • trust or custodial funds, etc.
34.45.110(b)	General rule for property presumed abandoned	<p>“Property is payable or distributable for the purposes of AS 34.45.120 – 34.45.780 even if the owner failed to demand the property or to present an instrument or document required to receive payment of the property”</p> <ul style="list-style-type: none"> ○ *statute does not clearly list when personal property is presumed abandoned*
34.45.280	Report of abandoned personal property	<ul style="list-style-type: none"> • A person (includes municipality, agency, etc. per 34.45.760(15)) holding personal property, tangible or intangible, presumed abandoned shall report to the Dept. (of Revenue per 34.45.760(5)): <li style="margin-left: 20px;">○ name and last known address of apparent owner <li style="margin-left: 20px;">○ the nature and ID number, if any, or description of the property <li style="margin-left: 20px;">○ date property became payable, demandable, or returnable, and date of last transaction with apparent owner, etc. • Holder of property presumed abandoned shall send written notice to apparent owner informing owner that holder is in possession, if, among other things, property has value of \$100 or more



Alaska Property and Evidence Laws

Alaska Statute	Description	Synopsis
34.45.310 & 34.45.330	Notice and publication of lists of unclaimed property; Custody by state	<ul style="list-style-type: none"> • Department of Revenue shall notify apparent owners of unclaimed property by posting on department’s website • Department of Revenue may provide additional notice to apparent owners via newspaper, mail, telephone, or any other manner and method that dept. considers effective • Upon payment or delivery of property to the dept. (of Revenue), the state assumes custody and responsibility for the safekeeping of the property
34.45.360	Public sale of abandoned property	<ul style="list-style-type: none"> • Department (of Revenue) shall sell abandoned property to the highest bidder within three years of receiving it • (special rules for securities omitted) • the purchaser of property at the sale takes it free of all claims of the owner or previous holder • *if property has insubstantial commercial value, the department may destroy or otherwise dispose of it at any time per 34.45.420.*
34.45.400	Action to establish claim	<ul style="list-style-type: none"> • A person aggrieved by the department (of revenue) may request an informal conference or a formal hearing with an ALJ • ALJ decision may be appealed to superior court in the judicial district in which aggrieved person resides
Unclaimed Firearms		
18.65.340	Disposal of firearms and ammunition	<ul style="list-style-type: none"> • The state may only dispose of forfeited, surplus, or recovered but unclaimed firearms (does NOT include firearm that has been used in a homicide) and ammunition by: <ul style="list-style-type: none"> ○ public sale not limited to firearms dealers ○ transfer to a state or municipal law enforcement agency ○ (donation and trade-in credit provisions omitted) • If state or fed. law prohibits sale of a particular surplus firearm, the department disposing of the firearm shall sell the surplus firearm to a firearms dealer who has the appropriate federal license; donate the firearm; or dismantle and destroy it • All firearms disposed of by means other than public sale shall be documented in a report submitted to the legislature each year



Alaska Property and Evidence Laws

Alaska Statute	Description	Synopsis
17.30.110	Items subject to forfeiture	<ul style="list-style-type: none"> • The following may be forfeited to the state: <ul style="list-style-type: none"> ○ a controlled substance that has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71 ○ raw materials, products, and equipment that are used or intended for use in manufacturing, etc. of the above ○ a firearm that is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71 ○ (other items relating to furthering AS 11.71 violation omitted)
17.30.126	Forfeiture of controlled substances	<ul style="list-style-type: none"> • A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety retains custody of the substance and is responsible for the disposal of the substance. The controlled substances shall be disposed of in accordance with the commissioner.
Biological Evidence		
12.36.200(i)	Definition of biological evidence	<ul style="list-style-type: none"> • Biological evidence = contents of a sexual assault forensic exam kit; semen, blood, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable human bodily material • Includes slide, swab, or test tube form and swabs or cuttings from items that contain the above
12.36.200(a)-(c)	Preservation of biological evidence	<ul style="list-style-type: none"> • Dept. of Law, Dept. of Public Safety, Alaska Court System, or municipal law enforcement agency shall preserve biological evidence related to prosecution of a crime under 11.41.100 thru 11.41.130, or 11.41.434 <ul style="list-style-type: none"> ○ time period: while individual is prisoner in custody of Dept. of Corrections, remains committed to juvenile facility, or subject to registration as sex offender • Agency shall provide inventory of preserved biological evidence to individual upon written request



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Alaska Statute	Description	Synopsis
12.36.200(d)-(h)	Destruction of biological evidence	<ul style="list-style-type: none"> • Agency may destroy evidence earlier than described in 12.36.200(a)(2) if all of the following are satisfied: <ul style="list-style-type: none"> ○ (1) not otherwise required to maintain evidence under other fed. or state provision ○ (2) sends notice of intent to destroy evidence to: prisoner/individual for which evidence was preserved; attorneys of record; public defenders; and DA prosecutor ○ (3) receives no reply within 120 days of above notice • If agency receives response (written request for preservation of biological evidence), may petition court to proceed with destruction <ul style="list-style-type: none"> ○ if court finds evidence improperly destroyed, may order “remedies the court determines to be appropriate”; no PROA
Sexual Assault Kits		
44.41.065	Sexual assault examination kits	<ul style="list-style-type: none"> • Timeline: <ul style="list-style-type: none"> ○ within 30 days of law enforcement agency collection, send kit to accredited lab ○ law enforcement agency ensures lab conducts serological or DNA test within 1 year after lab receives ○ within 2 weeks of completed test, make a reasonable effort to notify victim that kit has been tested • If case resolved before kit tested, time limits no longer apply
44.41.070	Report on untested sexual assault examination kits	<ul style="list-style-type: none"> • Annual report (due Sept. 1) by each law enforcement agency to include: <ul style="list-style-type: none"> ○ number of untested kits in possession of agency ○ number of untested kits collected and submitted to lab, but still untested ○ number of untested kits determined ineligible for testing (see below) incl. reason for ineligibility ○ date on which each untested kit was collected



Alaska Property and Evidence Laws

Alaska Statute	Description	Synopsis
44.41.070 Cont.	Report on untested sexual assault examination kits Cont.	<ul style="list-style-type: none"> • Annual report (due Nov. 1) by Dept. of Public Safety to include: <ul style="list-style-type: none"> ○ number of untested kits stored by each agency ○ number of untested kits collected and submitted to lab, but still untested ○ number of kits determined ineligible (see below) incl. reason for ineligibility ○ date each untested kit collected ○ plan for addressing the backlog • Kit ineligible for testing if: <ul style="list-style-type: none"> ○ scientifically unviable; ○ does not meet eligibility requirements for inclusion in the Combined DNA Index System database; or ○ <i>was collected from a person who reported a sexual assault anonymously</i>



Arizona Property and Evidence Laws

Arizona Statute	Description	Synopsis
§13-1426	Biological evidence testing in sexual assault investigations	<ul style="list-style-type: none"> • Healthcare facility that obtains written consent to release sexual assault kit evidence shall notify investigating agency/law agency with jurisdiction within 48 hours after collection. • Notified agency has 5 days to take possession. • Evidence must be submitted to a lab within 15 business days of receipt by agency if victim reports to law enforcement, and law enforcement determines a crime occurred. • Submitted kits must be analyzed as soon as practicable • Laboratory shall ensure DNA profiles are uploaded to state and municipal law and FBI enforcement databases if database requirements are met. • Failure of law enforcement to meet deadlines is not grounds to challenge validity of evidence
§13-1427	Annual reporting of sexual assault kits	<ul style="list-style-type: none"> • On or before Aug. 30th each year, each law enforcement agency shall report to the department of public safety: <ol style="list-style-type: none"> 1. Number of sexual assault kits received 2. Number of sexual assault kits submitted to laboratory for analysis 3. Number of sexual assault kits not submitted to laboratory for analysis 4. Reason(s) for not submitting sexual assault kits to laboratory • On or before Aug. 30th each year, each publicly accredited crime laboratory shall report to the department of public safety: <ol style="list-style-type: none"> 1. Number of sexual assault kits received 2. Number of sexual assault kits tested • On or before Dec. 1st of each year the department of public safety shall report the above information to the governor, president of senate and speaker of house of representatives.



Arizona Property and Evidence Laws

Arizona Statute	Description	Synopsis
§13-3016	Stored oral, wire and electronic communications	<ul style="list-style-type: none"> • On the request of an agency or political subdivision of this state, a communication service provider or remote computing service shall preserve records, communication content and other evidence in its possession pending the issuance of a court order or other process. • They shall retain the preserved evidence for ninety days. The preservation period may be extended for an additional ninety days. • The party/subscriber shall not be notified during the period of the preservation request.
§13-3111	Seizure of firearms possessed or carried by minors	<ul style="list-style-type: none"> • Firearms seized from unlawful minor possession shall be held by the responsible law enforcement agency until charges are adjudicated, disposed of otherwise, or the person is convicted. • Upon adjudication or conviction of a person for a violation of this section, the court shall order the firearm forfeited, OR • The firearm shall be returned to the lawful owner if the identity of that person is known.
§13-3503	Seizure of obscene things	<ul style="list-style-type: none"> • Obscene materials shall be delivered to the appropriate magistrate upon arrest • If magistrate finds the material obscene/indecent, he/she shall deliver one copy to the county attorney and destroy all other copies • The copy delivered to the county attorney shall be destroyed upon conviction
§13-3920	Retention of property	<ul style="list-style-type: none"> • All property or things taken on a warrant shall be retained in the custody of the seizing officer or agency which he represents, subject to the order of the court in which the warrant was issued, or any other court in which such property is sought to be used as evidence.



Arizona Property and Evidence Laws

Arizona Statute	Description	Synopsis
§13-3941	Disposition and return of stolen or embezzled property	<ul style="list-style-type: none"> • Alleged stolen or embezzled property must be held in custody of a peace officer or of a magistrate, subject to the order of the magistrate before whom the complaint is laid or who examines the charge against the accused. • The magistrate shall, upon satisfactory proof of the ownership, order the property to be delivered to the owner. • The order entitles the owner to demand and receive the property UNLESS the property, or any part thereof, is required as evidence in any criminal action. • If property is required as criminal evidence, it shall remain in possession of the officer or magistrate until the termination of the action. • If the property has not been delivered to the owner, the court which tried the theft or embezzlement of the property may, on proof of title of the owner, order it restored to him. • The owner may NOT be charged a fee to recover his/her property
§13-3942	Delivery of unclaimed stolen or embezzled property to county sheriff	<ul style="list-style-type: none"> • If the owner of stolen or embezzled property does not claim the property within six months after the conviction of the person for such theft or embezzlement, the magistrate or other officer having it in custody shall deliver it to the county sheriff after payment of necessary expenses is made. • The county sheriff shall sell such property in the same manner as personal property under execution in a civil action • The proceeds shall be paid into the county treasury.
§13-4221	Preservation/retention periods of biological evidence	<ul style="list-style-type: none"> • The appropriate governmental entity shall retain all identified biological evidence that is secured in connection with a felony sexual offense or homicide for: <ul style="list-style-type: none"> ○ The period of the person convicted of felony sexual offense or homicide remains incarcerated or until completion of the person's supervised release



Arizona Property and Evidence Laws

Arizona Statute	Description	Synopsis
§13-4221 Cont.	Preservation/retention periods of biological evidence Cont.	<ul style="list-style-type: none"> ○ Fifty-five years in a cold case, or until a person is convicted and remains incarcerated or under supervised released for that offense ● Evidence must be preserved in a condition suitable for deoxyribonucleic acid testing and shall be made available for such testing. The elements of this condition are under the government’s discretion. ● Bulk evidence may be discarded subject to procedures designed to retain probative samples. Agencies must receive approval from country attorney/attorney general and provide written notice to victim before disposal. ● Governmental entities may dispose of evidence when conviction is obtained after expiration of defendant’s sentence.
§13-4281	Animal seizure	<ul style="list-style-type: none"> ● If the owner fails to post a bond within ten days after its seizure, the animal will be deemed abandoned and become the property of the seizing agency.
§13-4315	Allocation of forfeited property	<ul style="list-style-type: none"> ● Property forfeited to the state shall be transferred to the seizing agency or to the agency or political subdivision employing the attorney for the state, which may do any of the following: <ol style="list-style-type: none"> 1. Sell, lease, lend, transfer to any local or state government entity or agency 2. Sell by public or commercially reasonable sale. Sale may not be made to an employee of seizing agency or anyone who participated in the forfeiture or their immediate family. 3. Destroy or use for investigative purposes any illegal substances. 4. Sell use or destroy raw materials/manufacturing equipment 5. Monies shall be remitted to investigative fund 6. Vehicles shall be forfeited to local, state or other law enforcement. 7. Monies in anti-racketeering funds may be used for any lawful use or: <ol style="list-style-type: none"> 1. Payment of expenses necessary to sell seized property 2. Payment of awards for information 3. Payment of compensation from forfeited property to injured persons ● Each forfeiture judgment must be submitted by attorney to Arizona criminal justice commission within 60 days after it becomes final.



Arizona Property and Evidence Laws

Arizona Statute	Description	Synopsis
§13-4429	Returns of victim's property, release of evidence	<ul style="list-style-type: none">• The law enforcement agency responsible for investigating the criminal offense shall return any property belonging to the victim taken during the investigation OR• shall inform the victim of the reasons why the property will not be returned• Reasonable efforts shall be made to return property as soon as possible.• The court may order property's release to the victim if a photograph can be substituted when the property is admitted as evidence.



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
Unclaimed Property		
18-28-202	Presumptions of abandonment	<ul style="list-style-type: none"> • Property is presumed abandoned if it is unclaimed by the apparent owner during the time stated below for the particular property: <ul style="list-style-type: none"> ○ Property held by a court, gov't, agency, 1 year after the property becomes distributable ○ All other property, 3 years after owner's right to demand property or after the obligation to pay or distribute the property arises, whichever first occurs ○ (financial + money related property types and timelines omitted) • Property is unclaimed if the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record with the holder concerning the property, and has not otherwise indicated an interest in the property <ul style="list-style-type: none"> ○ (omitted definition of indication of owner's interest, but available at 18-28-202(d))
18-28-204	Rules for taking custody	<ul style="list-style-type: none"> • Property that is presumed abandoned is subject to the custody of the state if one of the following applies: <ul style="list-style-type: none"> ○ the last known address of the apparent owner is in this state ○ the records of the holder do not reflect the identity of the person entitled to the property and the last known address of the person entitled to the property is in this state ○ the records of the holder do not reflect the last known address of the apparent owner and the last known address of the person entitled to the property is in this state or the holder is domiciled in this state ○ (out-of-state and foreign domiciled apparent owners omitted)
18-28-207	Report of abandoned property	<ul style="list-style-type: none"> • A holder of property presumed abandoned shall make a report to the administrator (i.e. Auditor of State, see 18-28-201(1)) concerning the property <ul style="list-style-type: none"> ○ the report must contain: a description of the property, the aggregated value, the date of the last transaction with the apparent owner, etc. (other criteria omitted) • The report must be filed before Nov. 1 of each year and cover 12 months preceding July 1 of that year



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
18-28-207 Cont.	Report of abandoned property Cont.	<ul style="list-style-type: none"> • The holder of property presumed abandoned shall send written notice to the apparent owner (timing omitted), stating that the holder is in possession of property if: <ul style="list-style-type: none"> ○ the holder has the (not inaccurate) address for the apparent owner; ○ the claim of the apparent owner is not barred by a statute of limitations; and • the value of the property is \$50 or more
18-28-209	Notice and publication of lists of abandoned property	<ul style="list-style-type: none"> • The Auditor of State shall publish a notice not later than Nov. 30 of the year following the year in which abandoned property has been paid or delivered to the Auditor. • Notice must be published in a newspaper • A statement explaining additional info concerning the property may be obtained via: the Auditor of State's official website, calling the Auditor's office, posting of a notice at the courthouse
18-28-212	Public sale of abandoned property	<ul style="list-style-type: none"> • The Auditor shall sell abandoned property within 3 years of having received it to the highest bidder at public sale • Purchaser of property at a sale pursuant to this subchapter takes the property free of all claims of the owner or previous holder
18-28-218	Destruction or disposition of property having no substantial commercial value	<ul style="list-style-type: none"> • If the Auditor determines that property delivered under this subchapter has no substantial commercial value, the administrator may destroy or otherwise dispose of the property.
Unclaimed Firearms		
5-5-101 & 5-5-405	Disposition of contraband and seized property & Destruction of weapons	<ul style="list-style-type: none"> • Any seized property shall be returned to the rightful owner or possessor of the seized property except contraband owned by a defendant • Contraband means: (some definitions omitted) <ul style="list-style-type: none"> ○ article possessed under a circumstance prohibited by law ○ weapon or other instrument used in the commission or attempted commission of a felony • Contraband shall be destroyed • When the Exec. Dir. of the State Crime Lab determines that any weapon or ammo transferred is no longer useful to the State Crime Lab, the weapon/ammo shall be destroyed



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
5-5-402 & 5-5-404	Transfer of weapon or ammunition & Receipts	<ul style="list-style-type: none"> • A weapon or ammo seized by any agency, and that is forfeited pursuant to law, may be transferred to the State Crime Lab <ul style="list-style-type: none"> ○ However, no transfer shall be made pursuant to this section until there is a final determination concerning the disposition of the weapon or ammunition by the court • When any weapon or ammo is transferred and delivered to the State Crime Lab, the lab shall provide a receipt to be signed by the transferor and the lab that shall contain the following: <ul style="list-style-type: none"> ○ weapon type, make, and caliber ○ serial number, ○ case number in which the weapon was involved; and ○ type, caliber, and make of the ammo • A copy of the receipt will be retained by the lab and also delivered to the delivering agency, individual, transferor, etc.
Biological Evidence		
12-12-1109	DNA sample required upon adjudication of guilt	<ul style="list-style-type: none"> • A person who is adjudicated guilty for a qualifying offense on or after Aug. 1, 1997 shall have a DNA sample drawn • A person who has been adjudicated guilty before Aug. 1, 1997, and who is still serving a term of confinement in connection therewith on Aug. 1, 1997, shall have a DNA sample drawn • All DNA samples taken pursuant to this section shall be in accordance with the State Crime Lab (see also 12-12-1110 for collection procedures)
12-12-1113	Removal and destruction of the DNA record and DNA sample	<ul style="list-style-type: none"> • Any person whose DNA record + sample is stored in the State DNA Data Bank may apply to any circuit court for removal and destruction of the DNA record + sample on the grounds that the adjudication of guilt that resulted in the inclusion of the person's DNA record + sample has been reversed and the case dismissed



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
12-12-104	Retention and disposition of physical evidence in sex offense prosecutions	<p>Retention:</p> <ul style="list-style-type: none"> • In a prosecution for a sex offense or a violent offense (definitions omitted, but available at 12-12-104(f)), the law enforcement agency shall preserve, subject to a continuous chain of custody, any physical evidence secured in relation to a trial • After a trial resulting in conviction, the evidence shall be impounded and securely retained by law enforcement for the greater of: <ul style="list-style-type: none"> ○ (A) permanent following any conviction for a violent offense ○ (B) 25 years following any conviction for a sex offense; and ○ (C) 7 years following any conviction for any other felony for which defendant’s genetic profile may be taken by law enforcement for comparison to the State DNA Data Base for unsolved offenses <ul style="list-style-type: none"> ▪ (for State DNA Data Base definition, see 12-12-1105) <p>Disposition:</p> <ul style="list-style-type: none"> • After conviction entered, prosecuting atty or law enforcement may petition the court with notice to the defendant for disposition of the evidence if, after a hearing and reasonable period of time to respond, the court determines by a preponderance that: <ul style="list-style-type: none"> ○ evidence has no significant value for forensic analysis and must be returned to its rightful owner; or ○ evidence has no significant value for forensic analysis and is of a size, bulk, or physical character not usually retained by law enforcement and cannot practicably be retained by agency • Court may order disposition of evidence if defendant is allowed opportunity to take reasonable measures to remove or preserve portions of the evidence in question for future testing <p>Failure to comply:</p> <ul style="list-style-type: none"> • It is a class A misdemeanor for purposely failing to comply with provisions of this section



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
Sexual Assault Kits		
12-12-406	Sexual assault collection kits – submission for testing	<ul style="list-style-type: none"> • A healthcare provider that has collected a collection kit shall enter the required info into a sexual assault collection kit tracking system of the State Crime Laboratory before transferring the kit to a law enforcement agency <ul style="list-style-type: none"> ○ (for State Crime Lab. powers, see 12-12-1104) ○ law enforcement, healthcare provider, the lab, and the victim shall be able to access the tracking system • Starting July 1, 2019, lab shall test all kits with the goal of developing autosomal DNA profiles that are eligible for entry into Combined DNA Index System <p>Timeline:</p> <ul style="list-style-type: none"> • the kit collected by healthcare provider shall be taken into custody by law enforcement agency ASAP and within 3 days’ notice from healthcare provider • law enforcement shall submit kit to lab ASAP, but no later than 15 days after receipt <ul style="list-style-type: none"> ○ law enforcement not required to submit an anonymous kit to lab if victim does not affirmatively request submission <ul style="list-style-type: none"> ▪ if victim chooses to provide personal statement about the sexual assault any time after initially declining to provide one, the anonymous kit shall be delivered to the lab ASAP, but no later than 15 days after the victim chooses to provide statement ○ if kit relates to the report of a sexual assault that occurred outside of law enforcement jurisdiction (“jx.”), law enforcement shall deliver kit to agency having jx. within 10 days of learning proper jx. • (omitted “suspect standard or consensual partner elimination standard” timeline) • kits shall be tested by the lab within 60 days of receipt <ul style="list-style-type: none"> ○ ability of lab to complete all tests within 60 days depends on: (A) no. of kits received; (B) available tech and testing methods; (C) fully trained staff; (D) no. of lab requests related to other crimes



Arkansas Property and Evidence Laws

Arkansas Statute	Description	Synopsis
12-12-106	Investigations of an alleged sex offense	<ul style="list-style-type: none">• Law enforcement, prosecuting atty, or other gov't official shall not ask or require a victim of an alleged sex offense to submit to a polygraph exam or other "truth-telling device" exam as a condition of proceeding with the investigation• Refusal of victim of alleged sex offense to submit to such exam shall not prevent the investigation, charging, or prosecution of the alleged sex offense



California Property and Evidence Laws

California Statute	Description	Synopsis
§ 1417	Retention of Evidence until final determination	<ul style="list-style-type: none"> Evidence shall be retained by the clerk of the court, and they will make a system to store the pieces of evidence subject to sections 1417.2 and 1417.3
§ 1417.1	Maintenance of evidence during case; final determination of action	<ul style="list-style-type: none"> No evidence by be destructed prior to the final determination of the action or proceeding. Gives multiple instances of when “final” occurs Special circumstances with death penalty cases
§ 1417.3	Return of evidence prior to final determination; photographic record; toxic exhibits	<ul style="list-style-type: none"> At any time prior to the final determination of the action or proceeding, evidence offered by the state or defendant shall be returned to the party offering them by order of the court when an exhibit poses a security, storage, or safety problem, as recommended by the clerk of the court. Evidence that pose a health hazard to humans shall be introduced to the court in the form of a photographic record and a written chemical analysis. The court may also go around this rule if the court finds good cause. Following introduction of the evidence, the person who brought in the evidence still has responsibility for it; the court does not have to store the evidence.
§ 1417.5	Disposition of Evidence after case is complete	<ul style="list-style-type: none"> Except as provided in Section 1417.6 (which outlines disposal, and not return, of evidence that is dangerous to the public), 60 days after the final determination of a criminal action or proceeding, the clerk of the court shall dispose of or return all evidence in a case in certain ways (depending on the type of evidence). The ways are outlined in this statute.
§ 1417.6	Times court will not return evidence that is dangerous to the public	<ul style="list-style-type: none"> The court will not return “dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law and that was used by a defendant in the commission of the crime of which the defendant was convicted” This evidence will instead be destroyed or disposed of



California Property and Evidence Laws

California Statute	Description	Synopsis
§ 1417.8	Photographs of minors; harmful matter; preservation of and access to photos	<ul style="list-style-type: none"> • Regards evidence, including photographs of a harmful nature that include children, that is declared harmful matter • This statute outlines the handling of this evidence during trial, and the disposal of the evidence after trial
§ 1417.9	Retention of biological material	<ul style="list-style-type: none"> • Appropriate agency has to keep evidence that has biological material and is connected with a criminal case • Agency has to keep the evidence while person remains incarcerated in connection with that case. • The governmental entity shall have the discretion in retaining evidence as long as the evidence is retained in a condition suitable for DNA testing. • No other law requires biological evidence be preserved or retained • There are certain times that the evidence can be disposed of before the criminal case is complete, including the requirement that multiple parties (listed in the statute) are notified
§ 680.3	Rape kit procedures	<ul style="list-style-type: none"> • Every time a sexual assault kit is taken, the agency that performs it shall, within 120 days of collection, create an information profile for the kit on the Department of Justice's SAFE-T database (and the statute lists what must be included)
§ 1536	Property taken by Officer	<ul style="list-style-type: none"> • All property taken through a warrant must be retained by the officer until further notice by the court
§ 1540	Property improperly taken by officer	<ul style="list-style-type: none"> • If the officer accidentally took evidence not covered by the warrant, a magistrate must order its return to the rightful owner
§ 18255	Issuance of receipt upon taking firearm	<ul style="list-style-type: none"> • When an officer takes into custody a firearm or other deadly weapon, the owner or person who possessed the firearm must receive a receipt. The statute outlines the requirements of that receipt
§ 18275	Time held and disposal of firearm	<ul style="list-style-type: none"> • Any firearm or other deadly weapon that has been taken into custody for longer than 12 months, and has not been recovered by the owner, shall be sold or destroyed
§ 34000	Firearms unclaimed in evidence	<ul style="list-style-type: none"> • If a firearm in the possession of the court is no longer needed or is unclaimed, and it has been with the court for 180 days, the firearm should be sold or destroyed.



California Property and Evidence Laws

California Statute	Description	Synopsis
§ 1420	Unclaimed Money	<ul style="list-style-type: none">• All money maintained by district attorney or clerk of the court after a final judgement has been rendered shall be deposited with county treasurer• After 2 years of holding the unclaimed money, a notice will be published in the a county newspaper once a week for two weeks
§ 1422	Where unclaimed money ends up	<ul style="list-style-type: none">• If the money remains unclaimed, the money will be deposited into the general fund of the county



Colorado Property and Evidence Laws

Colorado Statute	Description	Synopsis
18-4	Stolen Property	<ul style="list-style-type: none"> Property obtained by theft, robbery, or burglary shall be restored to the owner. Owner has priority even over good-faith purchasers
38-13-201 38-13-307 38-13-502 38-13-701	Unclaimed Property	<ul style="list-style-type: none"> Property is presumed abandoned after a set amount of time (usually a number of years, anywhere from one year to 15 years, based on the category of the property). Person claiming the abandoned property must show that the conditions for presumed abandonment are met If the holder knows the address of the owner person and the unclaimed property is worth more than \$25, the holder should send a notice to the owner The holder must file a report with the state administrator concerning the property. The administrator will sell the property if no owner is found after three years. The property will now be rightfully owned by the buyer. Proceeds from the sale go to a Colorado state trust fund that helps fund government programs
13-14.5-109	Unclaimed Firearms	<ul style="list-style-type: none"> A law enforcement officer taking possession of a firearm shall issue a receipt identifying all firearms and provide a copy of the receipt to the respondent. Police must file the receipt in court within 72 hours Guns received but left unclaimed for over a year will be disposed of based on the policies of local law enforcement. Some police departments use bomb technicians to destroy unwanted civilian firearms Guns will be taken if the holder is not a registered owner or is a felon not allowed to possess firearms, and can also be taken following the issuance of an "extreme risk protection order" Extreme risk protection orders will be issued if the courts finds by a preponderance that the individual poses a significant risk of causing personal injury to themselves or others in the near future by having a firearm. The owner has one year after the protection order expires to reclaim the guns, or else the guns will be disposed of in accordance with local policies



Colorado Property and Evidence Laws

Colorado Statute	Description	Synopsis
15-23-103 15-23-105	Biological evidence	<ul style="list-style-type: none"> • Biological evidence is taken from anyone charged with a felony • The person charged may send a written request to have the evidence destroyed and the results of the test expunged from the federal combined DNA index system IF and only if the felonies charged are dismissed, the defendant is acquitted, or the defendant is convicted of something less than a felony
https://leg.colorado.gov/bills/hb20-1228	Rape Kit Tracking	<ul style="list-style-type: none"> • Colorado's laws seem to be lacking here. From my research, Colorado does not expressly state what it does with rape kit evidence in its statutes. However, in 2020, a new bill was introduced in the Colorado General Assembly. That bill would require that victim to be notified: <ul style="list-style-type: none"> • When the evidence is submitted to a laboratory for testing; • When the results of the testing are received; and • Prior to the medical evidence being destroyed and to maintain the medical evidence for an additional 10 years if the victim objects to the destruction • In addition, the bill would require law enforcement agencies to maintain the medical evidence until the statute of limitation has run on the crime and for an additional 10 years if the victim objects to its destruction • The bill has not yet been voted on
Federal Rules	Disposal of narcotics	<ul style="list-style-type: none"> • Controlled substances that are expired, surplus, or contaminated must be disposed of according to federal regulations and DEA policy. Colorado doesn't appear to have its own set of rules regarding the destruction of this type of evidence



Connecticut Property and Evidence Laws

Connecticut Statute	Description	Synopsis
§54-36a	Definitions. Inventory. Return of Stolen Property. Disposition of other Seized Property. Return of Compliance	<ul style="list-style-type: none"> • (b)(1) whenever property seized in connection with a criminal arrest or pursuant to a search warrant without an arrest, the law enforcement agency seizing such property shall file an inventory with the clerk of the court for the geographical area in which the criminal offense is alleged to have been committed, along with the uniform arrest report is applicable <ul style="list-style-type: none"> ○ except where the property is stolen or had attempted to be stolen and in the officer's opinion is valued <\$1,000. • If the seized property is stolen property, the owner may request the return by filing a request form with the law enforcement agency • The form will be forwarded to the clerk of court to notify the defendant(s) of the request and order the return within 30 days <ul style="list-style-type: none"> ○ For good cause, court may choose to retain property • Court will return the property to the owner within six months with property claim after the final disposition of the criminal action or if no criminal action, at any time upon motion to the prosecuting official of such court • If no one claims the property it will be destroyed or given to charity/educational institutions or to a government agency unless it is cash, which will be remitted to the statute and deposited in the General Fund, or a valuable prize, that will be disposed of through auction
§54-36f	Receipt for Seized Property to be given by law enforcement officials	<ul style="list-style-type: none"> • Person whose property was seized should be given by the officer and that receipt shall list: specifics of the property seized and be signed by law enforcement officials who seized it
§54-36c	Disposition of seized property on order of the examiner of seized property	<ul style="list-style-type: none"> • Property seized prior to October 1, 2974 for which there is no criminal action and that has not been claimed by the owner <ul style="list-style-type: none"> ○ Shall upon notification by the police authority be disposed of on order of the examiner if consent obtained from prosecuting official of appropriate court
§54-36e	Firearms and ammunition to be turned over to state police. Sale at public auction	<ul style="list-style-type: none"> • Contraband firearms and firearms adjudicated a nuisance according to 54-33g shall be turned over for destruction, appropriate use or disposal by sale at public auction • Auction terms/procedures



Connecticut Property and Evidence Laws

Connecticut Statute	Description	Synopsis
§54-36n	Identification and tracing of seized and recovered firearms and ammunition	<ul style="list-style-type: none"> • Agency shall take steps to identify and trace history of firearms seized • Using National Tracing Center and entering info on COLLECT system • If firearms determined to have been stolen, firearm will be returned to rightful owner provided they are not prohibited to possess and the firearm does not need to be retained as evidence
§29-7b	Division of Scientific Services	<ul style="list-style-type: none"> • Provide technical assistance to law enforcement agencies in the various areas of scientific investigation • Role of the division of scientific services: <ul style="list-style-type: none"> ○ May investigate any physical evidence or evidentiary material related to a crime upon request of any federal, state or local agency ○ May conduct or assist in the scientific field of investigation at the scene of the crime ○ Shall assure the safe custody of evidence during examination ○ Shall forward a written report of the results of an examination of evidence to the agency submitting such evidence ○ Shall render expert court testimony when requested ○ Shall conduct ongoing research in the areas of forensic sciences
§29-7b	LINKS	<ul style="list-style-type: none"> • Extent and Type of Examinations offered by the Division of Scientific Services • https://portal.ct.gov/-/media/DESPP/DSS/Forms/191230-CTDSS-AccrScope-V005-updated-12-31-2019.pdf • Evidence Submission Guidelines • https://portal.ct.gov/-/media/DESPP/DSS/Forms/Evidence-Submission-Guidelines-20200101.pdf • Guidelines for Cold Case Submission • https://portal.ct.gov/-/media/DESPP/DSS/guidelines_for_cold_case_submission_2016.pdf



Connecticut Property and Evidence Laws

Connecticut Statute	Description	Synopsis
§54-102jj (2012)	Preservation of biological evidence	<ul style="list-style-type: none"> • Applies to forensic DNA testing • State shall preserve all biological evidence acquired during the course of the investigation of such crime for the term of such person’s incarceration (54-102jj(b)) <ul style="list-style-type: none"> ○ State may apply to the court where the defendant’s case was prosecuted for permission to destroy biological evidence ○ Upon receipt of an application to destroy evidence, the court shall give notice to the defendants charged in connection with the prosecution and hold a hearing ○ Appeal will be granted if the court finds the CT Supreme Court has decided the defendant’s appeal and the defendant does not seek further preservation of the biological evidence, or for good cause shown.
19a-112a (a)-(c)	Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations. Protocol. Sexual assault evidence collection kit. Electronic tracking, transfer, analysis and preservation of evidence. Costs. Training and sexual assault examiner programs. Victim access to information re evidence	<ul style="list-style-type: none"> • Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations composition • Protocol is the state of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault including the Sexual Assault toxicology Screen Protocol • Commission shall: <ul style="list-style-type: none"> ○ design a sexual assault evidence kit ○ make the kit available at health care facilities ○ establish an electronic tracking system for sexual assault evidence collection kits, which should record <ul style="list-style-type: none"> ▪ when a kit is used ▪ when and to which law enforcement agency the kit is transferred
19a-112a (d)	Procedural Timeline	<ul style="list-style-type: none"> • Health Care facility must follow protocol in (b) and contact a sexual assault counselor and collect sexual assault evidence from the victim if they consent • After collection of evidence, contact law enforcement agency to receive evidence • Law enforcement officers will transfer the evidence properly to the Division of Scientific Services within the Department of Emergency Services and Public Protection or the FBI laboratory



Connecticut Property and Evidence Laws

		<ul style="list-style-type: none"> • Division shall analyze evidence no later than 60 days after collection or if victim chooses to remain anonymous and not report the sexual assault, hold the evidence for at least five years after the collection of evidence • Law enforcement agency shall notify division within 5 days of a report being filed and the agency shall have 60 days to analyze the evidence • Division shall hold the evidence received and analyzed pursuant to this subsection until the conclusion of the criminal proceedings • Failure of the law enforcement agency to transfer evidence within 10days or the division to analyze within 60 days shall not affect the admissibility of the evidence if it is otherwise admissible evidence
19a-112a	LINKS	<ul style="list-style-type: none"> • Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations Resources <ul style="list-style-type: none"> ○ Technical Guidelines for Health Care Response to Victims of Sexual Assault ○ https://portal.ct.gov/DCJ/19a-112a-Evidence-Commission/Technical-Guidelines/2018-Technical-Guidelines ○ CT Sexual Assault Evidence Collection Kit Tracking Training Webinar ○ https://vimeo.com/336160639/07e89f2ef1
§29-38c	Seizure of firearms and ammunition from person posing risk of imminent personal injury to self or others	<ul style="list-style-type: none"> • warrant executed to obtain • 14 days after warrant executed, the ct shall hold a hearing to determine whether the firearm or firearms and any ammunition seized should be returned to the person <ul style="list-style-type: none"> ○ State has burden of proving seizure to a clear and convincing evidence standard • If court determines that the person's firearms must be seized, the person may transfer the firearm(s) or ammunition in accordance with §29-33 to any person eligible to possess and if approved the state has 10 days to transfer



Delaware Property and Evidence Laws

Delaware Statute	Description	Synopsis
11 § 2311(a-b)	Disposition of property validly seized: papers, articles, or things	<ul style="list-style-type: none"> • Law enforcement office may keep validly seized property for a reasonable length of time for the purposes of apprehending the offender or using the property as evidence in a criminal trial or both • If the property was obtained as a result of the commission of a crime it is returned to the lawful owner • If the property represents or is traced back to a crime and the person whom the property was seized from is convicted of the alleged crime • If the property was allegedly used in the commission of a crime <ul style="list-style-type: none"> ○ If the person is not convicted, returned to the person ○ If the person is convicted, up to the court's discretion • If the property was seized unlawfully, can petition for the Judge of the Superior Court to direct disposition
11 § 23311(c-e)	Disposition of property validly seized: deadly weapons and ammunition	<ul style="list-style-type: none"> • If seized from a person who is prohibited from owning a deadly weapon as a result of a felony conviction or a Family Court protection from abuse order, law enforcement will give notice of the intent to dispose. Within 6 months of the notice it can be claimed by <ul style="list-style-type: none"> ○ The owner, who has to show proof they are the owner and not prohibited from owning a deadly weapon ○ A third party, who has to show proof of ownership by devise, gift, sale, or a other legally-recognized ownership • If it's not claimed within the 6 months, law enforcement may dispose of it • If law enforcement denies a request for return, the party has the right to petition the court. The court will send the law enforcement agency a notice and copy of the petition. Law enforcement cannot dispose until a final adjudication and expiration of any appeal period.



Delaware Property and Evidence Laws

Delaware Statute	Description	Synopsis
11 § 8307(a-b)	Disposition of lost or stolen property (excluding money)	<ul style="list-style-type: none"> • If property is not claimed within a year, law enforcement may dispose of it at a public sale <ul style="list-style-type: none"> ○ Must publish time and place of the sale along with a description of property being sold in at least one daily newspaper once a week for two weeks ○ Superintendent of state police fixes terms of the sale ○ If property had a certificate of title or registration and the Superintendent can ascertain the address of the owner, Superintendent must send notice 10 days prior to the sale • Profits go to Police Retirement Fund • If owner of other person entitled to the property presents a claim within 3 years of the sale, the profits of the sale of that property will be paid to that owner or entitled person from the Police Retirement Fund
11 § 8307(c)	Disposition of stolen money	<ul style="list-style-type: none"> • State Police must make a reasonable effort to locate the owner • If the owner cannot be located or fails to claim within a year, it goes to the Police Retirement Fund
11 § 8307(c)	Disposition of lost or abandoned money	<ul style="list-style-type: none"> • State Police must make a reasonable effort to locate the owner • If the owner cannot be located or fails to claim within a year, it becomes the property of the person who delivered custody of the money to the State Police • Superintendent shall return it to that person as soon as is practicable
11 § 2322	Grounds for seizure and disposition of seized vehicles	<ul style="list-style-type: none"> • Vehicles may be seized if used in or in connection to <ul style="list-style-type: none"> ○ The commission of a felony ○ The flight or escape of any person who has committed a felony ○ Transporting cigarettes in violation of this title



Delaware Property and Evidence Laws

Delaware Statute	Description	Synopsis
11 § 2325	Disposition of seized vehicles	<ul style="list-style-type: none"> • Upon judgment of the Superior Court, vehicle and all of the rights, titles and interest is forfeited to the State, custody is given to the State Police for its use • If the State Police determine that its not suitable for their purposes, it's transferred to the State Treasurer who can allocate the use of to any state bureau, department, agency, or officer; or they may sell it and the profits go into the Special Law Enforcement Assistance Fund



Florida Property and Evidence Laws

Florida Statute	Description	Synopsis
705.103	Procedure for abandoned or lost property	<ul style="list-style-type: none"> • When lost or abandoned property found on public property can be easily removed: law enforcement officer must make reasonable attempt to find owner. • When lost or abandoned property found on public property cannot be easily removed: law enforcement officer must cause notice to be placed on the property. • For abandoned property: after 5 days, if property is still unclaimed, the law enforcement agency can retain, trade, donate, sell, or arrange for removal of the property. <ul style="list-style-type: none"> ○ Property valuing more than \$100: notice of item must be posted in newspaper for two consecutive weeks. ○ Property valuing \$100 or less: reasonable notice must be given in public place for two consecutive weeks. • Rightful owner may collect proceeds from sale for up to one year. • If no rightful owner collects proceeds from sale, funds are deposited into the State School Fund. • If owner is found, owner is liable for costs of removal. • Law enforcement officers and authorized persons are immune from liability for good faith trespass to real property in carrying out these duties.
705.105	Procedure regarding unclaimed evidence	<ul style="list-style-type: none"> • Evidence and property lawfully seized and in the custody of the clerk of courts or a law enforcement agency shall remain with the law enforcement agency 60 days after the conclusion of the proceedings. <ul style="list-style-type: none"> ○ Agency may retain, transfer, donate, sell, or destroy the property or evidence
717.1341	Invalid claims, recovery of property, interest and penalties	<ul style="list-style-type: none"> • Any person who claims, or helps someone else claim, unclaimed property that does not rightfully belong to them is subject to prosecution for felony or misdemeanor, depending on the value of the property in question
717.117	Report of unclaimed property	<ul style="list-style-type: none"> • Any person in possession of property presumed unclaimed must file a report to the department by May 1 of each year after making prudent efforts to discover previous holders
717.118	Notification of apparent owners of unclaimed property	<ul style="list-style-type: none"> • State must make reasonable efforts to notify apparent owners of unclaimed property accounts valued at more than \$250. <ul style="list-style-type: none"> ○ Directly, or through publication in newspapers or online, or on television



Florida Property and Evidence Laws

Florida Statute	Description	Synopsis
717.119	Payment or delivery of unclaimed property	<ul style="list-style-type: none"> • Anyone required to file a report under 717.117 must also pay or deliver the reported unclaimed property to the department
717.122	Public sale of unclaimed property	<ul style="list-style-type: none"> • When unclaimed property is sold: <ul style="list-style-type: none"> ○ Sold to highest bidder in public auction ○ If all bids are insufficient, property may be reoffered later ○ If cost of sale is too high, property may be disposed of • Securities listed on stock exchange must be sold at prices prevailing at the time of the sale on exchange • Purchaser or property at these auctions is free from all claims of previous owner or holder • Sale of property at these auctions is not subject to tax
790.08	Taking possession of weapons and arms; reports; disposition; custody	<ul style="list-style-type: none"> • Officers making arrests shall take possession of weapons found upon the person and deliver them to the sheriff or the chief of police <ul style="list-style-type: none"> ○ The weapons shall be retained until after the trial ○ If the person arrested is convicted, the weapon is forfeited to the state <ul style="list-style-type: none"> ▪ Order is not necessary, but is proper ▪ Sheriff becomes custodian of the weapons for the state ○ If the person is acquitted, the weapons shall be returned <ul style="list-style-type: none"> ▪ Sheriff is custodian of the weapons until that time • Any weapons that are abandoned or discarded or left in law officer's hands and not reclaimed, shall be delivered to the sheriff within 60 days <ul style="list-style-type: none"> ○ If they are not reclaimed by their owners within 6 months, they are forfeited to the state • Any weapons the sheriff acts as custodian for shall be listed, kept, and held by the sheriff. <ul style="list-style-type: none"> ○ These weapons can be used by the sheriff, or loaned out to other departments of the state or county or municipality. ○ The sheriff must keep a record of the loaning out. • Any weapons not needed or not fit for loaning out can be destroyed or disposed of. <ul style="list-style-type: none"> ○ All funds resulting from the sale of these weapons goes to the State School Fund.



Florida Property and Evidence Laws

Florida Statute	Description	Synopsis
812.061	Larceny; return of property to owner; procedure	<ul style="list-style-type: none"> • When money or a motor vehicle is taken from its rightful owner in acts of larceny and is kept by the state or county or municipality as evidence, the owner can get it back by: <ul style="list-style-type: none"> ○ Filing a petition in the court ○ A copy of petition will be given to the officer who has custody of the money or vehicle ○ If any other parties petition ownership of the property, or if there is any objection to the original party's petition, a jury trial may be necessary to resolve the matter
925.11(4)	Postsentencing DNA testing	<ul style="list-style-type: none"> • Any governmental entity that may have physical evidence that can be used for DNA testing must maintain that evidence in case postsentencing DNA tests are necessary. <ul style="list-style-type: none"> ○ Until the term of the sentence is expired and no other provision of law requires the evidence to be preserved. • If the death penalty is imposed, those entities must maintain the evidence for 60 days after execution of the sentence.
932.701	Short title; definitions	<ul style="list-style-type: none"> • 932.701 – 932.7062 are the “Florida Contraband Forfeiture Act” • “Contraband” = controlled substance; any substance or item that is used or intended to be used in violation of laws of the state.
932.703	Forfeiture of contraband articles; exceptions	<ul style="list-style-type: none"> • Property may be seized by and forfeited to the state if the owner is arrested for a criminal offense that forms the basis of determining that the property is contraband, OR if <ul style="list-style-type: none"> ○ Owner cannot be identified and the person in possession of the property denies ownership; ○ Owner is fugitive or dead; ○ Owner has knowledge that person in possession of property is involved in criminal activity; ○ Owner agrees to be a confidential informant → property will be returned if no charges are filed ○ Property is monetary instrument • Head of the law enforcement agency that seized the property must personally approve any settlements • If, after 90 days, owner cannot be found after diligent efforts, property is forfeited



Florida Property and Evidence Laws

Florida Statute	Description	Synopsis
932.703 cont.	Forfeiture of contraband articles; exceptions cont.	<ul style="list-style-type: none"> • Within 10 days of seizing property, seizing agency must file request that court find probable cause for seizure <ul style="list-style-type: none"> ○ If court finds yes → forfeiture continues ○ If court finds no → property must be released within 5 days • Notice must be given to relevant parties within 5 days of seizure • Person entitled to notice may request a hearing within 15 days after receiving notice
932.704	Forfeiture proceedings	<ul style="list-style-type: none"> • Purpose of forfeiture is to prevent and deter continued use of contraband for criminal purposes • Civil forfeiture cases will be heard by civil circuit court judges • Must be decided by a jury unless waived • If the claimant prevails, property is returned immediately
932.705	Law enforcement trust funds; Department of Highway Safety and Motor Vehicles deposits	<ul style="list-style-type: none"> • Revenues from property forfeited to the state may be deposited into the Law Enforcement Trust Fund
932.7055	Disposition of liens and forfeited property	<ul style="list-style-type: none"> • When an agency is granted forfeiture of real or personal property, the agency can sell, use, salvage, trade, or destroy the property. <ul style="list-style-type: none"> ○ Any images <u>must</u> be destroyed
932.706	Forfeiture training requirements	<ul style="list-style-type: none"> • Training and continuing education shall be designed for seizure and forfeiture
932.7061	Reporting seized property for forfeiture	<ul style="list-style-type: none"> • Every law enforcement agency must submit yearly report to Department of Law Enforcement <ul style="list-style-type: none"> ○ report any seizures and forfeitures → include receipts and expenditures • Department of Law Enforcement submits yearly report to Office of Program Policy Analysis and Government Accountability → compilation of: all agencies that complied, and all agencies that did not comply
932.7062	Penalty for noncompliance with reporting requirements	<ul style="list-style-type: none"> • Seizing agencies that fail to comply with the reporting requirements are subject to penalties, including fines of \$5,000.



Florida Property and Evidence Laws

Florida Statute	Description	Synopsis
933.14	Return of property taken under search warrant	<ul style="list-style-type: none">• Synopsis• Any property taken under warrant that judge determines is not the property described by warrant OR that was taken by an improper warrant shall be returned to the owner<ul style="list-style-type: none">○ Unless the property is contraband○ Unless the property is intoxicating liquor until proven to be lawfully used and possessed○ Unless the property is a firearm until trial court orders return• If the judge determines property taken under warrant has no cause to be returned, it is impounded as evidence



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
9-16-7	Report and inventory	<ul style="list-style-type: none"> • When property that is intended to be forfeited is taken by LE officer, the officer must <ul style="list-style-type: none"> ○ report the facts of seizure ○ conduct an inventory and estimate the value of property seized ○ provide this information to the district attorney • This must be done in writing AND within 30 days of seizure
9-16-8	Forfeiture liens	<ul style="list-style-type: none"> • State attorneys can file forfeiture liens on seized property • The forfeiture lien is considered notice to any person claiming interest in the property and includes: <ul style="list-style-type: none"> ○ Name of each person who has interest in the property ○ A description of the property ○ Value of the property claimed by state attorney ○ Name of the court where the forfeiture or criminal proceeding is brought ○ Case number • This creates a lien in favor of the state for seized property or any named person with respect to such property
9-16-9	Powers of the state attorney with seized property	<ul style="list-style-type: none"> • The state attorney may: <ul style="list-style-type: none"> ○ Remove seized property to a place designated by the court and having jurisdiction ○ Provide for another governmental agency or sheriff/chief of police to remove it • If too expensive to keep property or if the property is perishable or a depreciating asset, the court may sell the property <ul style="list-style-type: none"> ○ Income of sale paid into the registry of the court • If the property is currency and not needed for evidence, the state attorney deposits it within 60 days of seizure into a bank account that bears interest, is separate from other operating accounts, and is located in the county <ul style="list-style-type: none"> ○ Any interest that accrues will be paid into the County Drug Abuse Treatment and Education Fund



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
9-16-11	Notice	<ul style="list-style-type: none"> • If the property seized is \$25,000 or less, the state attorney posts a notice of seizure in a prominent location in the courthouse of county where seized. • Will include: <ul style="list-style-type: none"> ○ Description of property ○ Date and place of seizure ○ Conduct giving rise to seizure ○ Alleged violation of law ○ Statement that the owner has 30 days to claim property • The claim of ownership must contain: <ul style="list-style-type: none"> ○ Name of claimant ○ Address ○ Description of claimant’s interest in property ○ Description of circumstances leading to claimant obtaining interest in property ○ The nature of relationship between claimant and person who possessed property at the time of the seizure ○ Documentation supporting ownership ○ Any additional information supporting the claim • If owner’s name and address are known, the state attorney will provide notice by either personal service or certified mail • If owner’s current address is unknown but the property legally requires public record of name and address, the notice will go to any address on the record for that person • If owner’s current address is unknown and not on any public record, the state attorney will publish a copy of the notice of seizure once a week for two consecutive weeks • Owner has 30 days to claim property from being served or after second published notice



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
9-16-19	Disposition of forfeited property	<ul style="list-style-type: none"> • Forfeited property that is no longer needed for evidence and is required to be destroyed or is harmful to the public will be forwarded to Division of Forensic Sciences of the Georgia Bureau of Investigation for destruction • The court may order the property to be sold • Forfeited property and income from sale of property is government property and may be distributed between agencies • The Prosecuting Attorneys' Council will post on its website a record and inventory of all property, including the estimated value, the net income if sold, and disposition of all property
17-5-2	Inventory of things seized	<ul style="list-style-type: none"> • An inventory of all instruments, articles, or things seized by LE will be given to the person arrested. • If the person is released without charges, all property, other than contraband or stolen property, will be returned to him or her.
17-5-50	Return of articles	<ul style="list-style-type: none"> • The clerk or person in charge of property for any police dept, sheriff's office, or other LE agency shall keep a book with record of every article. • Any person claiming ownership of property may apply to the LE agency to have property returned to them. <ul style="list-style-type: none"> ○ When returned to them, they must sign a declaration of ownership under penalty of false swearing. • If the property is a stolen motor vehicle, trailer, tractor, or motorcycle: <ul style="list-style-type: none"> ○ The owner must present a certificate of title, tag receipt, bill of sale, or other such evidence. ○ The stolen vehicle must be returned within two days of owner's application, unless a hearing on the ownership is required OR if LE needs the stolen vehicle for further criminal investigation. • Person in charge of property at any police dept, sheriff's office, or other LE agency must make and retain photographic record of property before delivering back to owner. • If stolen property, the rightful owner may request a hearing to determine the ownership of the property.



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
17-5-50 Cont.	Return of articles Cont.	<ul style="list-style-type: none"> • This provision does not apply to contraband or property subject to forfeiture. • Photographs, videos, and other identification or analysis that accurately represent the property may be used as evidence in a trial in lieu of the original property.
17-5-51	Weapons declared contraband; forfeiture; motor vehicles excepted	<ul style="list-style-type: none"> • Items considered contraband that shall be forfeited: <ul style="list-style-type: none"> ○ Any device used as a weapon in a crime against any person, or any attempt to commit a crime against any person ○ Any weapon that the possession or carrying of is illegal ○ Any weapon for which a person has committed a violation of §16-11-126 (licensed handgun possession and carrying laws)
17-5-52	Sale or destruction of weapons; proceeds of sale; records	<ul style="list-style-type: none"> • If a defendant is found guilty and of a crime using a weapon and the weapon is no longer needed for evidence, the weapon will be turned over to the sheriff, chief of police or LE agency that originally confiscated the weapon • The sheriff, chief of police, or LE agency will return, sell or subject it to forfeiture within one year
17-5-53	Weapons valuable for historical or instructional purposes	<ul style="list-style-type: none"> • After forfeiture of a weapon, the director of the Division of Archives and History or the commissioner of public safety can give written notice of request to obtain the weapon to the sheriff • The weapon will become property of the state
17-5-54(b-d)	Disposition of personal property in custody of law enforcement agencies	<ul style="list-style-type: none"> • A LE agency assumes custody of any personal property that has been the subject of a crime or has been abandoned. • Any personal property used as evidence in a trial will be returned to rightful owner within 30 days after the final judgment finding defendant guilty. <ul style="list-style-type: none"> ○ If defendant appeals or files motion for new trial, the court determines whether photographs, videotapes, or other identification of person property is sufficient evidence for the new trial or appeal <ul style="list-style-type: none"> ▪ If it is, return to owner ▪ If it is not, return to owner within 30 days after conclusion of new trial or appeal



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
17-5-54(b-d) Cont.	Disposition of personal property in custody of law enforcement agencies Cont.	<ul style="list-style-type: none"> • Rightful owner must apply to the entity holding his or her property and show: <ul style="list-style-type: none"> ○ Proof of ownership ○ Personal identification ○ The rightful owner will sign a declaration of ownership under penalty of false swearing <p>If more than one person claims ownership, the court will schedule a hearing to determine ownership of the property</p>
17-5-54(e)	Unclaimed property that is not a firearm	<ul style="list-style-type: none"> • For personal property that is unclaimed after 90 days of final judgment, the sheriff, chief of police, or LE agency will apply to the superior court for an order to retain, sell or discard the property. • Retain <ul style="list-style-type: none"> ○ LE agency will retain property for official use • Sell <ul style="list-style-type: none"> ○ The LE agency must provide notice once a week for four weeks in the legal organ of the county describing each item and giving information to allow possible owners to claim their property ○ The notice will also state date, time and place the items will be placed for public sale if not claimed. ○ Sale can occur not less than 7 days and not more than 15 days after final advertised notice has run ○ Sale goes to highest bidder. • Discard <ul style="list-style-type: none"> ○ If property has not been sold in 2 successive sales, the LE agency may retain property for official use or dispose of it.
17-5-54(f)	Unclaimed motor vehicles	<ul style="list-style-type: none"> • LE agency should contact Georgia Crime Information Center to determine if the motor vehicle has been stolen and attempt to determine who is the registered owner



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
17-5-54(g)	Unclaimed firearms	<ul style="list-style-type: none"> • If firearm is deemed unsafe because of wear, damage, age, or modification OR if federal or state law prohibits the sale or distribution of the firearm, it can be transferred to GBI for training or experimental purposes or be destroyed. • Otherwise, unclaimed firearms may be sold at public auction to licensed firearms collectors, dealers, importers, or manufacturers. <ul style="list-style-type: none"> ○ If the agency has 5 or more saleable firearms, this will occur at least once a year • If unable to sell the firearm within 6 months of opening bids, the firearm will be retained by GBI, used by local LE agency for training or experimental purposes, or destroyed.
17-5-54(h)	Retention of records	<ul style="list-style-type: none"> • Records must be maintained and show: <ul style="list-style-type: none"> ○ How property came into possession of LE agency ○ Description of the property ○ All efforts to locate the owner ○ Any case or docket number ○ The date of publication of any newspaper notices ○ Date of disposition of property, whether retained, sold, or discarded. ○ Records of proceeds of sales from firearms.
17-5-55(a)	Custody of property	<ul style="list-style-type: none"> • For criminal cases, the court will designate a custodian for any property that is introduced into evidence • The property will be identified or tagged with an exhibit number • The custodian will create an evidence log within 30 days of the judgment of the case, containing: <ul style="list-style-type: none"> ○ Case number ○ Style of the case ○ Description of the item ○ Exhibit number ○ The name of person creating the log ○ The location where the evidence is stored ○ Any transfer of evidence



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
17-5-55(a) Cont.	Custody of property Cont.	<ul style="list-style-type: none"> • Any transfer of evidence will be logged and show: <ul style="list-style-type: none"> ○ Identity of person receiving evidence ○ Date of transfer ○ Location of the evidence ○ Electronic signature of person receiving evidence ○ A photograph or visual image will be taken of evidence with every transfer and placed in the log. • Physical evidence will be returned to the rightful owner within 30 days after creation of the evidence log unless the evidence is needed for appeal or a new trial.
17-5-55(b)	Physical evidence classified as dangerous or contraband	<ul style="list-style-type: none"> • Including, but not limited to: controlled substances, dangerous drugs, explosives, weapons, ammunition, biomedical waste, hazardous substances, or hazardous waste <ul style="list-style-type: none"> ○ Must be properly secured in a manner authorized by state or federal law. ○ May be transferred to a government agency authorized to store or dispose of the material.
17-5-55(c) 17-5-56	Preservation of biological evidence	<ul style="list-style-type: none"> • Including, but not limited to: stains, fluids, or hair samples that relate to the identity of the perpetrator of the crime. • If the death penalty is imposed, biological evidence will be maintained until the sentence in the case has been carried out. • Biological evidence in felony cases will be maintained for the period of time that the crime remains unsolved or until the sentence in the case is completed, whichever comes last. • Parties may file motion for an order directing that the evidence be preserved beyond this time period. • Biological samples collected directly from a person for the purpose of drug or alcohol testing cannot be preserved.



Georgia Property and Evidence Laws

Georgia Statute	Description	Synopsis
17-5-71	Preservation of physical evidence in sexual assaults	<ul style="list-style-type: none"> • If the victim reports alleged sexual assault to LE: <ul style="list-style-type: none"> ○ The LE agency will maintain any physical evidence collected, including biological evidence, for: <ul style="list-style-type: none"> ▪ 30 years from the date of arrest ▪ OR 7 years from completion of sentence (whichever is last) ▪ OR 50 years if there is no arrest • If the victim does not cooperate with LE in the investigation or prosecution of an alleged sexual assault: <ul style="list-style-type: none"> ○ The LE agency will maintain any physical evidence collected, including biological evidence, for: <ul style="list-style-type: none"> ▪ At least 12 months from the date evidence is collected



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
844D-126	Retention of biological evidence	<ul style="list-style-type: none"> • All evidence in the custody or control of a (1) police department, (2) prosecuting attorney, or (3) court that is related to the investigation or prosecution of a case where there has been a judgement of conviction and that may contain biological evidence that could be used for DNA analysis shall be retained at least until the later occurring of either: <ul style="list-style-type: none"> ○ (1) The exhaustion of all appeals of the case when the evidence is related; or ○ (2) The completion of any sentence, including any term of probation or parole, imposed on the defendant in the case where evidence relates. • The attorney general shall establish procedures and protocols that will be uniform throughout the State, for the collection and preservation of evidence that is applicable to this section.
844G-6	Tracking system for sexual assault evidence collection kits	<ul style="list-style-type: none"> • By January 1, 2020, each county must establish an electronic tracking system for sexual assault evidence collection kits. • At minimum each system must: <ul style="list-style-type: none"> ○ Track the status of sexual assault evidence collection kits from the specimen collection site to final storage or disposal which includes but is not limited to (1) the initial collection, inventory, and storage by law enforcement agencies or accredited and approved DNA laboratories; (2) analysis at accredited and approved DNA laboratories; and (3) storage or disposal after completion of analysis; ○ Allow all department approved entities that collect, receive, maintain, store, or preserve sexual assault evidence kits to update the status and location of the kits; and • All agencies, organizations, and other department approved entities in the chain of custody of sexual assault evidence collection kits must participate in the tracking system by updating the status and location of kits, as appropriate. The department, at all times, must have access to all statewide tracking systems.



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
844G-5	Mandatory submission and testing requirements for sexual assault evidence collection kits	<ul style="list-style-type: none"> • (a) An agency, program, center, or other entity that collects a sexual assault evidence collection kit must notify the appropriate law enforcement agency as soon as practicable after the kit’s collection, provided that notification must occur within twenty-four hours after the collection. • (b) A notified law enforcement agency must: <ul style="list-style-type: none"> ○ (1) Take possession of the sexual assault evidence collection kit from the agency, program, center, or other entity that collected the kits within three business days of receiving notification if it is either a (a) reported sexual assault evidence collection kit or (b) an unreported sexual assault evidence collection kit that the victim has not requested to be held by the sexual assault program or center in that county; ○ (2) Submit a written request for testing of the reports sexual assault evidence collection kit to an accredited and approved DNA laboratory within fifteen business days of taking possession of the kit; and ○ (3) Within ten business days of acceptance for testing by an accredited and approved DNA laboratory, submit the kit to the laboratory for testing. • (c) An accredited and approved DNA laboratory in the State must: <ul style="list-style-type: none"> ○ (1) Notify a law enforcement agency that has submitted a written request for testing, within fourteen days of receiving the request, as to whether the laboratory accepts the request or recommends sending the reported sexual assault evidence kit to another laboratory for testing; and ○ (2) Pursue DNA analysis of a sexual assault evidence collection kit that was accepted from a law enforcement agency to develop DNA profiles that are eligible for entry into the Combined DNA Index System. • (d) The state Combined DNA Index System administrator or their designee shall enter a DNA profile into the Combined DNA Index System database pursuant to § 844D-2; (1) if the sexual assault evidence collection kit resulted in an eligible DNA profile, and (2) if: <ul style="list-style-type: none"> ○ (a) Prior to July 1, 2023, the average completion rate for the analysis and classification required by this section must not exceed 180 days; and



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
844G-5 Cont.	Mandatory submission and testing requirements for sexual assault evidence collection kits Cont.	<ul style="list-style-type: none"> ○ (b) On or after July 1, 2023, the average completion rate for the and classification required by this section does not exceed 90 days. ● (e) For cases in which no judgement of conviction has been entered, and there has been no acquittal or final dismissal, a law enforcement agency that is in possession of a reported sexual assault evidence collection kit must (1) retail the kit for 50 years or (2) until the expiration period of limitation for any prosecutable offense under §701-108, whichever is longer. ● For cases in which a judgement of conviction has been entered, a law enforcement agency that is in possession of a reported sexual assault evidence collection kits must retain the kit pursuant to the requirements of §844D-126. ● (f) A law enforcement agency’s lack of compliance with any of the time requirements of this section must not: <ul style="list-style-type: none"> ○ (1) Constitute grounds to challenge the validity of DNA evidence in any criminal or civil proceeding; ○ (2) Justify a court excluding any evidence generated from a sexual assault evidence collection kit; or ○ (3) Provide the accused or convicted of committing a crime a way to request that the person’s case against them must be dismissed or conviction rescinded. ● (g) This section must not establish a private cause of action or claim on the part of any individual, agency, organization, or other entity against any law enforcement agency or against any accredited and approved DNA laboratory. ● (h) The requirements of this section concerning notice and transfer of a sexual assault evidence collection kit to a law enforcement agency, and a law enforcement agency’s handling of the kit, must not apply to: <ul style="list-style-type: none"> ○ (1) Cases that are under the primary jurisdiction of agencies outside the authority of the States; or



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
844G-5 Cont.	Mandatory submission and testing requirements for sexual assault evidence collection kits Cont.	<ul style="list-style-type: none"> ○ (2) Cases in which jurisdiction may be asserted by more than one agency; provided that all reasonable efforts must be made to determine jurisdiction as soon as practicable; and if that primary jurisdiction is determined to belong to a law enforcement agency under the authority of the State, then notice and transfer of a sexual assault evidence collection kit to the law enforcement agency, and the law enforcement's handling of the kit, must be in accordance with the requirements of this section as of the date on where jurisdiction was established with respect to the kit's collection.
844G-3	Annual statewide inventory and report of sexual assault evidence collection kits	<ul style="list-style-type: none"> ● The department must prepare and submit an annual report to the (1) president of the senate and (2) speaker of the house of representatives no later than twenty days prior to the beginning of each regular session, starting with the regular session of 2019, detailing the prior fiscal year: <ul style="list-style-type: none"> ○ (1) The number of sexual assault evidence collection kits collected in each county; ○ (2) The number of reported sexual assault evidence collection kits collected in each county; ○ (3) The number of unreported sexual assault evidence collection kits collected in each county; ○ (4) The number of reported sexual assault evidence collection kits that were submitted to an accredited and approved DNA laboratory for analysis; ○ (5) The number of analyses that has been completed of the reported sexual assault evidence collection kits submitted to an accredited and approved DNA laboratory for analysis; ○ (6) The number of reported sexual assault evidence collection kits that were not submitted to an accredited and approved DNA laboratory for analysis; ○ (7) The number of sexual assault evidence collection kits disposed of in each county, pursuant to § 844G-4; ○ (8) The number of sexual assault evidence collection kits disposed of in each county, for reasons not provided in § 844G-4, and the reason for disposal;



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
844G-3 Cont.	Annual statewide inventory and report of sexual assault evidence collection kits Cont.	<ul style="list-style-type: none"> ○ (9) All reasons any kit was in an entity’s possession for longer than the periods allowed under § 844G-5; and ○ (10) The number of new prosecutions initiated as a result of an actionable Combine DNA Index System hit on sexual assault evidence kits collected before July 1, 2016. ● The report must be made available to the public on the department’s website.
844G-4	Unreported sexual assault evidence collection kits	<ul style="list-style-type: none"> ● (a) A victim who chooses not to file a police report at the time of undergoing a medical forensic examination: <ul style="list-style-type: none"> ○ (1) May request in writing that the unreported kit be held by the sexual assault program or center in that county; provided that if the victim does not so request, then the appropriate law enforcement agency must take possession of the unreported kit pursuant to § 844G-5; ○ (2) Must not be deemed to have waived the victim’s right to report the crime and to have the victim’s kit tested in the future; and ○ (3) Must be informed of the date the victim’s kits will be disposed of, in writing, at the time of the examination. ● (b) Agencies, organizations, and other entities in possession of unreported sexual assault evidence collection kits must store the kits for at least 6 years if the victim was 18 years or older at the time of the incident; and at least 20 years if the victim was under 18 years old at the time of the incident.



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
805-12	Disposition of unclaimed articles used as evidence	<ul style="list-style-type: none"> • Whenever an article, not subject to forfeiture or other disposition under any other law, which has been offered or admitted in evidence in any trial of a criminal case heard by a district judge, remains in the possession of the judge for a continuous period of one year after the final disposition of the matter where the article was received as evidence, <ul style="list-style-type: none"> ○ the district judge may deliver the article to the chief of police of the county where the judge's circuit lies, together with data as is available in the judge's files relating to the names of the defendants or other persons who might be owners of the article or their attorney's. ○ Then, the chief of police must give notice by postcard or other ordinary mail to each such person or attorney whose address or last known address is available, <ul style="list-style-type: none"> ▪ briefly stating that the article (describing in general terms) was offered or admitted in evidence, ▪ the approximate date of the offer or admission, ▪ the name and number of the case and the name of the court, and that, ▪ unless the article is called for and proof of ownership made within 3 months from the date of mailing the notice, the same shall be disposed of for the use of the county. • In addition, the chief of police of the county must publish a notice once in a newspaper of general circulation published in the county, which notice may be relate to any number of different items and contains the following information above.
523A-53	Unclaimed property subject to delivery to State; presumptions	<ul style="list-style-type: none"> • (a) All tangible unclaimed property is subject to delivery to this State if the last known address of the owner is in this State. <ul style="list-style-type: none"> ○ If the last known address is in this State, any other owner's must be presumed to be in this State.



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
523A-53 Cont.	Unclaimed property subject to delivery to State; presumptions Cont.	<ul style="list-style-type: none"> ○ If the last known addresses of owners are in this State and in one or more other states, the addresses of other owners whose addresses are unknown must be presumed to be within this state, (1) if the federal agency or instrumentality having custody of the unclaimed property initially acquired possession in this State or (2) if the federal agency or instrumentality possessing, holding, controlling, or owning a corporation domiciled in this State. ○ If the records of any (1) officer, (2) department, or (3) agency of the United States do not disclose the address of any owner of unclaimed property, including the ones presumed to be in this State under this section: <ul style="list-style-type: none"> ▪ if the federal agency having custody of the unclaimed property initially acquired possession in this State or ▪ Is a corporation domiciled in this State. ○ All addresses presumed to be in this State are presumed to be within the city and county of Honolulu. <ul style="list-style-type: none"> ▪ For the purpose of this part, it must be presumed that the situs of intangible unclaimed property is in this State if the last known or presumed address of the owner is in this State. ● (b) All tangible unclaimed property is subject to delivery in this State if the federal agency that has custody of the unclaimed property initially acquired possession in this State.
523A-62	Receipts for request for delivery or payment of unclaimed property described in judgement	<ul style="list-style-type: none"> ● The director of finance must request (1) delivery or (2) payment of all unclaimed property described in the judgement which declares the right of the State to receive custody of such property. <ul style="list-style-type: none"> ○ The request must be accompanied by a certified copy of the judgement and directed to an officer, agency, or department of the United States that may have custody, possession, or control of such property. ● The director must provide receipts for all property delivered or paid.



Hawaii Property and Evidence Laws

Hawaii Statute	Description	Synopsis
523A-52	Definition of unclaimed property	<ul style="list-style-type: none"> • For the purposes of this part, unclaimed property means: <ul style="list-style-type: none"> ○ Tangible or intangible personal property, including money, deposits, choses in action in amounts certain, and all debts owed on entrusted funds or other property (except bonuses and gratuities) held by any federal agency or any officer or employee thereof, either occasioned by contract or operation of law or otherwise, and all interest, income, or increment derived from them, minus any lawful charges, which has remained unclaimed by the owner for: <ul style="list-style-type: none"> ▪ (1) One year from the date of maturity or call for payment, if arising from transactions under public debt; or ▪ (2) One year after the property first became payable, demandable, or returnable, if arising from any other transaction.
523A-4	Contents of safe deposit box or other safekeeping depository	<ul style="list-style-type: none"> • Tangible property held in a safe deposit box or other safekeeping depository: <ul style="list-style-type: none"> ○ (1) in this State; ○ (2) in the ordinary course of the holder’s business and proceeds resulting from the sale of the property permitted by law; • Must be presumed abandoned if the property remains unclaimed after more than 5 years after the expiration of the lease or rental period on the box or other depository.
134-68(d) 134-68(e)	Return and disposal of firearms or ammunition Definition of dispose	<ul style="list-style-type: none"> • (d) A county police department may dispose of the firearm or ammunition that was surrendered or removed from a respondent under § 134-67 only 6 months after the date of proper notice to the respondent of the department’s intent to dispose of the firearm or ammunition, unless claimed by the lawful owner. <ul style="list-style-type: none"> ○ If the firearm or ammunition remain unclaimed after 6 months from the notice date, then no party has the right to assert ownership and the department may dispose of the firearm or ammunition. • (e) For the purposes of this section, dispose means: <ul style="list-style-type: none"> ○ (1) selling the firearm or ammunition to a licensed firearms dealer under § 134-31, or; ○ (2) destroying the firearm or ammunition.



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 67-2919(1)	Testing and retention of sexual assault evidence kits	<ul style="list-style-type: none"> The Idaho state police forensic services laboratory tests the sexual assault evidence kit
§ 67-2919(2)(a)	Payment for medical examination using sexual assault evidence kit	<ul style="list-style-type: none"> Victims will be examined regardless of their ability to pay for the examination
§ 67-2919(2)(b)	Medical examination for victims of sexual assault	<ul style="list-style-type: none"> Entities qualified and able to perform medical examinations using the sexual assault examination kit shall not deny medical examinations to victims of reported sexual assault
§ 67-2919(3)	Preparation for Law Enforcement collection of kit	<ul style="list-style-type: none"> Entity performing examination must notify local law enforcement of jurisdiction where sexual assault occurred Must also notify law enforcement that evidence is ready for collection The medical entity collecting the kit shall document in the state kit tracking system any required fields
§ 67-2919(4)	Law Enforcement collection of kits and other evidence	<ul style="list-style-type: none"> After collection, law enforcement must submit the kit and evidence to the Idaho state police forensics laboratory for testing Must be sent for testing as soon as reasonably practicable (no later than 30 days) If evidence belongs to a different jurisdiction, law enforcement must notify the correct jurisdiction within 7 days Correct jurisdiction's law enforcement must collect the kit and evidence within 7 days of notification
§ 67-2919(5)	Submission of sexual assault examination kit results	<ul style="list-style-type: none"> Idaho state police forensic services laboratory shall test such kits and submit eligible results to the Idaho DNA database within 90 days



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 67-2919(6)	Retention of sexual assault evidence kits	<ul style="list-style-type: none"> ● After analysis by the Idaho state police forensic services laboratory, kits shall be returned to and retained by the investigating agency for the following durations: <ul style="list-style-type: none"> ○ <u>Death Penalty cases</u>: until the sentence is carried out and no unapprehended persons exist ○ <u>Felony Cases (includes anonymous kits collected under the violence against women act)</u>: 55 years from the collection of the kit during the medical examination or until sentence is carried out (whichever is first) ○ <u>Cases before July 1, 2019</u>: 10 years from collection of the kit during the medical examination where there is no evidence to support a crime, or when it is no longer being investigated as a crime, or when adult victim expressly indicates no further forensic examination or testing will occur ○ <u>Cases on and after July 1, 2019</u>: where a crime is alleged and the allegation has been determined to be unfounded, ten (10) years from collection of the kit during the medical examination.
§ 67-2919(7)	Destruction of sexual assault evidence kit and other sexual assault case evidence	<ul style="list-style-type: none"> ● Investigating agency shall, upon written request from sexual assault victim (or parent/guardian if victim is a minor, or relative if victim is deceased) provide written notification of the destruction or disposal of a kit and any other sexual assault case evidence ● Must provide notification to the victim no later than 60 days before the date of the destruction ● Victim can petition to have the evidence preserved for a longer time period
§ 67-2919(9)	Tracking system for sexual assault evidence kits	<ul style="list-style-type: none"> ● State police will create a tracking system for all kits in possession of the Idaho state police forensic services laboratory and every law enforcement agency throughout the state



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 67-2919(12)	Notification for victims of sexual assault examination kit status	<ul style="list-style-type: none"> ● A law enforcement agency that submits a sexual assault evidence kit pursuant to subsection (4), shall, upon written request, alert the victim of the following: <ul style="list-style-type: none"> ○ When the sexual assault evidence kit is submitted to the Idaho state police forensic services laboratory; ○ When any evidence sample DNA profile is entered into the Idaho DNA database; ○ When a DNA match occurs; shall state only that a match has occurred and shall not contain any genetic or other identifying information; and ○ When there is any change in the status of the case or reopening of the case
§ 67-2919(13)	State report regarding kit data	<ul style="list-style-type: none"> ● Idaho state police forensic services shall submit a report to the Idaho legislature regarding its examination of sexual assault evidence kits throughout the state in the previous year ● This report shall be available on the website of the Idaho state police and readily available to the public
§ 55-1401 § 55-1402 § 55-1403	Holding and sale of unclaimed property	<ul style="list-style-type: none"> ● Goods, merchandise, or property received by railroad or express company for transportation or safekeeping that is not delivered to owner can be held until freight and charges are paid ● If no person calls for the property within 4 months, carrier may sell the property or as much of it as will pay for freight and charges to the highest bidder at an auction <ul style="list-style-type: none"> ○ Carrier must first give 20 days' notice to the owner of the time and place of sale (if owner is known) ○ Carrier must also advertise the sale in a daily newspaper 10 days in advance (or 4 weeks in advance if a weekly newspaper) ● Additional money made from the sale (after payment of freight, storage, and advertising) is to be paid to the owner upon the owner's request <ul style="list-style-type: none"> ○ Request must be made within 60 days of the sale



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 55-1401 § 55-1402 § 55-1403 Cont	Holding and sale of unclaimed property Cont.	<ul style="list-style-type: none"> • If the owner or his agent fails to demand such surplus within sixty (60) days of the time of such sale, then it must be paid into the county treasury, subject to the order of the owner.
§ 55-403(1-3)	Abandoned or unclaimed property in possession of sheriff or city police department - Sale at public auction	<ul style="list-style-type: none"> • Personal property which has come into the possession of the sheriff of any county or the city police department of any city because it has been abandoned, impounded or left with the sheriff or city police department, or if originally taken into custody under legal process, and which remains unclaimed or unredeemed by the owner for more than 6 months from the date of such abandonment shall be subject to sale by the sheriff or police department at public auction for cash on not less than 5 or more than 10 days' notice • Bicycles need only be unclaimed or unredeemed by the owner for more than 90 days before they can be sold at an auction • Property with a market value less than \$25 need only be unclaimed or unredeemed by the owner for more than 30 days before it can be sold at an auction • When the identity of the owner is known, the sheriff or police must send a copy of the sale or bid to the owner 14 days prior to the sale • Multiple items of personal property may be sold at the same time • Property may be sold singly or in lots
§ 55-403(4)(a)	Abandoned or unclaimed firearms that meet the specifications for law enforcement duty use	<ul style="list-style-type: none"> • Firearm or ammunition that meets the specifications for law enforcement duty use and will be used for official law enforcement duty use and which has come into the possession or custody of the sheriff of any county or the city police department of any city by reason of the firearm or ammunition having been abandoned, impounded or acquired by the sheriff or city police department, which remains unclaimed or unredeemed by the owner for more than 6 months may be converted by the county sheriff or city police department in the county or city in which it was first acquired.



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 55-403(4)(a) Cont.	Abandoned or unclaimed firearms that meet the specifications for law enforcement duty use Cont.	<ul style="list-style-type: none"> ● A serial number record shall be maintained for all firearms converted ● Record shall include the description, acquisition and disposition for each firearm converted.
§ 55-403(4)(b)	Abandoned or unclaimed firearms not converted for law enforcement duty use	<ul style="list-style-type: none"> ● Firearm or ammunition not converted for official law enforcement duty use that can be used by a licensed firearm dealer can be sold to such a dealer ● If no sale is completed, the firearm can be converted to public agency ownership for law enforcement use ● If following conversion, the firearm or ammunition is deemed unusable or unsafe, the firearm or ammunition may be scrapped by melting or other method of destruction
§ 55-403(4)(c)	Abandoned or unclaimed firearms used in a homicide	<ul style="list-style-type: none"> ● A court shall direct the county sheriff or city police department to dispose of any firearm that has been used in the commission of a homicide in a manner the sheriff or city police department deems appropriate
§ 55-403(5)	Confiscated firearms	<ul style="list-style-type: none"> ● Any public agency that confiscates a firearm shall maintain a serial number record, including a record of the acquisition and disposition, of such firearm ● The agency will give the firearm to the sheriff or city police department in the county or city in which the confiscation takes place
§ 55-405(1)	Found Personal Property	<ul style="list-style-type: none"> ● Any person who finds money or goods valued at \$100 or more (aside from firearms, explosives or other deadly weapons) must give written notice of the finding within 10 days to the county clerk of the county in which the money or goods were found (unless the owner is known) ● Within 20 days of finding the property, the finder must publish an ad in the newspaper once each week for 2 weeks stating: <ul style="list-style-type: none"> ○ A general description of the item(s)



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 55-405(1) Cont.	Found Personal Property Cont.	<ul style="list-style-type: none"> ○ Address and phone number of the county clerk ○ Final date by which item(s) must be claimed ● If no person establishes ownership before 3 months from date of notice to county clerk, finder becomes the rightful owner ● If finder fails to comply with the steps above, the finder will owe the county clerk the value of the goods or money found <ul style="list-style-type: none"> ○ The county clerk would then follow the newspaper publication steps listed above until the owner claims the property ● If the owner does not claim the property or money within 3 months, the owner forfeits the rights to the value of the goods or money
§ 19-5503	Idaho DNA Database Act of 1996: Responsibility for managing DNA Programs	<ul style="list-style-type: none"> ● Idaho state police through the bureau of forensic services shall be responsible for management and administration of the state's database and databank identification program
§ 19-5504 § 19-5505	Idaho DNA Database Act of 1996: Implementation of the Act and use of the database	<ul style="list-style-type: none"> ● Idaho police and other state officials will ensure DNA samples are collected in a timely manner ● The bureau of forensic services shall perform or contract for DNA for law enforcement purposes <ul style="list-style-type: none"> ○ They shall store, compile, and analyze DNA samples ● They shall use the DNA as it relates to: <ul style="list-style-type: none"> ○ Forensic casework ○ Offenders required to provide samples ○ Identification and location of missing persons ○ Anonymous DNA records for research ● DNA profiles may be used in court as evidence (if admissible)



Idaho Property and Evidence Laws

Idaho Code	Description	Synopsis
§ 19-5516	Idaho DNA Database Act of 1996: Disposal of DNA samples	<ul style="list-style-type: none"> ● The bureau of forensic services is authorized to have unused portions of samples or expired samples disposed ● Procedure for disposal must be in the normal course of business and in an environmentally approved manner ● The disposal method must protect the identity and origin of samples from disclosure to those who are not part of law enforcement
§ 39-1501	Vaccines, antitoxins and other sera-- Storage pending sale--Date of sale	<ul style="list-style-type: none"> ● It shall be the duty of any person, persons, firm, corporation, or other person, having for sale any biological products such as vaccines or any other sera used in the prevention or treatment of illnesses, and which deteriorates with age, or when exposed to heat or light, or freezing, to keep them stored in a container where the temperature is between 50-60 degrees F, and not exposed to light ● These biological products will not be offered for sale or dispensed in any manner unless they are well within the expiration date



Idaho Property and Evidence Laws

Idaho Introduced Bill	Description	Synopsis
<p>2012 Bill Text ID H.B. 620</p>	<p>Introduced amendment §19-5519 to require that certain biological evidence be retained and preserved</p>	<ul style="list-style-type: none"> ● A custodial entity shall retain and preserve all biological evidence collected in connection with any felony crime in which identity is or was an issue in the underlying case, together with a record showing a chain of custody ● Biological evidence shall be preserved in a condition that is suitable for DNA analysis and preserved as follows: <ul style="list-style-type: none"> ○ Until 60 days after completion of the sentence or ○ During the time that a case remains unresolved ● The investigatory agency shall establish procedures for retaining and preserving biological evidence ● The custodial entity is not required to preserve such evidence that is of a size, bulk, quantity or physical character that renders preservation impracticable <ul style="list-style-type: none"> ○ If impracticable, the custodial agent will preserve those pieces that are likely to contain relevant biological evidence of the crime ● The custodial entity may petition the court at any time for an order allowing the custodial entity to dispose of the biological evidence ● Biological evidence means biological material suitable for DNA analysis including, but not limited to, a sexual assault forensic examination kit, semen, blood, saliva, hair or skin tissue.



Illinois Property and Evidence Laws

Illinois Statute	Description	Synopsis
410 Ill. Comp. Stat. 70/5.1	Storage, retention, and dissemination of photo documentation relating to medical forensic services	<ul style="list-style-type: none"> • Photo documentation taken during a medical forensic examination shall be maintained by the hospital or approved pediatric health care facility as part of the patient's medical record • Photo documentation shall be stored and backed up securely and shall require limited access. • The photo documentation for survivor under the age of 18, will be retained for 60 years after the survivor reaches the age of 18. • Photo documentation of survivor over the age of 18 will be retained for 20 years. • Photo documentation of the sexual assault survivor's injuries, anatomy involved in the assault, or other visible evidence on the sexual assault survivor's body may be used for peer review, expert second opinion, or in a criminal proceeding or investigations
755 Ill. Comp. Stat. 5/24-20	Deposit of unclaimed money	<ul style="list-style-type: none"> • When a receipt of a ward, a distributee of an estate, or a claimant cannot be obtained for money or any other asset of the estate, by permission of the court, they may sell it and deposit the money in with any other money of the estate belonging to the ward, distributee, or claimant with the county treasurer of the county in which the estate is being administered. • The county treasurer shall give a receipt. • The person who is entitled to the money can obtain it with interest.
725 Ill. Comp. Stat. 5/110-17	Unclaimed bail deposits	<ul style="list-style-type: none"> • Any money used to secure bail that has not been claimed 3 years after the accused has been discharged, will be considered abandoned and subject to disposition under Revised Uniform Unclaimed Property Act
765 Ill. Comp. Stat. 1026/15-101	Revised Uniform Unclaimed Property Act	<ul style="list-style-type: none"> • Act outlining (1) General provisions (2) Presumption of abandonment (3) Rules for taking custody of property presumed abandoned (4) report by holder (5) Notice of apparent owner of property presumed abandoned (6) Taking custody of property of administrator (7) sale of property by administrator (8) administration of property (9) claim to recover property from administrator (10) verified report of property; examination of records (11) determination of liability; punitive holder remedies (12) enforcement (13) agreement to locate (14) confidentiality and securities.



Illinois Property and Evidence Laws

Illinois Statute	Description	Synopsis
625 Ill. Comp. Stat. 5/4-208	Disposal of unclaimed vehicles	<ul style="list-style-type: none"> • In cities over 500,000 and where a car lays unclaimed for 18 or more days after notice has been given, the vehicle shall be disposed. • If the care is less than 7 years old, it will be sold at public auction. • If the car has dealer plates, it will be sent to the dealer
625 Ill. Comp. Stat. 5/4-209	Disposal of unclaimed vehicles more than 7 years of age; disposal of abandoned or unclaimed vehicles without notice	<ul style="list-style-type: none"> • If a car is over 7 years old and is unclaimed (under the conditions stated in 5/4-208), the car will be impounded for 10 days while attempting to notify the owner or lienholder. • After 10 days, the care will be recycled, auctioned or sold.
625 Ill. Comp. Stat. 45/3C-8	Disposal of unclaimed watercraft	<ul style="list-style-type: none"> • In cities over 500,000 and where a watercraft lays unclaimed for 15 or more days after notice has been given, the vehicle shall be disposed. • If the watercraft is under 7 years old, 30 days' notice will be given to the owner. If still not claimed, it will be sold.
720 Ill. Comp. Stat. 5/24-8	Firearm tracing	<ul style="list-style-type: none"> • Upon recovering a firearm from anyone not permitted by federal or state law to possess a firearm, law enforcement will use the best available information to determine how and from whom the person gained possession of the firearm • Likewise, for a gun used for felony or seems o have been lost, mislaid, stolen, or otherwise unclaimed, a local law enforcement agency shall use the best available information, including a firearms trace when necessary, to determine prior ownership of the firearm.
30 Ill. Comp. Stat. 20/5	Preservation of public records	<ul style="list-style-type: none"> • All records of receipts and disbursements by county treasurers and ex-officio county collectors shall be preserved.
720 Ill. Comp. Stat. 5/33-5	Preservation of evidence	<ul style="list-style-type: none"> • (a) It is unlawful for a law enforcement agency or an agent acting on behalf of the law enforcement agency to intentionally fail to comply with the provisions of subsection • (b) Sentence. A person who violates this Section is guilty of a Class 4 felony.



Illinois Property and Evidence Laws

Illinois Statute	Description	Synopsis
5 Ill. Comp. Stat. 160/8	Preservation of records	<ul style="list-style-type: none">• The head of each agency shall cause to be made and preserved records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.
720 Ill. Comp. Stat. 5/32-8	Tampering with public records	<ul style="list-style-type: none">• A person commits tampering with public records when he or she knowingly, without lawful authority, and with the intent to defraud any party, public officer or entity, alters, destroys, defaces, removes or conceals any public record.• Consequences include felony, may forfeit public office, may forfeit pension, and may owe fines.



Indiana Property and Evidence Laws

Indiana Code	Description	Synopsis
5-15-1-1	Copies or reproductions; destruction of originals; evidentiary value of copies	<ul style="list-style-type: none"> • Records may be copied using any accurate optical imaging process when deemed necessary to preserve or reduce space • The original may be destroyed once copied in this way and has been scheduled for destruction • These copies may be used as the original • Copies must meet the standards under IC 5-15-5.1-8 • Does not apply to the office of judicial administration or the supreme court
5-15-5.1-8	Central micrographics laboratory; microfilming standards	<ul style="list-style-type: none"> • The oversight committee of the state imaging and microfilm laboratory will create the regulations for quality standards of microfilming and imaging
5-15-5.1-13	Confidential records; destruction	<ul style="list-style-type: none"> • Confidential records must be destroyed in such a manner that they cannot be read or reconstructed
5-15-5.1-14	Mutilation, sale, loan, or other disposition of records by public official or agency	<ul style="list-style-type: none"> • Public official may not destroy, sell, or otherwise dispose of any government record except with the written consent of the administration
5-15-6-3	Destruction of financial records; conditions	<ul style="list-style-type: none"> • No financial records shall be destroyed until the audit has been completed or the financial records have been copied
16-21-8-3	Forensic medical exams and additional forensic services; sex crime victims; consent	<ul style="list-style-type: none"> • Exams and services to an alleged sex crime victim with consent of the victim
16-21-8-10	Law Enforcement Procedures	<ul style="list-style-type: none"> • LEO Obtain sample within 48 hours and transport to secured storage • Store at least one year or until the victim reports the sex crime • Sample destruction notification provided through the web based claims system • Victim may register through the system • Each county shall develop a plan for the storage and destruction of samples • Implementation and failure to comply
16-21-8-12	Statutes and storage updates for web-based claims reimbursement and sexual assault examination kit tracking system	<ul style="list-style-type: none"> • Crime lab, LEO, Prosecuting attorney, provider will all provide status and storage updated to the kit tracking system



Indiana Property and Evidence Laws

Indiana Code	Description	Synopsis
34-24-1-1	Seizure of vehicles or other property	<ul style="list-style-type: none"> • The following may be seized: <ul style="list-style-type: none"> ○ cars if they are used to transport controlled substance, stolen goods, hazardous waste, a bomb; ○ Money, negotiable instruments, securities, weapons, communications devices, or any property used to commit a felony terrorist offense or offense under IC 35-47 or in violation of a criminal statute; ○ Any portion of real property purchased with money traceable to a violation of a criminal statute ○ A vehicle that is used to commit murder, dealing of a controlled substance resulting in death, kidnapping, criminal confinement, rape, child molesting, child exploitation, and any offense in furtherance of terrorism ○ Real property used to commit certain felonies ○ Equipment and recordings used to commit fraud ○ Recordings sold, rented, transported, or possessed in violation of IC 24-4-10 ○ Property or an enterprise that is the object of a corrupt business violation ○ Unlawful telecommunication devices ○ Any equipment used in violation of IC 35-42-4 ○ Destructive devices in violation of IC 35-47.5 ○ Tobacco products sold in violation of IC 24-3-5 ○ Property used to commit counterfeiting or forgery ○ From a person convicted under IC 25-26-14-26(b) ○ Vehicle used by a person who operates while intoxicated ○ Real or personal property used to commit offense under IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f) ○ Automated sales suppression device ○ Real or personal property used to commit, facilitate, or escape from prostitution or human trafficking



Indiana Property and Evidence Laws

Indiana Code	Description	Synopsis
34-24-1-1 Cont.	Seizure of vehicles or other property Cont.	<ul style="list-style-type: none"> • A vehicle used in business may not be seized unless it is proven by a preponderance of the evidence that the owner knowingly permitted it to be used in the conduct • Equipment under (a)(10) is subject to the preponderance of the evidence standard • Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found on or near a person will be presumed to have been used to violate the statute • A vehicle operated by a person who is not the owner or the spouse of the owner or the vehicle
34-24-1-2	Seizure procedure; custody; provisional release	<ul style="list-style-type: none"> • Property must be part of lawful arrest, search, or inspection; part of a prior judgement; ex-parte determination • Shall be returned if court does not find probable cause • LEO making seizure may place under seal, remove to a place designated by court, require other agency to take custody • If car or real property was seized from person (not the owner) the owner may file a petition to gain possession • Procedures for that petition and hearing
34-24-1	Forfeiture of Property Used in Violation of Certain Criminal Statutes	<ul style="list-style-type: none"> • There might be more in this section to look at as well
35-33-5-4	Return; initial disposition of property seized	<ul style="list-style-type: none"> • When warrant is executed: the officer shall make a return on it to the judge who issued the warrant including the time and items seized AND the items seized shall be securely held by the LEO
35-33-5-5	Disposition of property held as evidence; records	<ul style="list-style-type: none"> • All items of property seized shall be securely held by the LEO under order of the court, except as provided in this section. • Property unlawfully obtained may be returned by LEO to its owner before trial in accordance with IC 35-43-4-4(h) • Following the final trial: (1) property which may be lawfully possessed may be returned to its owner, may eventually be disposed of if owner cannot be found; (2) unlawful property may be destroyed; (3) A firearm from a person who is dangerous (IC 35-47-14-1) shall be retained, returned, or disposed of



Indiana Property and Evidence Laws

Indiana Code	Description	Synopsis
35-33-5-5 Cont.	Disposition of property held as evidence; records Cont.	<ul style="list-style-type: none"> • Disposition of property used as evidence done by court trying the cause • An LEO may destroy controlled substances (including drug paraphernalia IC 35-48-4-8.5) without a court order if: (1) they preserve enough to demonstrate that it was associated with the illegal manufacture of drugs; (2) they take photographs; (3) they complete a chemical inventory report • For purposes of appeal, a photograph and adequate description must be obtained before the disposition of the property, if there is a retrial this evidence shall be admissible • Certified records of disposition shall be maintained, and destruction shall be witnessed by two people • This section does not affect the procedure for the disposition of firearms seized by LEOs • Property sold at auction must be stamped • Prosecuting attorney may move to have property seized under IC 34-24-1 transferred to the appropriate federal authority
35-37-4-5	Evidence unlawfully obtained by officer in good faith; exclusion	<ul style="list-style-type: none"> • Evidence unlawfully obtained, but in good faith may not be excluded
35-37-4-6	Application of section; “protected person”; applicable offenses; admissibility of statement or videotape; notice to defendant; jury instructions; hearing as evidence	<ul style="list-style-type: none"> • (h) videotape or statement may be admitted in some instances as evidence
35-38-7-14	Preservation and inventory or testing results	<ul style="list-style-type: none"> • States must preserve for the pendency of the proceeding • State shall prepare an inventory or the evidence and give to the defense counsel and the court • If evidence is intentionally destroyed after the court orders preservation, there may be sanctions
35-38-7-15	Discretionary orders by court; elimination samples	<ul style="list-style-type: none"> • The court may order the preservation of some samples and samples for elimination of third parties



Indiana Property and Evidence Laws

Indiana Code	Description	Synopsis
35-37-7	Postconviction DNA Testing and Analysis	<ul style="list-style-type: none"> • There may be more worth looking into here as well
35-43-4-4 (h)	Evidence	Property held by a LEO that was stolen may be returned to its owner if: <ul style="list-style-type: none"> • (1) photographed • (2) receipt is obtained from owner • (3) Prosecuting attorney has not requested that the LEO decline requests for return • (4) the property must be lawfully possessed by the owner
35-47-14-5	Hearing to determine whether firearm should be returned or retained; notice and location	<ul style="list-style-type: none"> • Hearing not later than 14 days after the filing of a search warrant • Inform prosecuting attorney and the individual from whom the firearm was seized
35-47-14-6	Hearing to determine whether firearm should be returned or retained; determination	<ul style="list-style-type: none"> • State had burden to prove all material facts by clear and convincing evidence • (e) If the court orders a law enforcement agency to retain a firearm, the law enforcement agency shall retain the firearm until the court orders the firearm returned or otherwise disposed of.
35-47-14-7	Hearing to determine whether firearm should be returned or retained; return to owner	<ul style="list-style-type: none"> • If the court determines that the person from who the firearm was seized is dangerous AND the firearm is owned by another individual, the court may order it returned
35-47-14-9	Destruction or disposal of firearm	<ul style="list-style-type: none"> • If five years have passed the LEO may destroy a firearm in accordance with IC 35-47-3.
35-47-14-10	Request by individual to sell firearm at auction; court order to retain firearm; proceeds of sale	<ul style="list-style-type: none"> • (a) owner may petition for what to do with the firearm
35-47-14-12	Storage of firearm seized under IC 25-47-14	<ul style="list-style-type: none"> • Reasonable care to ensure that it is not lost or damaged and is prohibited from marking; liable for any damage or loss from negligence
35-47-14	Proceedings for the Seizure and Retention of a Firearm	<ul style="list-style-type: none"> • Additional information can be found here



Iowa Property and Evidence Laws

Iowa Code	Description	Synopsis
809.1	Seizable property is any of the following	<ul style="list-style-type: none"> • Property which is relevant in a criminal prosecution or investigation • Property defined by law to be forfeitable property • Seized property means property taken or held by any law enforcement agency without the consent of the person <ul style="list-style-type: none"> ○ Seized property does not include property in custody for safekeeping or that taken with owner's consent ○ If consent is withdrawn or insufficient the property shall be returned or deemed seized at time of demand and refusal for the property
809.2	Notice of seizure	<ul style="list-style-type: none"> • The officer taking possession of the seized property shall take written inventory the property and deliver a copy of the inventory to person from who it was seized. • The inventory shall include (1) name of person taking custody of the seized property, (2) date and time of seizure, (3) the law enforcement agency seizing the property
809.5.1(a-e)	Disposition of seized property	<ul style="list-style-type: none"> • Seized property shall be returned to the owner if: <ul style="list-style-type: none"> ○ The property had been photographed and the photograph will be used as evidence ○ The property is no longer required in investigation ○ If owner's possession is not prohibited by law ○ If a forfeiture claim has not been filed on behalf of the state • If aggregated fair market property value is greater than \$500, the seizing agency shall serve notice by personal service or certified mail to last known address of owner • A person having an ownership or possessory right must file a written claim for the property with seizing agency within thirty days from date of receipt of notice and must take possession of the property within thirty days of the expiration time for filling a written claim <ul style="list-style-type: none"> ○ If no written claim is filled or possession within time period the property is deemed abandoned • The seizing agency shall not release the property to any party until the expiration of the date for filling a claim <ul style="list-style-type: none"> ○ The seizing agency will file a copy of claims for property with the clerk of the court



Iowa Property and Evidence Laws

Iowa Code	Description	Synopsis
809.5.1(f)	Event owner cannot be located, or property is deemed abandoned	<ul style="list-style-type: none"> • If aggregate fair market value is greater than \$500, forfeiture proceedings shall be initiated • If the court does not order property forfeited to the state in forfeiture proceedings then the seizing agency shall become the owner and may dispose of it in a reasonable manner • If the property fair market value is less than \$500 then the seizing agency shall become the owner of the property and may dispose of it in a reasonable manner
809.5.1(f)(3)	Disposition of firearms or ammunition	<ul style="list-style-type: none"> • Firearms or ammunition shall be deposited with the department of public safety <ul style="list-style-type: none"> ○ Firearms or ammunition may be held by the department of public safety, used for police testing, or comparison by the criminalistics laboratory, or may be destroyed or disposed of by the department of public safety
809.5.2(a-c)	Seized property shall be returned unless	<ul style="list-style-type: none"> • Upon filling a claim and hearing by the court property will be returned unless: <ul style="list-style-type: none"> ○ Possession by claimant is prohibited by law ○ There is a forfeiture notice on file and not disposed of in favor of the claimant prior to or in the same hearing ○ The state has demonstrated that the evidence is needed in a criminal investigation or prosecution
809.21	Sale of certain ammunition and firearms	<ul style="list-style-type: none"> • Ammunition and firearms which are not illegal, and which are not offensive weapons may be sold by the department of public safety at public auction • The department of public safety may sell at public auction forfeited legal weapons received from the director of the department of natural resources, except that rifles and shotguns shall be retained by the department of natural resources for disposal according to its rules • Sale of ammunition or firearms shall be made only to federally license firearms dealers or persons who have permit to purchase the firearms • All sales, less reasonable department expenses, shall be deposited in the general fund of the state
661-150.6(1)	Disposition of evidence submitted to laboratory	<ul style="list-style-type: none"> • Evidence will be returned to the submitting agency, unless <ul style="list-style-type: none"> ○ Retention of evidence would be beneficial for future analysis ○ Returning presents a hazard to health and safety



Iowa Property and Evidence Laws

Iowa Code	Description	Synopsis
661-156.2(81)	Definitions (DNA Database)	<ul style="list-style-type: none"> • The following definitions apply: <ul style="list-style-type: none"> ○ “Database” means the DNA database located in the division of criminal investigation criminalistics laboratory. ○ “Department” means the Iowa department of public safety ○ “DNA” means deoxyribonucleic acid. ○ “Expungement” means the removal of information from the DNA database, effectively severing any ability to link a DNA profile and an individual ○ “Laboratory” means the division of criminal investigation criminalistics laboratory
661-156.8(81)	Storage of DNA samples	<ul style="list-style-type: none"> • Samples of DNA submitted for inclusion in the database shall be stored under normal office conditions
81.2.(1-6)	Persons required to submit a DNA sample	<ul style="list-style-type: none"> • A person who receives a deferred judgment for a felony or against whom a judgment or conviction for a felony or aggravated misdemeanor has been entered shall be required to submit sample for DNA profiling • A person determined to be a sexually violent predator pursuant • A person found not guilty by reason of insanity of an offense that requires DNA profiling • A juvenile adjudicated delinquent of an offense that requires DNA profiling of an adult offender • An offender placed on probation shall immediately report to the judicial district department of correctional services after sentencing so it can be determined if the offender has been convicted of an offense requiring DNA profiling • A person required to register as a sex offender
81.3(1-4)	Establishment of DNA database and DNA data bank	<ul style="list-style-type: none"> • The division of criminal investigation shall conduct DNA profiling of a DNA sample submitted in accordance with this section. • A DNA sample shall be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for persons required to submit a DNA sample • A DNA sample may be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for any of the following reasons:



Iowa Property and Evidence Laws

Iowa Code	Description	Synopsis
81.3(1-4) Cont.	Establishment of DNA database and DNA data bank Cont.	<ul style="list-style-type: none"> ○ Crime scene evidence and forensic casework ○ A relative of a missing person. ○ An anonymous DNA profile used for forensic validation, forensic protocol development, or quality control purposes, or for the establishment of a population statistics database ○ A fingerprint record of a person required to submit a DNA sample shall also be submitted to the division of criminal investigation with the DNA sample to verify the identity of the person required to submit a DNA sample
81.4(1-4)	Collecting, submitting, analyzing, identifying, and storing DNA samples and DNA	<ul style="list-style-type: none"> ● The division of criminal investigation shall adopt rules for the collection, submission, analysis, identification, storage, and disposition of DNA records ● A supervising agency having control, custody, or jurisdiction over a person shall collect a DNA sample from a person required to submit a DNA sample ● A person required to submit a DNA sample who refuses to submit a DNA sample may be subject to contempt proceedings ● The division of criminal investigation shall conduct DNA profiling on a DNA sample or may contract with a private entity to conduct the DNA profiling
81.9(1-3)	Expungement of DNA records	<ul style="list-style-type: none"> ● A person whose DNA record has been included in the DNA database or DNA data bank may make a written request to the division of criminal investigation for the expungement of the DNA record from the DNA database and the DNA bank <ul style="list-style-type: none"> ○ The written request shall contain a certified copy of the final court order reversing the conviction, adjudication, or civil commitment, and a certified copy of the dismissal, and any other information necessary to ascertain the validity of the request ● If the division of criminal investigation determines that the person is otherwise obligated to submit a DNA sample, the DNA records shall not be expunged, and the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting its decision



Iowa Property and Evidence Laws

Iowa Code	Description	Synopsis
81.9(1-3) Cont.	Expungement of DNA records Cont.	<ul style="list-style-type: none">• The division of criminal investigation is not required to expunge or destroy a DNA record pursuant to this section, if expungement or destruction of the DNA record would destroy evidence related to another person



Kansas Property and Evidence Laws

Kansas Statute	Description	Synopsis
22-2512(a)	Custody and Disposition of Seized Property	<ul style="list-style-type: none"> ● Validly seized property is to be safely kept by seizing officers unless otherwise directed by the magistrate and kept for so long as necessary to be produced as evidence on any trial. ● Property is not to be taken from the officer having it in custody so long as it is or may be required as evidence in any trial. ● The officer seizing the property shall give a receipt to the person detained or arrested describing each article of property being held and must file a copy of such receipt with the magistrate before whom the person detained or arrested is taken. ● Where seized property is no longer required as evidence in the prosecution of any indictment or information, the court which has jurisdiction of such property may transfer the same to the jurisdiction of any other court.
22-2512(b)(1)	Disposal of Hazardous Materials	<ul style="list-style-type: none"> ● Any law enforcement officer who seizes hazardous materials as evidence may collect representative samples of such materials, and lawfully destroy or dispose of the remaining quantity of such hazardous materials.
22-2512(b)(3)	Definition of Hazardous Materials	<ul style="list-style-type: none"> ● Any substance which is capable of posing an unreasonable risk to health, safety and property ● Any substance which is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. ● Includes, but isn't limited to, substances listed in the table of hazardous materials contained in the code of federal regulations title 49 and national fire protection association's fire protection guide on hazardous materials.



Kansas Property and Evidence Laws

Kansas Statute	Description	Synopsis
22-2512(c)(1)	Disposal of Property Stolen, Embezzled, Obtained by False Pretenses, Or otherwise Obtained Unlawfully	<ul style="list-style-type: none"> ● Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully shall be returned to the rightful owner.
22-2512(c)(2)	Restoration of Money	<ul style="list-style-type: none"> ● Money is to be returned to the rightful owner. ● However, if the money was contained in a slot machine or used in unlawful gambling or lotteries, it is forfeited to the state treasurer.
22-2512(c)(3)	Property which is unclaimed or has no Known Owner	<ul style="list-style-type: none"> ● Property which is unclaimed or has no Known Owner is to be sold at public auction to be held by the Sheriff. ● All proceeds, minus the cost of sale and storage, are paid to the state treasurer.
22-2512(c)(4)	Disposal of Contraband	<ul style="list-style-type: none"> ● Articles of contraband shall be destroyed. ● Except that any such articles the disposition of which is otherwise provided by law shall be dealt with as written into law. ● Any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court may be sold and the proceeds paid to the state treasurer.
22-2512(c)(5)	Disposal of Explosives	<ul style="list-style-type: none"> ● Explosives, bombs, and similar devices, which have been used to commit a crime, may be returned to the rightful owner. ● Or, in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation.



Kansas Property and Evidence Laws

Kansas Statute	Description	Synopsis
22-2512(c)(6)(A)-(B)	Disposal of Firearms and Ammunition	<ul style="list-style-type: none"> ● Except as provided in other statutes, any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be: <ul style="list-style-type: none"> ○ Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale, or for trade for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use; ○ Forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory; ○ Forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison or other forensic science purposes; or ○ Forfeited to the Kansas department of wildlife, parks and tourism. ● Any weapon which cannot be forfeited due to its condition, or which was used in commission of a felony, shall be destroyed.
22-2512(c)(7)	Disposal of Controlled Substances	<ul style="list-style-type: none"> ● Forfeited controlled substances shall be dealt with in accordance with the Kansas standard asset seizure and forfeiture act. ● Controlled substances which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state.
22-2512(c)(8)	Disposal of All Other Property	<ul style="list-style-type: none"> ● For all other property, manner of disposal lies with the sound discretion of the court.
22-2512(d)	Return of a Weapon or Ammunition to an Individual who is not Convicted	<ul style="list-style-type: none"> ● If the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon was seized, then within 30 days after the conclusion of the case, the law enforcement agency that seized the weapon, so long as it is not stolen, shall notify the person from whom it was seized that the weapon may be retrieved. ● The notification will include the location where the weapon may be retrieved.



Kansas Property and Evidence Laws

Kansas Statute	Description	Synopsis
65-448(b)	Storage and Disposal of Sexual Assault Kits Collected that are not Released to Law Enforcement	<ul style="list-style-type: none"> ● All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination. ● Kits that are not released are to be kept for five years in the evidence storage facilities of the Kansas bureau of investigation. ● After five years, those kits shall be destroyed by the Kansas bureau of investigation.
32-1159(b)	Payment for Storage of a Vessel	<ul style="list-style-type: none"> ● If a criminal conviction is obtained as a result of a law enforcement officer's preservation and storage of a vessel which they believed was either evidence itself or contained evidence, the convicted party must pay any storage fee. ● If no conviction is obtained, the seizing agency pays any storage fees.
21-6002(a)(5)	Destroying, Tampering, or Concealing Evidence	<ul style="list-style-type: none"> ● Destroying, Tampering, or Concealing Evidence by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment is considered official misconduct.
21-6002(b)(1)(B)	Penalty for Destroying, Tampering, or Concealing Evidence	<ul style="list-style-type: none"> ● Destroying, Tampering, or Concealing Evidence is a: <ul style="list-style-type: none"> ○ Severity level 8, nonperson felony if the evidence is evidence of a crime which is a felony; or ○ A class A nonperson misdemeanor if the evidence is evidence of a crime which is a misdemeanor.
21-2511(h)(1)	Establishing, implementing and maintaining a statewide automated DNA databank of certain persons required to register as offenders	<ul style="list-style-type: none"> ● Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database from certain persons who are required to register as an offender pursuant to the Kansas offender registration act, or any adult arrested or charged or juvenile placed in custody for or charged with the commission of any of the following offenses, regardless of the sentence imposed. <ul style="list-style-type: none"> ○ These persons are required to submit biological samples authorized by and given to the Kansas bureau of investigation. ● It is to be capable of, but not limited to, searching, matching and storing profile records. ● Kansas bureau of investigation shall participate in the federal bureau of investigation's combined DNA index system program by sharing data.



Kansas Property and Evidence Laws

Kansas Statute	Description	Synopsis
21-2511(h)(3)	Kansas bureau of investigation shall be the state central repository for all profile records and samples of certain persons.	<ul style="list-style-type: none"> ● The Kansas bureau of investigation shall be the state central repository for all profile records of the certain persons designated in K.S.A. 21-2511.
21-2511(i)(1)(A)-(B)	Collection, Maintenance, and Destruction of Samples under 21-2511	<ul style="list-style-type: none"> ● The manner of Collection, Maintenance, and Destruction of Samples under 21-2511, is to be determined by rules and regulations established by the Kansas bureau of investigation.



Kentucky Property and Evidence Laws

Kentucky Statute	Description	Synopsis
KRS § 422.285	Person convicted of certain offenses may request DNA testing, right to counsel, deposit, court orders, cost, access to reports, preservation of evidence, dismissal, and hearing when results are favorable to petitioner.	<ul style="list-style-type: none"> ● If a petition is filed pursuant to this section, the court will order the state to preserve all evidence in the state’s possession or control that could be subject to DNA testing and analysis during the pendency of the of the proceeding. ● The state shall prepare an inventory of the evidence and submit a copy to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt. ● The court may make any other orders that the court deems appropriate, including designating any of the following: <ul style="list-style-type: none"> ○ The preservation of some of the sample for replicating the testing and analysis; and ○ Elimination samples from third parties.
KRS § 422.287	Motion for DNA testing of evidence, court order, results, and maintaining results.	<ul style="list-style-type: none"> ● If the defendant is convicted of any offense for which DNA test and analysis results are required to be maintained by law, the DNA test and analysis results obtained pursuant to this section shall be utilized for that purpose, whether or not the test and analysis results were introduced in the case.
Ky. Rev. Stat. § 524.140(1)	Disposal of biological evidence that may be subject to DNA testing general terms	<ul style="list-style-type: none"> ● a) “biological evidence” means: (1) contents of a sexual assault evidence collection kit; or (2) any item or representative sample taken from an item that contains blood, saliva, sperm, hair, tissue, bones, teeth, or other bodily fluids that was collected as part of a criminal investigation and that reasonably may be used to incriminate or exculpate any person from an offense or delinquent act ● b) “defendant” means a person charged with a: (1) capital offense, Class A felony, Class B felony, or Class C felony, or (2) Class D felony under KRS Ch. 510. ● c) “following trial” means after: 1) the first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or 2) the time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.



Kentucky Property and Evidence Laws

Kentucky Statute	Description	Synopsis
Ky. Rev. Stat. § 524.140(2)	Exclusions for the prohibition of disposing of evidence.	<ul style="list-style-type: none"> ● No item of biological evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to DNA evidence testing and analysis in order to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of investigation or prosecution, or to confirm the guilty or innocence of a criminal defendant, shall be disposed of prior to a criminal trial unless: <ul style="list-style-type: none"> ○ (a) The evidence has been in custody not less than fifty (50) years; or ○ (b) The evidence has been in custody not less than ten (10) years; and <ul style="list-style-type: none"> ▪ (1) The prosecution has been determined that the defendant will not be tried for the criminal offense; and ▪ (2) The prosecution has made a motion, before the court in which the case would have been tried, to destroy the evidence.
Ky. Rev. Stat. § 524.140(3)	Disposal of Evidence following trial	<ul style="list-style-type: none"> ● No item of biological evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to DNA evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of following the trial unless: <ul style="list-style-type: none"> ○ (a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial; ○ (b) The evidence was not introduced at the trial, or if introduced at the trial, was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; ○ (c) The trial resulted in the defendant being found not guilty or the charged were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or



Kentucky Property and Evidence Laws

Kentucky Statute	Description	Synopsis
Ky. Rev. Stat. § 524.140(3) Cont.	Disposal of Evidence following trial Cont.	<ul style="list-style-type: none"> ● (d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.
Ky. Rev. Stat. § 524.140(4)	Motion for destroying evidence.	<ul style="list-style-type: none"> ● The burden of proof for a motion to destroy biological evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.
Ky. Rev. Stat. § 524.140(5)	Describes laboratory analysis with respect to preserving evidence	<ul style="list-style-type: none"> ● It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumed and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met: <ul style="list-style-type: none"> ○ (a) The Department of Kentucky State Police laboratory uses a method of testing and analysis which preserved as much of the biological material or other evidence tested and analyzed as is reasonably possible; or ○ (b) If the Department of Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties: <ul style="list-style-type: none"> ▪ (1) That the entire sample of evidence may be destroyed by the testing and analysis; ▪ (2) The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results; ▪ (3) The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and



Kentucky Property and Evidence Laws

Kentucky Statute	Description	Synopsis
Ky. Rev. Stat. § 524.140(5) Cont.	Describes laboratory analysis with respect to preserving evidence Cont.	<ul style="list-style-type: none"> ▪ (4) The Department of Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.
Ky. Rev. Stat. § 524.140(6)	Penalty for wrongfully destroying evidence.	<ul style="list-style-type: none"> ● Destruction of evidence in violation of this section shall be a violation of KRS 524.100.
Ky. Rev. Stat. § 524.140(7)	Vests authority in the appropriate governmental authority to preserve evidence.	<ul style="list-style-type: none"> ● Subject to KRS 422.285(9), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis.
KRE 103	Rulings on evidence – informs trial counsel how to preserve evidence objections before and during trial so that appellate courts (and trial level courts hearing new trial) may grant relief.	<ul style="list-style-type: none"> ● (a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected; and <ul style="list-style-type: none"> ○ (1) Objection. If the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or ○ (2) Offer of proof. If the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked. ● (b) Record of offer and ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form. ● (c) Hearing of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.



Kentucky Property and Evidence Laws

Kentucky Statute	Description	Synopsis
KRE 103 Cont.	<p>Rulings on evidence – informs trial counsel how to preserve evidence objections before and during trial so that appellate courts (and trial level courts hearing new trial) may grant relief.</p> <p>Cont.</p>	<ul style="list-style-type: none"> ● (d) Motions in limine. A party may move the court for a ruling in advance of trial on the admission or exclusion of evidence. The court may rule on such a motion in advance of trial or may defer a decision a decision on admissibility until the evidence is offered at trial. A motion in limine resolved by order of record is sufficient to preserve error for appellate review. Nothing in this rule precludes the court from reconsidering at trial any ruling made on a motion in limine. ● (e) Palpable error. A palpable error in applying the Kentucky Rules of Evidence which affects the substantial rights of a party may be considered by a trial court on motion for a new trial or by an appellate court on appeal, even though insufficiently raised or preserved for review, and appropriate relief may be granted upon a determination that manifest injustice has resulted from the error.



Louisiana Property and Evidence Laws

Louisiana Statute	Description	Synopsis
§90.1	Seizure and disposition of gambling evidence, property, and proceeds	<ul style="list-style-type: none"> ▪ Evidence related to gambling shall be destroyed when no longer needed OR ▪ Shall be sold at public auction if it has a value for lawful purposes ▪ Agencies may petition the court to keep evidence for training or historical display
§102.2	Seizure and disposition of animals cruelly treated	<ul style="list-style-type: none"> ▪ Seized animals shall be photographed within 15 days ▪ A veterinarian or other suitable custodian shall be appointed to the animal and take custody ▪ Custody continues for 15 days, after which the animal may be sold, adopted or euthanized if unclaimed unless bond is posted
§102.6	Seizure and destruction or disposition of equipment and dogs used in dogfighting	<ul style="list-style-type: none"> ▪ Fighting dogs are considered contraband and thus shall be euthanized as soon as possible by a licensed veterinarian or technician ▪ Dogs not immediately “destroyed” are subject to §102.2 ▪ Other property shall be held by a suitable custodian until the conviction or final discharge of the accused
§222	Seizure of devices used in telecommunications offenses	<ul style="list-style-type: none"> • Upon the conviction of any person for a violation of any provision of this Section, instruments, apparatus, equipment, devices, plans, or instructions shall either be: • destroyed as contraband by the sheriff of the parish in which such person was convicted OR • turned over to the telephone company in whose territory such instrument, etc. was seized



Louisiana Property and Evidence Laws

Louisiana Statute	Description	Synopsis
§402	Disposition of seized contraband in penal institutions	<ul style="list-style-type: none"> • Any contraband which is seized may be: • destroyed, • donated to a charitable organization, OR • put to lawful use within the institution UNLESS • it is needed as evidence in a criminal prosecution. • Any money seized which is legal tender shall be placed in a fund at the institution at which the money was seized to be used solely for the purchase of contraband detection and escape chase team equipment. • A record of the disposition of all contraband shall be maintained.
Art. 926.1	Application for DNA Testing	<ul style="list-style-type: none"> • No DNA evidence shall be destroyed if relevant to a case in which an application for DNA testing has been filed, until the conclusion of the case • All evidence in cases resulting in a death sentence prior to Aug. 15, 2001 be preserved until the defendant has been executed. • Evidence connected to all cases as with guilty verdicts or where pleas were taken after Aug. 15, 2001 must be preserved until Aug. 31, 2024



Maine Property and Evidence Laws

Maine Statute	Description	Synopsis
Chapter 33: 1701	Unclaimed Baggage and Merchandise	<ul style="list-style-type: none"> • Merchandise unclaimed for 6 months, sold to pay charges; • Includes baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company existing by virtue of the laws of Maine remain unclaimed for 6 months after its arrival at the point to which it shall have been directed; • May be sold at auction.
Chapter 41: 1953	Uniform Unclaimed Property Act	<ul style="list-style-type: none"> • Presumptions of abandonment; • Property is presumed abandoned if it is unclaimed by the apparent owner during the times as stated for the particular property.
Chapter 45: 2067 2094 2141 2143	Maine Revised Unclaimed Property Act	<ul style="list-style-type: none"> • 2067: A gift obligation is presumed abandoned 2 years after December 31st of the year in which the obligation arises or the most recent transaction involving the obligation occurs, whichever is later; • The amount unclaimed is determined by the gift; • There is no period of limitation for redemption; • 2094: A holder required to file a report under section 2091 shall retain records for 10 years after the date the report was filed or the last date a timely report was due to be filed, whichever is later, unless a shorter period is provided by rule of the administrator. The holder may satisfy the requirement to retain records under this section through an agent; • 2141: The administrator shall deposit in the Unclaimed Property Fund all funds received under this Act, including proceeds from the sale of property under subchapter 7. The Unclaimed Property Fund is a permanent account and may not lapse, but must be carried forward; • 2143: Explains what an administrator may deduct before making a deposit of funds received under the Act to the Unclaimed Property Fund under section 2141.
Chapter 61: 4551	Unclaimed Funds of Life Insurers	<ul style="list-style-type: none"> • All unclaimed money held and owing by any life insurer doing business in Maine must be disposed of according to Title 33, chapter 45.



Maine Property and Evidence Laws

Maine Statute	Description	Synopsis
Chapter 305-B: 2136	Post-Conviction DNA Testing	<ul style="list-style-type: none"> Definitions concerning all terms related to Chapter 305-B: Post-Judgement Conviction Motion for DNA Analysis.
Chapter 305-B: 2138	Evidence Preservation	<ul style="list-style-type: none"> If a motion is filed under this chapter, the court shall order the State to preserve during the pendency of the proceeding all evidence in the State's possession or control that could be subjected to DNA analysis. The State shall prepare an inventory of the evidence and submit a copy of the inventory to the defense and the court. If evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions. 4-A: There is a certain standard the court to follow when ordering DNA analysis. The results of the DNA analysis should be sent to the court, the person authorized in section 2137 and the attorney for the state.
Chapter 341: 2803-B	Recording of Interrogations	<ul style="list-style-type: none"> "Maine law requires that the Board of Trustees of the Maine Criminal Justice Academy establish minimum standards for a law enforcement policy of electronically recording interrogations and that Maine law enforcement agencies certify that they have adopted policies and provided training." https://innocenceproject.org/policy/maine/#:~:text=Evidence%20Preservation,length%20of%20an%20in,dividual's%20incarceration.
Chapter 351: 2915	Uniform Forensic Examination Kit for Evidence Collection in Alleged Cases of Sexual Assault	<ul style="list-style-type: none"> The Department of Public Safety shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of sexual assault; A licensed hospital or licensed health care practitioner shall use the uniform standardized forensic examination kit; Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.



Maine Property and Evidence Laws

Maine Statute	Description	Synopsis
Chapter 401: 3503-A	Disposal of Firearms and Ammunition	<ul style="list-style-type: none"> A police department or other law enforcement agency retaining firearms and ammunition covered by this chapter may auction the firearms to federally licensed firearms dealers or the public, use the firearms and ammunition for training purposes or destroy the firearms and ammunition.
Chapter 401: 3503-B	Bicycle Disposal	<ul style="list-style-type: none"> A local legislative body in a municipality may dispose of an unclaimed bicycles in a manner decided by that body and is exempt from Title 33, chapter 45 with respect to unclaimed bicycles.
Chapter 709: 6013	Property Unclaimed by Tenant	<ul style="list-style-type: none"> Any personal property that remains in a rental unit after entry of judgement in favor of the landlord or that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit must be disposed of as followed in this section.



Maryland Property and Evidence Laws

Maryland Statute	Description	Synopsis
MD AL BEV § 6-101	Seizure of contraband	<ul style="list-style-type: none"> ● Property is forfeited when sized as contraband or found to be contraband. ● Property is forfeited if seized as contraband and unclaimed for 30 days. ● A vehicle, a vessel, or an aircraft that is seized as contraband is forfeited unless a protest is filed within 30 days after the publication. ●
MD CRIM PROC § 8-201	Petition for DNA testing and preservation of scientific identification evidence	<ul style="list-style-type: none"> ● DNA testing ordered under subsection (d) of this section shall be conducted as soon as practicable. ● State shall preserve scientific identification evidence that: <ul style="list-style-type: none"> ○ State has reason to know contains DNA material and is secured in connection with violation of the Criminal Law Article. ○ Preserve for the time of the sentence, including any consecutive sentence imposed in connection with the offense. ● State may dispose of scientific identification evidence before expiration of time period if State notifies: incarcerated person, attorney of incarcerated person, Office of Public Defender. ● Unless another law or court order requires the preservation of the scientific identification evidence, if no objection to the disposition of the evidence is filed within 120 days of the notice required under this subsection, the State may dispose of the evidence.
MD CRIM PROC § 11-926	Information obtained from sexual assault evidence collection kit exam	<ul style="list-style-type: none"> ● A sexual assault evidence collection kit shall be transferred to a law enforcement agency within 30 days after the exam is performed unless the agency is required to retain the kit ● Within 20 years after the evidence is collected, law enforcement agency may no destroy or dispose of a sexual assault evidence collection kit; or other crime scene evidence relating to a sexual assault. (Some exceptions.)



Maryland Property and Evidence Laws

Maryland Statute	Description	Synopsis
MD CRIM PROC § 12-203	Custody and removal of property by seizing authority	<ul style="list-style-type: none"> ● A seizing authority may place seized property under seal and remove the property to a place designated by the court. ● The owner of seized property may make a written request to the seizing authority for the return of the seized property.
MD CRIM PROC § 12-301	Forfeiture proceedings for dangerous property	<ul style="list-style-type: none"> ● Forfeiture proceedings shall be filed promptly because there is probable cause to believe that the property is directly or indirectly dangerous to health or safety and that the property was or will be used to violate this title.
MD CRIM PROC § 13-104	Contraband money to be deposited or invested	<ul style="list-style-type: none"> ● The financial authority shall account for and deposit seized money in an interest-bearing bank account or invest the seized money.
MD CRIM PROC § 13-202	Seizure of property (guns)	<ul style="list-style-type: none"> ● The property under seal or remove the property to a location designated by the Department of State Police or by the law enforcement unit having jurisdiction in the locality.
MD CRIM PROC § 13-301	Forfeiture of vehicles, vessels, or aircraft for violation of explosives laws	<ul style="list-style-type: none"> ● Only applies to a vehicle that the owner authorized or allowed to be used or employed in concealing, conveying, or transporting explosives during the course of a violation. ● Forfeited to the State or a county, based on which jurisdiction initiated the investigation. ● After discharging any perfected security interest in a forfeited vehicle, the Secretary of State Police or the local governing body of a county may use the vehicle or sell/exchange the vehicle.
MD CRIM PROC § 13-506	Status of seized property	<ul style="list-style-type: none"> ● A seizing authority may place seized property under seal and remove the property to a place designated by the court.



Maryland Property and Evidence Laws

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MD COML § 17-205	Notice of abandoned property	<ul style="list-style-type: none"> ● Federal government reports abandoned property and forwards report to the clerk of the circuit court for each county in the State. ● Each clerk of the circuit court shall post the report of abandoned property in federal custody at the court house for the county for 60 days.
MD COML § 17-301-308	Presumption of abandonment	<ul style="list-style-type: none"> ● Banking and financial organizations; insurance policy and annuity contracts; utilities; business associations; following dissolution; fiduciaries; public entities; sale proceeds; unclaimed wages ● Property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under each section are met.
MD COML § 21-111	Retention of electronic records; originals	<ul style="list-style-type: none"> ● If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
276 § 1	documentary evidence subject to privilege	<ul style="list-style-type: none"> • A search warrant cannot be executed for documentary evidence in the possession one of the following people that is in a privileged relationship with any other person: <ul style="list-style-type: none"> ○ lawyer ○ psychotherapist ○ clergyman, including an accredited Christian Science practitioner • “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films or papers of any type or description • If this evidence is collected, it must be destroyed • The only exception is if “a justice is satisfied that there is probable cause to believe that the documentary evidence will be destroyed, secreted, or lost in the event a search warrant does not issue”
276 § 3	Disposal of animals, food products, firearms, money, and property	<ul style="list-style-type: none"> • Law enforcement officer may keep property as long as necessary for it to be used as evidence in any trial • As soon as possible after trial, property obtained illegally will be returned to the owners • All other property seized under a search warrant will be disposed of as the “court or justice orders.” The property may be forfeited and sold or destroyed, except for the cases below • Diseased or dead animals, inedible meat, fish, vegetables, produce, fruit, or food of any kind will be disposed of by the board of health • Firearms, including rifles, shotguns, and pistols, knives, and other dangerous weapons that were kept, concealed, or used unlawfully are forfeited to the state of Massachusetts and delivered to the state police for destruction or preservation • Money possessed or controlled by a party for an unlawful purpose will be forfeited and paid to the state treasurer • Property, including money obtained under false pretenses, shall be disposed of according to the appropriate general or specific law



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Massachusetts Statute	Description	Synopsis
276 § 4	Notice before forfeiture	<ul style="list-style-type: none"> • Unless expressly provided, the court will issue a signed, sealed notice commanding the people that possessed the relevant articles, the owner of the relevant articles, and anyone else with an interest in the articles to appear and argue why the articles should not be forfeited
276 § 5	Service of forfeiture notice	<ul style="list-style-type: none"> • Notice will be served least 14 days before trial • Notice shall be served personally or at the person’s usual place of abode, AND by posting a copy of the notice on the house or building of the building where the articles were seized from, or in a public place in the town that the articles were seized
276 § 7	Sale and destruction of forfeited property	<ul style="list-style-type: none"> • Forfeited property will be disposed of as provided by law (see 276 § 3) • If the property is ordered to be sold, the sheriff will sell it, and the county will receive the proceeds • All actual money seized will be paid to the state treasurer • Any article unlawfully used WITHOUT the knowledge of its owner may be returned to its legal owner • Any article not found to have been used unlawfully may be returned to its legal owner
276 § 8	Appeal from decree of forfeiture	<ul style="list-style-type: none"> • A person may appeal a forfeiture decision from the district court to the superior court • They must pay the commonwealth \$200, and they must pay “all such expenses as may thereafter arise” • On appeal, all questions of fact are decided by a jury • If the forfeiture is affirmed, the articles will be disposed of as if the appeal had not occurred
278A § 16	Preservation of evidence or biological material by governmental entities	<ul style="list-style-type: none"> • Government entities that possess biological evidence from the investigation of a crime that resulted in a conviction shall keep that evidence as long as the person convicted remains in the custody of the state, including parole and probationary periods • The evidence shall be kept regardless of whether it was introduced at trial • The governmental entity shall retain the evidence in a manner that is reasonably designed to preserve the evidence and prevent its destruction or deterioration • The evidence does not need to be preserved if it is returned to a third party



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
278A § 16 Cont.	Preservation of evidence or biological material by governmental entities Cont.	<ul style="list-style-type: none"> The evidence does not need to be preserved if it would be impractical to preserve it due to its size, bulk, or physical character
278A § 17	Liability of government officials for destruction of evidence	<ul style="list-style-type: none"> Officials acting in good faith are not liable criminally or civilly for any act below If a government entity engages in willful or wanton misconduct or gross negligence that results in the deterioration or destruction of evidence, they shall be subject to proceedings for contempt If a government entity engages in willful or wanton misconduct or gross negligence that results in the deterioration or destruction of biological material so that a laboratory cannot perform adequate or proper analysis, they shall be subject to proceedings for contempt This statute does not create a cause of action for damages except in the situation above
41 § 97B	Preservation of rape kits	<ul style="list-style-type: none"> From the time that the evidence is obtained, the evidence shall be kept by a governmental entity for a period of no less than 15 years If a governmental entity obtains forensic evidence in connection with a rape or sexual assault investigation, they shall retain and preserve that evidence for the length of the statute of limitations for the identified crime, but no less than 15 years The governmental entities shall retain all forensic evidence in a manner reasonably designed to preserve the evidence and prevent it from deteriorating The hospital providing the rape kit will provide the victim notice that the evidence will be kept for 15 years
41 § 97B 1/2	Rape kit tracking system and testing	<ul style="list-style-type: none"> Hospitals shall notify local law enforcement within 24 hours of obtaining evidence of a sexual assault Local law enforcement agencies shall take possession of the sexual assault evidence kit within three business days of notification Local law enforcement will submit the sexual assault kits to a crime laboratory within 7 days if the sexual assault evidence kit is associated with a victim who has filed a report with law enforcement



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
41 § 97B 1/2 Cont.	Rape kit tracking system and testing Cont.	<ul style="list-style-type: none"> • If the sexual assault evidence kit is associated with a victim who has not yet filed a report with law enforcement, it shall be stored by law enforcement in a manner that preserves evidence for the duration of the statute of limitations for all sexual assault and rape cases • The crime laboratory shall test all sexual assault kits within 30 days of receipt from local law enforcement • Where testing results in a DNA profile, the DNA shall be entered into CODIS and the state DNA database • All sexual assault evidence kits shall be entered into the statewide sexual assault evidence kit tracking system
6A § 18X	Statewide sexual assault evidence kit tracking system	<ul style="list-style-type: none"> • The state shall establish and maintain a statewide sexual assault evidence kit tracking system <ul style="list-style-type: none"> ○ This system will track the location and status of sexual assault evidence kits throughout the criminal justice process ○ This system will allow hospitals or medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, and the crime laboratory to update and track the status of the kits ○ This system will allow victims of sexual assault to anonymously track and receive updates regarding the status of their sexual assault kits • Local law enforcement agencies shall participate in the statewide sexual assault evidence kit tracking system • The director of the crime laboratory within the department of state police and the director of any crime laboratory operated by the police department shall participate in the statewide sexual assault evidence kit tracking system • Hospitals shall participate in the statewide sexual assault evidence kit tracking system • District attorney offices shall participate in the statewide sexual assault evidence kit tracking system



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
94C § 47	Property subject to forfeiture in controlled substance actions	<ul style="list-style-type: none"> • The following substances are subject to forfeiture by the state: <ul style="list-style-type: none"> ○ All controlled substances manufactured, delivered, distributed, dispensed, or acquired unlawfully ○ Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated unlawfully, or of which the owners or cultivators are unknown, or which are wild growths ○ All materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, dispensing, distributing, importing, or exporting any controlled substance unlawfully ○ All conveyances, including aircraft, vehicles or vessels used, or intended for use, to facilitate the above actions ○ All books, records, and research, including formulas, microfilm, tapes and data which are used, or intended for use to facilitate the above actions ○ All moneys, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for an unlawful controlled substance ○ All drug paraphernalia ○ All real property, including any right, title, and interest used in any manner or part, to commit or to facilitate unlawful manufacture, delivery, distribution, or dispensation of a controlled substance • Forfeiture of property under this statute does not extinguish a “perfected security interest held by a creditor” at the time of filing of the forfeiture action • Controlled substances will be destroyed at the conclusion of the action, regardless of the final disposition unless the court “for good cause shown orders otherwise” • No conveyance or real property shall be subject to forfeiture unless the owner knew or should have known it was used in and for the business of unlawfully manufacturing, dispensing, or distributing controlled substances



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
94C § 47 Cont.	Property subject to forfeiture in controlled substance actions Cont.	<ul style="list-style-type: none"> • No conveyance or real property used to facilitate the unlawful manufacturing, dispensing, or distribution of, or the possession with intent unlawfully to manufacture, dispense, or distribute marijuana or a substance, containing any marihuana shall be forfeited if the net weight of the substance is less than ten pounds in the aggregate. • The court shall provide that money forfeited and the proceeds of the sale of a forfeiture shall be distributed equally between the prosecuting district attorney and the city, town or state police department involved in the seizure. If more than one department was substantially involved in the seizure, the court shall distribute the fifty percent equitably among these departments. • The office of seized property management shall preserve and manage the property in a reasonable fashion and to dispose the property after a judgment ordering forfeiture • If a person fails to produce registration to grow controlled plants, the police office demanding the registration has the authority to seize and commence forfeiture upon the plants
94C § 47A	Destruction of controlled substances	<ul style="list-style-type: none"> • An evidence officer will be appointed by the police commissioner, chief superintendent or other officer or board at the head of the police department. This person will act as custodian of all controlled substances and narcotic drugs seized in the course of any arrest or investigation • At any time after the seizure of a controlled substance or narcotic drug, a district attorney may petition the court to order the destruction of said controlled substance or narcotic drug seized • A hearing on the destruction will be held at least two weeks after notice is given to the defendant • After the hearing, the court shall has power to order the forfeiture and destruction of the controlled substance or narcotic drug if it determines to do so • Before destruction, the court shall provide samples of the forfeited controlled substances or narcotic drugs to a chemist of the department of state police or to a chemist at the University of Massachusetts medical school who shall issue a signed certificate, on oath, the



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
94C § 47A Cont.	Destruction of controlled substances Cont.	<p>results of an analysis of the sample, which may be introduced as evidence of the composition of the controlled substance</p> <ul style="list-style-type: none"> • After analysis, the evidence officer shall deliver the substances to be destroyed to the department of state police for destruction • After a final verdict in the case, and after the time for an appeal has expired, the court shall order the evidence officer to destroy or dispose of all controlled substances remaining in the evidence • In the case of an appeal, the evidence officer will keep the controlled substances until a final disposition is issued, at which time the district attorney may petition the superior court for destruction • The department of state police shall keep a complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities and forms of such drugs; the persons from whom received and the dates of receipt, disposal or destruction
38 § 4A	Preservation of blood from deceased in a vehicle accident	<ul style="list-style-type: none"> • If a medical examiner determines that death occurred within 4 hours of the accident, the deceased was the operator and sole occupant of the vehicle, and no others were involved in the accident: <ul style="list-style-type: none"> ○ The medical examiner shall submit blood from the deceased to a state police laboratory for chemical analysis ○ If the chemical analysis indicates the presence of a controlled substance or alcohol, the sample shall be preserved for at least 120 days (starting from the date the sample was taken) ○ Independent analysis may be requested by written request of the next of kin of the deceased. ○ Only independent analysis taken within 60 days of the sample being taken is admissible as evidence of the level of alcohol or controlled substance in the decedent • The medical examiner is not liable for any criminal or civil action arising from compliance with this section



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
140 § 131O	Firearms surrendered under a statewide firearms surrender program	<ul style="list-style-type: none"> • The colonel of state police and the secretary of the executive office of public safety shall implement a statewide firearms surrender program • Firearms surrendered in accordance with the provisions of this program that is reported stolen shall be returned to their lawful owners • Any firearm suspected to be evidence in a crime shall remain in the custody and control of the department of state police in the same manner as any other such firearm lawfully seized by the department of state police • All weapons that have been voluntarily surrendered that are not suspected to be evidence of criminal activity and have not been reported stolen shall be disposed of in accordance with procedures established by the colonel
200A § 8	Notice of unclaimed property	<ul style="list-style-type: none"> • The treasurer shall publish a notice of unclaimed properties by March first <ul style="list-style-type: none"> ○ In the case of insurance companies, the treasurer shall publish the notice by September first of the following year • The notice shall contain a list of apparent owners whose last known address was in the relevant county in alphabetical order <ul style="list-style-type: none"> ○ The notice shall contain a statement about the amount or description of the property, and a statement that the name and address of the holder may be acquired by contacting the treasurer • Property worth less than \$100 need not be published • The treasurer shall also mail notice to persons who are entitled to property worth over \$100, by the same dates as above <ul style="list-style-type: none"> ○ The mailed notice shall contain a statement that the property is being held by the treasurer, and that the addressee appears entitled to this property
200A § 9	Disposal of surrendered property	<ul style="list-style-type: none"> • The treasurer may not liquidate properties until they have held them for at least one year • The treasurer shall not liquidate dividends, distributions, or interest in business for at least three years, unless the treasurer finds it is in the best interest of the state to do so



Massachusetts Property and Evidence Laws

Massachusetts Statute	Description	Synopsis
200A § 9 Cont.	Disposal of surrendered property Cont.	<ul style="list-style-type: none"> ○ Any person making a claim before the end of the three year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater ○ Any person making a claim after the expiration of this period is entitled to either the securities delivered to the treasurer by the holder, if they still remain in the hands of the treasurer, or the proceeds received from sale ● If the liquidation requires the sale of the property, the treasurer shall sell it to the highest bidder at public sale <ul style="list-style-type: none"> ○ The treasurer may decline the highest bid and re-offer the property for sale if they do not feel the price was sufficient ● All sales of property made by the state treasurer under provisions of this chapter shall pass absolute title to the purchaser thereof
127 § 96B	Disposal of property belonging to former inmates	<ul style="list-style-type: none"> ● Property belonging to, or given to, former inmates shall be disposed of after being unclaimed for one year if all known next of kin have been notified in writing of the impending destruction ● If the property has any sale value, it will be sold to a reputable dealer for the highest offer ● If the property has no sale value or there are no offers for the property, it will be disposed of as the board may deem proper ● A record of all transactions will be signed and kept by the board



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 434.151 - 155	Lost, unclaimed or abandoned personal property in custody of state.	<ul style="list-style-type: none"> • Included here: <ul style="list-style-type: none"> ○ Personal property of patients in state hospitals and prisoners in state prisons remaining unclaimed after the death, discharge, release or escape of the patient/prisoner ○ Personal property lost or abandoned by the owners thereof in or on state owned property administered by the department of conservation and turned into the custody of said department. ○ Personal property lost or abandoned by the owners thereof in or on other property owned, leased or rented by the state of Michigan for the use of state departments, boards and institutions. • Appraisers from a state department examine, appraise and inventory each article of lost or abandoned personal property. <ul style="list-style-type: none"> ○ A record of property having intrinsic or commercial value containing: <ul style="list-style-type: none"> ▪ A description of the property ▪ The name of the county where found ▪ An estimate of its value and a copy forwarded to the commissioner of the state police • Property reported to the commissioner of the state police is sold at any ensuing state police sale of stolen property and does not have to be held for a 6 months period
§ 434.156	Property with no intrinsic or commercial value	<ul style="list-style-type: none"> • Property that has no intrinsic or commercial value is recorded and may: <ul style="list-style-type: none"> ○ Be donated to state institutions for patients or inmates or to charitable institutions ○ Be destroyed after the inventories of property is submitted to state administrative board and the board secured for such disposition of property. • Property remaining unsold by the state police after having been offered for sale at any 2 state police sales may be disposed of by the commissioner of the state police in the same manner upon order of the state administrative board.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 434.181	Recovery of stolen property or discovery of abandoned personal property; report; request for authority to dispose of property; donation of stolen or abandoned property to charitable organization.	<ul style="list-style-type: none"> • Generally: Law enforcement agency that recovers stolen property or discovers abandoned personal property that goes unclaimed for 6 months has to report the property to the county board of commissioners, city or village council, or township board of trustees and request that the property be disposed of. <ul style="list-style-type: none"> ○ Bicycles: The law enforcement agency may request the authority to donate the bicycle to a state licensed charitable organization. ○ Reusable property that is not a weapon: The law enforcement agency may request the authority to donate the property as provided in section 2, to an eligible recipient that, at the time of the donation, expects to use the property.
§ 434.182 - 183	Action by county board or commissioners, city or village council, or township board of trustees; delivery of property to sheriff; sale of property; notice of sale or donation; appraisal; claim by owner; cancellation of sale or donation	<ul style="list-style-type: none"> • Authority acts upon the request not less than 60 days or more than 6 months after the receipt of the request after the receipt of the request. • If authorized, the agency shall deliver the property to the sheriff within 10 days. • If authorized, Law enforcement will conduct a sale to dispose of the property including: <ul style="list-style-type: none"> ○ A notice in a county newspaper of general circulation at least 5 days before the proposed sale of the property. <ul style="list-style-type: none"> ▪ Must describe the property, including money, and state the time and place of the public sale at which the property may be purchased by the highest bidder. • Law enforcement agency may obtain an appraisal to determine its monetary worth • Until the sale, the property may be claimed at the law enforcement agency. If ownership of the property is proved, the property must be turned over to the owner and the sale of that property must be canceled.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 434.21 § 434.22	Definitions & classification for Lost/Found Property; Collectible currency and currency; contraband; property in evidence; hazardous material; junk; perishable property; property of major value; property of minor value; disposition.	<ul style="list-style-type: none"> • A person who finds property must deliver it to the Law Enforcement in that jurisdiction • Law Enforcement inspects the property and categorizes it as: <ul style="list-style-type: none"> ○ “Collectible currency” a medium of exchange including coins, bank notes, government notes, and paper money that has a value greater than face value. ○ “Contraband” any property that is prohibited by any law to be owned, carried, concealed, or possessed. ○ “Currency” a medium of exchange including coins, bank notes, government notes, and paper money that has a value not greater than face value. ○ “Evidence” any property that furnishes or tends to furnish proof in a legal matter. ○ “Hazardous material” explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, or liquefied petroleum gas. ○ “Junk” any property that does not have any fair market value or worth. ○ “Legal owner” any individual, organization, partnership, company, corporation, or governmental agency who had care, custody, or control over the property and can establish ownership to the satisfaction of the law enforcement agency by description, title, sales receipt, bill of goods, or other means. Any person who represents the legal owner or an organization, partnership, company, corporation, governmental agency by affidavit, power of attorney, bill of goods, or title may be considered the legal owner for purposes of recovering the property. ○ “Perishable property” any property subject to quick deterioration or spoilage except when maintained under proper conditions. ○ “Property” anything which is the subject of ownership and is corporeal, tangible, visible, or personal, or that has an exchange value. ○ “Property of major value” any property that is not collectible currency, contraband, currency, evidence, hazardous material, junk, perishable property, or property of minor value. ○ “Property of minor value” any property whose fair market value is less than the total cost of preparing a property report, plus the costs of storage and disposition, and which is not collectible currency, contraband, currency, evidence, hazardous material, junk, perishable property, or property of major value.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 434.24 (2)	Contraband & Evidence	<ul style="list-style-type: none"> • Contraband and/or evidence in a criminal or civil action shall be kept in a place of safekeeping until the governmental attorney releases the evidence. <ul style="list-style-type: none"> ○ All contraband shall be disposed of in a manner prescribed by law. ○ Any found property that is not contraband shall be returned to the legal owner unless prohibited by law. • If the legal owner cannot be located, the property shall be classified and disposed of
§ 434.24 (3)	“Hazardous Material”	<ul style="list-style-type: none"> • May be released to any governmental agency, private industry, institution, business, or person that can safely keep or dispose of the hazardous material and the container when: <ul style="list-style-type: none"> ○ The legal owner of the hazardous material cannot be located or established or ○ The hazardous material may pose an imminent danger to life or other property
§ 434.24 (4)	“junk”	<ul style="list-style-type: none"> • Found property may be disposed of in any manner by the law enforcement agency.
§ 434.24 (5)	“Property in evidence”	<ul style="list-style-type: none"> • Upon the conclusion of a criminal or civil action instituted by a governmental attorney, evidence may be returned to the legal owner unless prohibited by law or the evidence is required in another court action. • If the legal owner cannot be located, the law enforcement agency shall classify the property and dispose of it.
§ 434.24 (6)	“Perishable Property”	<ul style="list-style-type: none"> • Perishable property shall be released to the legal owner of the property. • If the legal owner cannot be located or established, the property shall be disposed of pursuant to this act.
§ 434.24 (7, 8)	Property of major value; Property of minor value	<ul style="list-style-type: none"> • Property of Major Value: shall be returned to the legal owner when the law enforcement agency is reasonably satisfied of that ownership. <ul style="list-style-type: none"> ○ If the legal owner is not located and after 6 months from the date of the notice, the property shall be disposed of pursuant to this act. • Property of Minor Value: shall be returned to the legal owner when the law enforcement agency is reasonably satisfied of that ownership. <ul style="list-style-type: none"> ○ If after 3 months the property has not been claimed by the legal owner, the property may be disposed of in any manner by the law enforcement agency.
§ 434.25	Notice; property not claimed within 6 months	<ul style="list-style-type: none"> • The law enforcement agency shall send a notice by first class mail to any known legal owner of collectible currency, currency, evidence, perishable property, or property of major value to the last known address of record.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 434.25 Cont.	Notice; property not claimed within 6 months Cont.	<ul style="list-style-type: none"> • The notice shall contain the following information: <ul style="list-style-type: none"> ○ The date the property was found. ○ The type of property found. ○ The address where the property is located. ○ The cost of storage per day, if any. ○ A statement that the property must be claimed within 6 months of the date of the letter or the property shall be considered abandoned and disposed of under the provisions of this act. ○ The name of the law enforcement agency, the address, and the telephone number where the legal owner can obtain the property. • Property described in subsection (1) not claimed within 6 months after the date of the notice may be disposed of pursuant to section 6.
§ 770.16	DNA testing; availability of biological material; preservation of biological material identified.	<ul style="list-style-type: none"> • A defendant convicted of a felony at trial before January 8, 2001 may petition the court to order DNA testing of biological material identified during the investigation leading to the conviction • On or after January 8, 2001 may also petition if: <ul style="list-style-type: none"> ○ That DNA testing was done in the case or under this act. ○ That the results of the testing were inconclusive. ○ Testing with current DNA technology is likely to result in conclusive results. • If the biological material cannot be found, the police agencies, hospitals, or the medical examiner to search for the material and report the results of the search • The court orders DNA testing if the defendant does all of the following: <ul style="list-style-type: none"> ○ Presents prima facie proof that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime that resulted in the conviction. ○ Establishes all of the following by clear and convincing evidence: <ul style="list-style-type: none"> ▪ A sample of identified biological material described is available for DNA testing.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§ 770.16 Cont.	DNA testing; availability of biological material; preservation of biological material identified. Cont.	<ul style="list-style-type: none"> ▪ The identified biological material described was not previously subjected to DNA testing or, if previously tested, will be subject to DNA testing technology that was not available when the defendant was convicted. ▪ The identity of the defendant as the perpetrator of the crime was at issue during his or her trial. <ul style="list-style-type: none"> • The investigating law enforcement agency preserves any biological material identified during the investigation of a crime or crimes for the period of time a person is incarcerated in connection with that case.
§ 752.962	Sexual assault evidence kit tracking and reporting commission	<ul style="list-style-type: none"> • Mandates the commission to develop guidelines and a plan to implement a uniform statewide system to: <ul style="list-style-type: none"> ○ track the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence kits. ○ audit the proper submission of sexual assault evidence kits ○ implement a secure electronic access that allows a victim to access or receive information about the location, lab submission status, and storage of sexual assault evidence that was gathered from him or her ○ audit untested sexual assault evidence kits that have been released by the victim and were collected 30 days before the effective date of the sexual assault kit evidence submission act ○ safeguard confidentiality of the information and limited disclosure • Only specific entities selected and identified by the commission, that will use the information for only policy or training purposes and to sexual assault victims or their designees, have access to the information of unreleased or unused sexual assault evidence kits in the statewide system. • Information collected from an unreleased sexual assault evidence kit shall not contain any information identifying the victim to whom the kit is associated.



Michigan Property and Evidence Laws

Michigan Statute	Description	Synopsis
§§ 752.931 - 935	“Sexual assault kit evidence submission act”	<ul style="list-style-type: none"> • Without written consent, a health care facility must inform the individual from whom sexual assault kit evidence was obtained of its sexual assault kit evidence storage policy - Including: <ul style="list-style-type: none"> ○ The period that evidence will be stored before it is destroyed ○ How the individual can have the evidence released to the investigating law enforcement agency at a later date. • Any sexual assault kit evidence that is not released to a law enforcement agency is stored for a minimum of 1 year before it is destroyed. • If written consent to release, Law enforcement takes possession (or notifies the law enforcement that has jurisdiction) 14 days after receiving that notice. <ul style="list-style-type: none"> ○ Failure to take possession does not alter authority of another department to analyze the evidence or upload the DNA profile into state and national DNA databases ○ Also does not constitute any grounds for criminal proceedings



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
590.10	Preservation and definition of biological evidence	<ul style="list-style-type: none"> • All appropriate governmental entities shall retain any biological evidence relating to the identification of a defendant used to secure a conviction in a criminal case until expiration of sentence unless earlier disposition is authorized by court order after notice to the defendant and defense counsel. • The governmental entity need retain only the portion of such evidence as was used to obtain an accurate biological sample used to obtain a conviction. • Biological evidence means: (1) the samples obtained in a sexual assault examination kit; or (2) any item that contains blood, semen, hair, saliva, skin, tissue, or other identifiable biological material present on physical evidence or preserved on a slide or swab if such evidence relates to the identification of the defendant.
299C.155	Definition, collection, storage and recordation of DNA	<ul style="list-style-type: none"> • The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. • The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject.
299C.106	Sexual Assault Examination Kit definitions, transferring processes, submission, and storage	<ul style="list-style-type: none"> • When a sexual assault examination is performed, evidence is collected, and the patient requests that law enforcement officials be notified and signs a release form, the individual performing the examination, or the individual's designee, shall notify the appropriate law enforcement agency of the collection of the evidence in an unrestricted sexual assault examination kit.



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
299C.106 Cont.	<p>Sexual Assault Examination Kit definitions, transferring processes, submission, and storage</p> <p>Cont.</p>	<ul style="list-style-type: none"> • The law enforcement agency must retrieve an unrestricted sexual assault examination kit from the health care professional within ten days of receiving notice that the kit is available for transfer. • Notification to the agency shall be made in writing, by telephone, or by electronic communication. • Within 60 days of receiving an unrestricted sexual assault examination kit, a law enforcement agency shall submit the kit for testing to a forensic laboratory, unless the law enforcement agency deems the result of the kit would not add evidentiary value to the case. • If a kit is not submitted during the 60 day time period, the agency shall make a record, in consultation with the county attorney, stating the reasons why the kit was not submitted. • Restricted sexual assault examination kits shall not be submitted for testing. • The testing laboratory shall return unrestricted sexual assault examination kits to the submitting agency for storage after testing is complete. The submitting agency must store unrestricted sexual assault examination kits indefinitely. • Within 60 days of a hospital preparing a restricted sexual assault examination kit or a law enforcement agency receiving a restricted sexual assault examination kit from a hospital, the hospital or the agency shall submit the kit to the Bureau of Criminal Apprehension. • The bureau shall store all restricted sexual assault examination kits collected by hospitals or law enforcement agencies in the state. The bureau shall retain a restricted sexual assault examination kit for at least 30 months from the date the bureau receives the kit. • The commissioner, in consultation with the commissioner of administration, must maintain a website with a searchable database providing sexual assault victims with information on the status of their individual sexual assault examination kit



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
97A.221	Seizure and confiscation of property procedure, disposal and reporting	<ul style="list-style-type: none"> • The enforcement officer must hold the seized property. The property held may be confiscated when: (1) the person from whom the property was seized is convicted, the conviction is not under appeal, and the time period for appeal of the conviction has expired; or (2) the property seized is contraband consisting of a wild animal, wild rice, or other aquatic vegetation. • Confiscated property may be disposed of or retained for use by the commissioner, or sold at the highest price obtainable as prescribed by the commissioner. • Upon acquittal or dismissal of the charged violation for which the property was seized: (1) all property, other than contraband consisting of a wild animal, wild rice, or other aquatic vegetation, must be returned to the person from whom the property was seized; and (2) the commissioner shall reimburse the person for any seized or confiscated property that is sold, lost, or damaged.
97A.223	Seizure and administrative forfeiture of certain firearms and abandoned property: notice, final order, disposal, and reporting	<ul style="list-style-type: none"> • When firearms and abandoned property is seized, the enforcement officer shall serve any known owner and person possessing the property with a notice of the seizure and intent to forfeit the property. The notice must be in writing, describing the property seized, the date of seizure, and notice of the right to appeal the seizure and forfeiture. • Seizure and administrative forfeiture of property under this section may be appealed if the owner or other person from whom the property was seized requests a hearing by notifying the commissioner in writing within 45 days after seizure of the property. If a hearing is not requested within 45 days of seizure, the forfeiture becomes a final order and not subject to further review. • Forfeited property under this section may be disposed of as contraband according to section 97A.221, subdivision 4.



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Minnesota Statute	Description	Synopsis
97A.223 Cont.	Seizure and administrative forfeiture of certain firearms and abandoned property: notice, final order, disposal, and reporting Cont.	<ul style="list-style-type: none"> The appropriate agency and prosecuting authority shall report on forfeitures of firearms, bows, and motor vehicles occurring under this section as described in section 609.5315, subdivision 6.
297A.91	Seizure of property, court review of forfeiture, and treatment of seized property	<ul style="list-style-type: none"> Within ten days after seizure of personal property, the person making the seizure shall serve by certified mail an inventory of the vehicle and property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien on the vehicle or property, at the last known address. The person making the seizure shall also file a copy of the inventory with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination. Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the vehicle and property were seized or any person claiming an interest in the vehicle or property may file a demand for a judicial determination of the question of whether the vehicle or property was lawfully subject to seizure and forfeiture. If a judgment of forfeiture is entered and is not stayed pending an appeal, the commissioner may have the forfeited vehicle and property sold at public auction as provided by law. If no demand for judicial determination is made, the vehicle and property seized are considered forfeited to the state by operation of law and may be disposed of by the commissioner as if there were a judgment of forfeiture.



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Minnesota Statute	Description	Synopsis
626.04	Seizure, storage and disposal of property	<ul style="list-style-type: none"> • When any officer seizes, with or without warrant, any property or thing, it shall be safely kept by direction of the court as long as necessary for the purpose of being produced as evidence on any trial. • If the owner of the property makes a written request to the seizing officer's agency for return of the property, and the property has not been returned within 48 hours of the request, excluding Saturday, Sunday, or legal holidays, the person whose property has been seized may file a petition for the return of the property in the district court in the district in which the property was seized. • A hearing on the petition shall be held within 30 days of filing unless good cause is shown for an extension of time. The determination of the petition must be without jury trial and by a simple and informal procedure. • After a hearing, the court shall not order the return if it finds that: (1) the property is being held in good faith as potential evidence in any matter, charged or uncharged; (2) the property may be subject to forfeiture proceedings; (3) the property is contraband or may contain contraband; or (4) the property is subject to other lawful retention. • If the property is ordered returned, the petitioner shall not be liable for any storage costs incurred from the date the petition was filed. If the petition is denied, the court may award reasonable costs and attorney fees. • After the trial for which the property was being held as potential evidence, and the expiration date for all associated appeals, the property or thing shall, unless otherwise subject to lawful detention, be returned to its owner or any other person entitled to possess it. • Any property or thing seized may be destroyed or otherwise disposed of under the direction of the court. • Any money found in gambling devices when seized shall be paid into the county treasury. If the gambling devices are seized by a police officer of a municipality, the money shall be paid into the treasury of the municipality.



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
609.5314	Administrative forfeiture of certain property seized in connection with a controlled substances seizure	<ul style="list-style-type: none"> • The following are presumed to be subject to administrative forfeiture under this section: (1) all money, precious metals, and precious stones found in proximity to: (i) controlled substances; (ii) forfeitable drug manufacturing or distributing equipment or devices; or (iii) forfeitable records of manufacture or distribution of controlled substances; (2) all conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and (3) all firearms, ammunition, and firearm accessories found: (i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance; (ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or (iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152. • Within 60 days from when seizure occurs, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. • Upon motion by the appropriate agency or the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. • Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain: (1) a description of the property seized; (2) the date of seizure; and (3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
609.5314 Cont.	Administrative forfeiture of certain property seized in connection with a controlled substances seizure Cont.	<ul style="list-style-type: none"> • If notice is not sent within time permitted, and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess. • Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis. • The district court administrator shall schedule the hearing as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.
345.38	Property held by state courts and public officers and agencies	<ul style="list-style-type: none"> • All intangible personal property held for the owner by any court, public corporation, public authority or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than three years is presumed abandoned except as provided in section 524.3-914. • This section shall not apply to property held for persons while residing in public correctional or other institutions. As to such persons, said property shall be presumed abandoned if it has remained unclaimed by the owner for more than three years after such residence ceases.



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
345.38 Cont.	Property held by state courts and public officers and agencies Cont.	<ul style="list-style-type: none"> All intangible personal property held for the owner by any government or political subdivision or agency, that has remained unclaimed by the owner for more than three years is presumed abandoned and is reportable pursuant to section 345.41, if: (a) the last known address as shown on the records of the holder of the apparent owner is in this state; or (b) no address of the apparent owner appears on the records of the holder; and (1) the last known address of the apparent owner is in this state; or (2) the holder is domiciled in this state and has not previously transferred the property to the state of the last known address of the apparent owner.
609.5315	Disposition of forfeited property	<ul style="list-style-type: none"> If the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following: (1) either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b; (2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b; (3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b; (4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7; (5) take custody of the property and remove it for disposition in accordance with law; (6) forward the property to the federal drug enforcement administration; (7) disburse money as provided under subdivision 5, 5b, or 5c; or (8) keep property other than money for official use by the agency and the prosecuting agency. Notwithstanding the above, the Hennepin or Ramsey County sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.



Minnesota Property and Evidence Laws

Minnesota Statute	Description	Synopsis
609.5315 Cont.	Disposition of forfeited property Cont.	<ul style="list-style-type: none"> • If property is sold, the appropriate agency shall not sell property to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage. • Sales of forfeited property under this section must be conducted in a commercially reasonable manner. • If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. • For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, a brief description of the circumstances involved, and whether the forfeiture was contested. • For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. • The record shall indicate how the property was or is to be disposed of. • An appropriate agency or the prosecuting authority shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason. • The agency shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
11-9-111	Handling of seized property	<ul style="list-style-type: none"> ● Property seized in execution of any process by one appointed by the clerk of the justice court to execute it shall be immediately delivered, with the process, to the sheriff of the county; and the person from whom the property was taken shall be at once informed who has it. ● Such property shall be considered and dealt with as if it had been seized by the officer to whom it was delivered at the time of its delivery to him.
19-3-85	Disposition of lost, stolen, abandoned, or misplaced property	<ul style="list-style-type: none"> ● The board of supervisors of any county, upon the receipt or recovery of any lost, stolen, abandoned or misplaced personal property by the sheriff or other law enforcement officers of the county, shall cause to be posted, in three (3) public places in the county, notice that such property has been received or recovered. ● Such notice shall contain: an accurate and detailed description of such property ● A copy of the notice shall be mailed to such person or persons in addition to being posted as required in this section. ● The owner may recover the property by filing a claim with the board of supervisors and establishing his right to the property. ● If no person claims the property within one hundred twenty (120) days from the date the notice is given, the board of supervisors shall cause the property to be sold at public auction to the highest bidder for cash. ● However, lost, stolen, abandoned or misplaced motor vehicles and bicycles may be sold in the manner provided in the preceding paragraph after the expiration of ninety (90) days from their receipt or recovery by law enforcement officers of the county. ● The sheriff, promptly upon completion of the sale, shall deliver to the chancery clerk a copy of the notice authorizing the sale, a list of the property sold, the amount paid for each item, the person to whom each item was sold, and all monies received from such sale. The clerk then shall deposit the monies into the county treasury and the proceeds of the sale shall be first applied to the necessary costs and expenses of the sale, with the remainder to be credited to the special supplemental budget of the sheriff to be expended by the sheriff for any law enforcement purpose upon approval of the board of supervisors.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
21-39-21	Lost, stolen, abandoned or misplaced personal property	<ul style="list-style-type: none"> ● This statute is almost identical to 19-3-85, except it deals with municipalities instead of the county. The only noteworthy changes are that the sheriff is replaced by “person or officer designated” and the chancery clerk is replaced by the “clerk of municipality.”
25-1-51	Unlawful acquisition of seized property (public officers)	<ul style="list-style-type: none"> ● No law enforcement officer, conservation officer, or other person charged with the duty and responsibility of enforcing the statutory laws of this state or any municipality herein, can knowingly own, acquire, bid upon, or otherwise participate as a purchaser or prospective purchaser, either directly or indirectly, at a sale concerning any real, personal, or mixed property which has been confiscated and is being sold, or has been sold, or is subject to being sold pursuant to the laws and statutes of this state. ● The net proceeds of all such property sold shall be deposited in the county general fund within the manner provided by law. The sheriff shall keep a public record of all property seized, the disposition thereof, and the proceeds from the sale thereof. ● The failure of the sheriff to sell any property seized by him or turned over to him within ninety (90) days, shall be deemed to be a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00)
41-29-153	Property subject to forfeiture (narcotics)	<ul style="list-style-type: none"> ● The following are subject to forfeiture: <ul style="list-style-type: none"> ○ All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this article ○ All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this article ○ All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) of this subsection



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
41-29-153 Cont.	Property subject to forfeiture (narcotics) Cont.	<ul style="list-style-type: none"> ○ All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of property described in paragraph (1) or (2) of this subsection, ○ All money, deadly weapons, books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this article or in violation of Article 5 of this chapter ○ All drug paraphernalia ● Everything of value, including real estate, furnished, or intended to be furnished, in exchange for a controlled substance in violation of this article, all proceeds traceable to such an exchange, and all monies, negotiable instruments, businesses or business investments, securities, and other things of value used, or intended to be used, to facilitate any violation of this article. All monies, coin and currency found in close proximity to forfeitable controlled substances
41-29-176.1	Request to prosecute cases involving seized property; time; authority to prosecute; notification of decision not to prosecute	<ul style="list-style-type: none"> ● The seizing law enforcement agency shall within thirty (30) days of a seizure, request either the district attorney of the county in which property is seized or the Mississippi Bureau of Narcotics to prosecute any cases involving seized property. If the district attorney and the Mississippi Bureau of Narcotics decline to prosecute the forfeiture of the seized property, the seizing law enforcement agency shall notify the person from whom the property was seized that the property will not be forfeited, within thirty (30) days of receiving the notice not to prosecute and shall provide written instructions advising the person how to retrieve the seized property.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
41-29-177	Additional forfeiture provisions (narcotics)	<ul style="list-style-type: none"> ● When any property, other than a controlled substance, raw material or paraphernalia, is seized under the Uniform Controlled Substances Law, proceedings under this section shall be instituted within thirty (30) days from the date of seizure or the subject property shall be immediately returned to the party from whom seized ● Statute lays out the proceeding for different kinds of property seized such as motor vehicles, aircraft, other personal property, ect. ● Officials must make good faith effort to contact the owner of forfeited property. If unable to be found, officials will follow proceedings laid out in this statute.
41-29-179	Forfeiture hearings; summary forfeiture (narcotics)	<ul style="list-style-type: none"> ● Establishes the path that an owner of seized property must take in order to reclaim that property ● Establishes the right of the state to take title to property seized as a result of drug forfeiture proceedings. The position of the state is that the defendant in drug forfeiture cases does not have a right to a jury trial.
41-29-181	Disposition of controlled substances, raw materials, paraphernalia	<ul style="list-style-type: none"> ● All controlled substances, raw materials and paraphernalia which have been forfeited, the circuit court shall by its order direct the Bureau of Narcotics to retain, deliver to government agency/person authorized by court, or destroy the property. ● All other property, real or personal, which is forfeited under this article, shall be liquidated and, after deduction of court costs and the expenses of liquidation, the proceeds shall be divided amongst relevant enforcement agencies. ● Real estate shall be sold at auction for cash



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
41-29-183	Exclusiveness of remedy	<ul style="list-style-type: none"> ● Except as otherwise provided, the forfeiture procedure set forth in 41-29-177 through 41-29-181 is the sole remedy of any claimant, and no court shall have jurisdiction to interfere therewith by replevin, injunction, supersedeas or in any other manner.
41-29-185	Property transferred under federal law	<ul style="list-style-type: none"> ● One hundred percent of any seized and forfeited property to be transferred to any state or local law enforcement agency under the provisions of mentioned laws, or other federal property sharing provisions, shall be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, for the specific purpose of increasing law enforcement resources for that specific state or local agency. ● Such transferred property must be used to augment existing state and local law enforcement budgets and not to supplant them.
41-29-189	Drug Evidence Disposition Fund	<ul style="list-style-type: none"> ● There is created in the State Treasury a special fund to be known as the Drug Evidence Disposition Fund. The purpose of the fund shall be to provide funding for costs associated with the acquisition, storage, destruction or other disposition of evidence related to offenses under the Uniform Controlled Substances Act
45-9-151	Keeping docket; disposal of weapon	<ul style="list-style-type: none"> ● Every law enforcement agency of the state or of any political subdivision thereof shall maintain a docket which shall contain a record of all deadly weapons that are seized by employees of such law enforcement agency. Such docket shall include the name of the arresting officer, the date of the arrest, the charge upon which the seizure was based, the name of the person from whom such deadly weapon was seized, the physical description of the deadly weapon, the serial number, if any, of the deadly weapon, and the chain of custody of the deadly weapon. ● If forfeited and disposed for by sale, proceeds go into general fund of relevant government entity.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
45-47-1	DNA collection from persons arrested for crimes of violence; dissemination of DNA information without authority; penalties	<ul style="list-style-type: none"> • Every person arrested for commission of a crime of violence must provide biological evidence upon booking • Lays out the collection procedures of the Forensic Laboratory, instances where court may order lab to destroy DNA evidence, penalties for misuse of DNA bank, and fines for the conviction of that misuse
63-25-9	Forfeiture; determining ownership; storage; disposal (motor vehicles)	<ul style="list-style-type: none"> • Instances in which motor vehicles may be subject to forfeiture • Seizing entities must use best efforts to identify vehicles in order to determine ownership
63-25-7	Seizures subject to forfeiture	<ul style="list-style-type: none"> • Lists items, specifically related to motor vehicles, that are subject to forfeiture • Outlines procedures that must be followed by state or local agencies in seizing property
67-1-95	Proceedings in general (alcohol)	<ul style="list-style-type: none"> • Outline the procedure in which the owner of property (specifically alcohol in this case) can have their seized property returned to them
67-1-97	Public auction; disbursement of proceeds	<ul style="list-style-type: none"> • Procedure of public auction in the case of alcoholic beverages/raw materials • Includes timelines for notice, circumstances of sale
67-1-99	Administrative forfeiture of particular property (alcohol)	<ul style="list-style-type: none"> • Property subject to forfeiture, other than alcoholic beverages or raw materials, as described by Section 67-1-17 and having a value of Two Thousand Five Hundred Dollars (\$2,500.00) or less may be forfeited by the administrative forfeiture procedures provided for in this section.
89-12	Uniform Disposition of Unclaimed Property Act	<ul style="list-style-type: none"> • Entire chapter outlines procedures for unclaimed real and personal property • Includes definitions, procedure on how to deal with intangible property (i.e. bank funds, dividends/interest/utility funds), as well as other tangible property
97-37-3	Forfeiture; sale at auction	<ul style="list-style-type: none"> • Any weapon used in violation of §97-37-1, or used in the commission of any other crime, shall be seized by the arresting officer, may be introduced in evidence, and in the event of a conviction, shall be ordered to be forfeited, and shall be disposed of as ordered by the court having jurisdiction of such offense. In the event of dismissal or acquittal of charges, such weapon shall be returned to the accused from whom it was seized.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
99-49-1 (2)(a-e)	Definition of Biological Evidence	<ul style="list-style-type: none"> ● Includes definitions of terms “biological evidence”, “DNA”, “custody”, “profile”, and “state”
99-49-1 (3)(a-i)	Preservation of Biological Evidence Procedures	<ul style="list-style-type: none"> ● The state shall preserve all biological evidence: <ul style="list-style-type: none"> ○ That is secured in relation to an investigation or prosecution of a crime for the period of time that the crime remains unsolved; or for the period of time that the person convicted of that crime remains in custody. ● This section applies to evidence that: <ul style="list-style-type: none"> ○ Was in the possession of the state during the investigation and prosecution of the case; and At the time of conviction was likely to contain biological material. ● The state shall not destroy biological evidence should one or more additional co-defendants, convicted of the same crime, remain in custody, and shall preserve the evidence for the period of time in which all co-defendants remain in custody. ● The state shall retain evidence in the amount and manner sufficient to develop a DNA profile from the biological material contained in or included on the evidence. ● Upon written request by the defendant, the state shall prepare an inventory of biological evidence that has been preserved in connection with the defendant's criminal case. ● The state may destroy evidence that includes biological material before the expiration of the time period specified in paragraph (a) of this subsection if all of the following apply: ● No other provision of federal or state law requires the state to preserve the evidence. ● The state sends certified delivery of notice of intent to destroy the evidence to: <ul style="list-style-type: none"> ○ All persons who remain in custody as a result of the criminal conviction, delinquency adjudication, or commitment related to evidence in question; The attorney of record for each person in custody; The Mississippi Office of Indigent Appeals; ○ The district attorney in the county of conviction; and The Mississippi Attorney General.



Mississippi Property and Evidence Laws

Mississippi Statute	Description	Synopsis
99-49-1 (3)(a-i) Cont.	Preservation of Biological Evidence Procedures Cont.	<ul style="list-style-type: none"> ● No person who is notified under subparagraph (ii) of this paragraph (f) does either of the following within sixty (60) days after the date on which the person received the notice: <ul style="list-style-type: none"> ○ Files a motion for testing of evidence under Title 99, Chapter 39, Mississippi Code of 1972; or ○ Submits a written request for retention of evidence to the state entity which provided notice of its intent to destroy evidence under subparagraph (ii) of this paragraph (f). ● If, after providing notice under paragraph (f)(ii) of this subsection of its intent to destroy evidence, the state receives a written request for retention of the evidence, the state shall retain the evidence while the person remains in custody. ● The state shall not be required to preserve physical evidence that is of such a size, bulk or physical character as to render retention impracticable. ● Should the state be called upon to produce biological evidence that could not be located and whose preservation was required under the provisions of this statute, the chief evidence custodian assigned to the entity charged with the preservation of the evidence shall provide an affidavit in which the custodian stipulates, an accurate description of the efforts taken to locate that evidence and that the evidence could not be located



Missouri Property and Evidence Laws

Missouri Statute	Description	Synopsis
575.100.1(1)	Tampering with physical evidence	<ul style="list-style-type: none"> ● Tampering with physical evidence is defined as altering, destroying, or suppressing any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation
575.110.1(2)	Tampering with a public record	<ul style="list-style-type: none"> ● A person commits the offense of tampering with a public record if with the purpose to impair the verity, legibility or availability of a public record, he or she <ul style="list-style-type: none"> ○ Knowing he or she lacks authority to do so, destroys, suppresses or conceals any public record.
650.055	Felony convictions for certain offenses to have biological samples collected, DNA records and biological materials to be closed record	<ul style="list-style-type: none"> ● Every individual who (1) is found guilty of a felony or any offense under chapter 566; or (2) is seventeen years of age or older and arrested for burglary in the first degree under section 569.160, or burglary in the second degree under section 569.170, or a felony offense under chapter 565, 566, 567, 568, or 573; or (3) Has been determined to be a sexually violent predator pursuant to sections 632.480 to 632.513; or (4) Is an individual required to register as a sexual offender under sections 589.400 to 589.425; shall have a fingerprint and blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis. ● All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to authorized individuals.
650.056	Evidence capable of being tested for DNA must be preserved	<ul style="list-style-type: none"> ● Any evidence leading to a conviction of a felony described in subsection 1 of section 650.055 which has been or can be tested for DNA shall be preserved by the investigating law enforcement agency.
650.060	Accreditation of crime laboratory required	<ul style="list-style-type: none"> ● Any crime laboratory providing reports or testimony to a state court pertaining to a result of the forensic analysis of evidence shall be accredited or provisionally accredited by a laboratory accrediting organization approved by the department of public safety.



Missouri Property and Evidence Laws

Missouri Statute	Description	Synopsis
590.700	Recording of custodial interrogations	<ul style="list-style-type: none"> ● “Custodial interrogation”= the questioning of a person under arrest, who is no longer at the scene of the crime, by a member of a law enforcement agency along with the answers and other statements of the person questioned ● “Recorded” and “recording”= any form of audiotape, videotape, motion picture, or digital recording. ● All custodial interrogations of persons suspected of committing or attempting to commit murder in the first degree, murder in the second degree, assault in the first degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, arson in the first degree, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, kidnapping, kidnapping in the first degree, statutory rape in the first degree, statutory sodomy in the first degree, child abuse, or child kidnapping shall be recorded when feasible.
542.301	Disposition of unclaimed seized property	<ul style="list-style-type: none"> ● Stolen property will be delivered to the person who is entitled possession by order of court upon claim having been made and established ● Weapons, tools, devices, etc. used by an individual to commit a felony (other than motor vehicles, aircraft, and/or watercraft) shall be forfeited to the state of Missouri. ● Upon filing of a motion __ by the prosecuting attorney or the claimant, the judge will order notice be given to all persons interested in the property. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of the person's claim to the property and upon the issue of whether or not it is subject to forfeiture. ● If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.



Missouri Property and Evidence Laws

Missouri Statute	Description	Synopsis
595.201	Sexual Assault Survivors' Bill of Rights	<ul style="list-style-type: none"> ● The failure of a law enforcement agency to take possession of any sexual assault forensic evidence or to submit that evidence for analysis within the time prescribed under section 595.220 does not alter the authority of a law enforcement agency to take possession of that evidence or to submit that evidence to the crime laboratory, and does not alter the authority of the crime laboratory to accept and analyze the evidence or to upload the DNA profile obtained from that evidence into CODIS. ● The failure to comply with the requirements of this section does not constitute grounds in any criminal or civil proceeding for challenging the validity of a database match or of any database information, and any evidence of that DNA record shall not be excluded by a court on those grounds. ● No sexual assault forensic evidence shall be used to prosecute a survivor for any misdemeanor crimes or any misdemeanor crime pursuant to sections 579.015 to 579.185; or as a basis to search for further evidence of any unrelated misdemeanor crimes or any misdemeanor crime pursuant to sections 579.015 to 579.185, that shall have been committed by the survivor, except that sexual assault forensic evidence shall be admissible as evidence in any criminal or civil proceeding against the defendant or person accused.
595.220	Forensic examinations, evidentiary collection kits	<ul style="list-style-type: none"> ● "Evidentiary collection kit" = a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the department of public safety for forensic examinations. ● "Forensic examination"= an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors. ● The procedures for transmitting and storing examination evidence shall include the following requirements:



Missouri Property and Evidence Laws

Missouri Statute	Description	Synopsis
595.220 cont.		<ul style="list-style-type: none"> ○ An appropriate medical provider shall provide electronic notification to the appropriate law enforcement agency when the provider has a reported or anonymous evidentiary collection kit; ○ Within fourteen days of notification from the appropriate medical provider, the law enforcement agency shall take possession of the evidentiary collection kit; ○ Within fourteen days of taking possession, the law enforcement agency shall provide the evidentiary collection kit to a laboratory; ○ A law enforcement agency shall secure an evidentiary collection kit for a period of thirty years if the offense has not been adjudicated. ● The attorney general shall establish protocols and an electronic platform to implement an electronic evidence tracking system that: <ul style="list-style-type: none"> ○ Identifies, documents, records, and tracks evidentiary collection kits and their components, including individual specimen containers, through their existence from forensic examination, to possession by a law enforcement agency, to testing, to use as evidence in criminal proceedings, and until disposition of such proceedings; ○ Assigns a unique alphanumeric identifier to each respective evidentiary collection kit, and all its respective components, and to each respective person, or his or her designees, who may handle an evidentiary test kit; ○ Links the identifiers of an evidentiary collection kit and its components, which shall be machine-readable indicia; ○ Allows each person to check the status of an evidentiary test kit or its components and to save a portfolio of identifiers so that they may track, obtain reports, and receive updates on the status of evidentiary collection kits or their components; ○ Allows sexual assault victims to track and obtain reports on the status and location of their evidentiary collection kits. ● Records entered into the electronic evidence tracking system shall be confidential and shall not be subject to disclosure



Missouri Property and Evidence Laws

Missouri Statute	Description	Synopsis
595.226	Identifiable information in court records to be redacted	<ul style="list-style-type: none"> ● Any information contained in any court record, whether written or published on the internet, including any visual or aural recordings that could be used to identify or locate any victim of an offense under chapter 566 or a victim of domestic assault or stalking shall be closed and redacted from such record prior to disclosure to the public. ● Identifying information shall include the name, home or temporary address, telephone number, Social Security number, place of employment, or physical characteristics, including an unobstructed visual image of the victim's face or body.
432.255	Retention of original electronic records	<ul style="list-style-type: none"> ● Records that must be retained are required to: <ul style="list-style-type: none"> ○ Accurately reflect the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and ○ Remain accessible for later reference.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
46-21-111	Preservation and disposal of biological evidence obtained in criminal proceeding	<ul style="list-style-type: none"> • A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained. • The agency shall preserve the evidence for a minimum of 3 years after the conviction in the case becomes final or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final. • An agency may propose to dispose of biological evidence before the expiration of the time period described in subsection (1)(a) if the agency notifies the convicted person, the attorney of record for the convicted person, and the Montana public defender division administrator. The notification must include a description of the biological evidence, a statement that the agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. • If an objection to the disposition of the evidence is not filed within the 120-day period, the agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system.
46-15-404	Sexual assault evidence kit collection and storage – consent of patient – notice to law enforcement	<ul style="list-style-type: none"> • Following the completion of hospital emergency services and forensic services for a sexual assault medical forensic examination, the health care professional providing the forensic services shall provide the patient the opportunity to sign a written consent to allow law enforcement to submit the sexual assault evidence kit for testing. The written consent must be on a form included in the kit and must indicate whether the patient consents to the release of information about the sexual assault to law enforcement. • A health care facility that obtains written consent to release a sexual assault evidence kit to law enforcement shall notify the investigating law enforcement agency, if known, or the law enforcement agency that has jurisdiction in the area in which the health care facility is located within 24 hours after the kit is collected.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
46-15-404 Cont.	Sexual assault evidence kit collection and storage – consent of patient – notice to law enforcement Cont.	<ul style="list-style-type: none"> • A law enforcement agency that receives notice from a health care facility . . . shall take possession of the sexual assault evidence kit from the health care facility within 5 business days after the evidence is collected. • An investigating law enforcement agency that takes possession of a sexual assault evidence kit shall submit the evidence and an accompanying police report to a publicly accredited crime laboratory for forensic analysis within 30 days after receiving the kit from either a health care facility or another law enforcement agency.
46-15-405	Statewide sexual assault evidence kit tracking system	<ul style="list-style-type: none"> • The department of justice shall create, operate, and maintain a statewide sexual assault evidence kit tracking system. The tracking system must: • (a) track the status of a sexual assault evidence kit from the collection site through the criminal justice process, including the initial collection at a health care facility, inventory and storage by law enforcement agencies, analysis at a crime laboratory, and storage or destruction after completion of analysis; • (b) allow law enforcement agencies, health care facilities, a crime laboratory, and other entities that receive, maintain, store, or preserve sexual assault evidence kits to update the status and location of the kits; and • (c) allow an individual to anonymously access the tracking system to track the location and status of the individual's sexual assault evidence kit.
46-15-412	Testing of Sexual Assault Evidence kits	<ul style="list-style-type: none"> • Except for a sexual assault evidence kit that is submitted to the department of justice as provided in 46-15-411(2)(a), a local law enforcement agency shall submit all other kits to the division of forensic science within 30 days after the local law enforcement agency receives the kit.
46-5-313	Firearm not to be destroyed	<ul style="list-style-type: none"> • If a firearm possessed by a law enforcement agency was not purchased by the agency for agency use, if it is legal for a private person to own and possess the firearm, and if the legal owner cannot be determined by the agency, the agency may not destroy the firearm and shall sell the firearm to a licensed dealer. The proceeds of the sale must be deposited in the general fund of the governmental entity of which the agency is a part.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
46-5-301	Return	<ul style="list-style-type: none"> • (1) A return must be made promptly and must be accompanied by a written inventory of any evidence or contraband taken, verified by the person serving the warrant. The return must be made before the judge who issued the warrant or, if the judge is absent or unavailable, before the nearest available judge. • (2) The judge shall, upon request, deliver a copy of the inventory and the order of custody or disposition to the person from whom or from whose premises the property was taken and to the applicant for the warrant. • (3) The judge shall enter an order providing for the custody or appropriate disposition of the evidence or contraband seized pending further proceedings.
46-5-305	Disposition of unclaimed property	<ul style="list-style-type: none"> • If property seized as evidence is not claimed within 6 months of completion of the case for which it was seized, it must be disposed of pursuant to the provisions of 46-5-306 through 46-5-309.
46-5-307	Petition for destruction, disposal, or use of evidence	<ul style="list-style-type: none"> • For a case filed in district court, the prosecutor may file a petition with the court alleging that there exist certain items held as evidence either by the law enforcement agency or the court and that the items no longer have any evidentiary value. The petition must include: <ul style="list-style-type: none"> • (a) the name and title of the petitioner; • (b) the items of evidence sought to be destroyed, disposed of, or used, including a specific description of each that may be attached to the petition by separate inventory; • (c) when the items were seized; • (d) whether the items constitute contraband, which for the purposes of 46-5-306 through 46-5-309 means any property that is unlawful to produce or possess; • (e) whether the items relate to a filed case and, if so, the court and cause number of the case and its procedural status; • (f) whether, in those instances in which the items are not contraband, an effort has been made to return the items to the apparent owner and the results of the effort; • (g) an allegation to the effect that any criminal prosecutions involving the items of evidence have been completed and no appeals are pending or that no criminal charges have been filed or are presently contemplated; and



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
46-5-307 Cont.	Petition for destruction, disposal, or use of evidence Cont.	<ul style="list-style-type: none"> • (h) the petitioner's intentions relative to disposition of the items. • (2) If the petition required under subsection (1) requests the destruction or use of contraband, it must describe how destruction is to be accomplished or how the contraband has training or law enforcement value and its contemplated use by a law enforcement agency. • (3) The petitioner shall provide a victim of the offense with a copy of the petition required under subsection (1) at the victim's last-known address and shall advise the court whether the victim wishes to be heard on the petition. It is the duty of the victim to provide the law enforcement agency, court, or prosecuting attorney's office with the victim's current contact information. • (4)(a) For a case filed in a court of limited jurisdiction, the owner of property seized in connection with a criminal charge shall contact the prosecuting attorney's office within 6 months of the conclusion of the case, including appeal, to claim the property. • (b) An owner who fails to contact the prosecuting attorney's office within 6 months after the conclusion of the case surrenders the property to the seizing or holding agency and forfeits any right to the property.
46-5-312	Return of property seized – right to posses	<ul style="list-style-type: none"> • (1) A person claiming the right to possession of property seized as evidence may apply to the judge for its return. The judge shall give written notice as the judge considers adequate to the prosecutor and all persons who have or may have an interest in the property and shall hold a hearing to determine the right to possession. • (2) If the right to possession is established, the judge shall order the property, other than contraband, returned if: <ul style="list-style-type: none"> • (a) the property is not needed as evidence; • (b) the property is needed and satisfactory arrangements can be made for its return for subsequent use as evidence; or • (c) all proceedings in which the property might be required have been completed.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
16-6-107	Disposal of forfeited alcoholic beverages -- report	<ul style="list-style-type: none"> • (1) If a court or hearing examiner orders the forfeiture of alcoholic beverages under this code or if a claimant to an alcoholic beverage under 16-6-105 or 16-6-106 fails to establish the claimant's right to the alcoholic beverage, the alcoholic beverage in question and the packages in which the alcoholic beverage is kept must be delivered to the department. The department shall determine the market value of each forfeited alcoholic beverage found to be suitable for sale in agency liquor stores and shall pay the amount determined to the state treasurer after deducting any expenses incurred by the department for transporting the forfeited alcoholic beverage to the state liquor warehouse. The alcoholic beverage suitable for sale in an agency liquor store must be taken into stock by the department and sold under the provisions of this code. All alcoholic beverages found to be unsuitable for sale in agency liquor stores must be destroyed by the department. • (2) If an alcoholic beverage is seized by a peace officer, the officer shall report to the department in writing the particulars of the seizure.
16-6-105	Seizure and forfeiture of alcoholic beverages and conveyance	<ul style="list-style-type: none"> • Whenever an investigator or any peace officer in making or attempting to make a search under and in pursuance of authority of law finds in any motor vehicle, vessel, boat, canoe, or conveyance of any description an alcoholic beverage that is unlawfully kept or had or kept or held for unlawful purposes contrary to the provisions of this code, the investigator or peace officer may seize the alcoholic beverage and packages in which the alcoholic beverage is contained and the motor vehicle, vessel, boat, canoe, or conveyance in which the alcoholic beverage is found. Upon the conviction of the occupant or person in charge of the motor vehicle, vessel, boat, canoe, or conveyance, or of any other person, for having or keeping the alcoholic beverages contrary to any of the provisions of this code in any vehicle, vessel, boat, canoe, or conveyance, the court in which the person is convicted may, in addition to the sentence imposed under authority of law, declare the alcoholic beverage or any part seized and the package in which the alcoholic beverage is contained to be forfeited to the state of Montana. The court may in and by decree further declare the motor vehicle, vessel, boat, canoe, or conveyance seized to be forfeited to the state of Montana.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
7-8-105	Authorization to dispose of certain property in possession of local law enforcement	<ul style="list-style-type: none"> • (1) The legislative body of a local government may, by ordinance or resolution, provide for the care, restitution, sale, donation, return, or destruction of unclaimed tangible personal property that may come into the possession of a peace officer or a law enforcement entity of the local government for which state law does not otherwise provide a procedure for disposition. • (2) At a minimum, the ordinance or resolution must provide: <ul style="list-style-type: none"> • (a) that unclaimed property valued at \$20 or more must be held by the local government for a period of at least 3 months; • (b) a process by which the local government shall attempt to notify the legal owner of unclaimed property held in its possession; • (c) a process by which the local government may allow a finder of unclaimed personal property to take possession of that property if it remains unclaimed; • (d) that unclaimed property will be destroyed as allowed or required by local, state, or federal law, returned to the finder, donated, or otherwise sold at public auction to the highest bidder; • (e) that, at least 10 days prior to the time fixed for the destruction, return, donation, or sale at public auction of unclaimed property, notice of the planned disposal must be given by publication one time in a newspaper of general circulation; and • (f) that, upon proof of legal ownership, the local government shall restore the unclaimed property to its legal owner. • (3) After property has been destroyed, returned, donated, or sold at public auction, the property or the value of the property is not redeemable by the owner or another person entitled to possession.



Montana Property and Evidence Laws

Montana Statute	Description	Synopsis
44-14-101	Disposition of property held by state public safety officer – rulemaking	<ul style="list-style-type: none"> • (1) A state agency that employs a public safety officer may adopt administrative rules to provide for the care, restitution, sale, donation, return, or destruction of unclaimed tangible personal property that may come into the possession of the agency or a public safety officer employed by the agency for which state law does not otherwise provide a procedure for disposition. • (2) At a minimum, the ordinance or resolution must provide: <ul style="list-style-type: none"> • (a) that unclaimed property valued at \$20 or more must be held by the state agency for a period of at least 3 months; • (b) a process by which the state agency shall attempt to notify the legal owner of unclaimed property held in its possession; • (c) a process by which the state agency may allow a finder of unclaimed personal property to take possession of that property if it remains unclaimed; • (d) that unclaimed property will be destroyed as allowed or required by local, state, or federal law, returned to the finder, donated, or otherwise sold at public auction to the highest bidder; • (e) that, at least 10 days prior to the time fixed for the destruction, return, donation, or sale at public auction of unclaimed property, notice of the planned disposal must be given by publication one time in a newspaper of general circulation; and • (f) that, upon proof of legal ownership, the state agency shall restore the unclaimed property to its legal owner. • (3) After property has been destroyed, returned, donated, or sold at public auction, the property or the value of the property is not redeemable by the owner or another person entitled to possession. • (4) For the purposes of this section, “public safety officer” has the meaning provided in 44-4-401.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
29-4105	Delegation of authority to the Nebraska State Patrol to prescribe procedures for collection, storage, and disposition of DNA samples	<ul style="list-style-type: none"> ● The Nebraska State Patrol shall prescribe procedures to be used in the collection, submission, identification, analysis, storage, and disposition of DNA samples in the State DNA Sample Bank and DNA records in the State DNA Data Base. ● The Nebraska State Patrol may contract with the University of Nebraska Medical Center to establish the State DNA Sample Bank at the medical center and for DNA typing tests. ● Except for records and samples expunged under section 29-4109, the Nebraska State Patrol shall permanently retain DNA samples and records of an individual obtained under section 29-4106.
29-4109	Purging of DNA records and identifiable information	<ul style="list-style-type: none"> ● A person whose DNA record has been included in the State DNA Data Base may request expungement on the grounds that the person's conviction has been reversed and the case has been reversed. ● The Nebraska State Patrol shall purge all DNA records and identifiable information in the data base pertaining to the person and destroy all DNA samples from the person upon receipt of a written request for expungement and a certified copy of the final court order reversing and dismissing the conviction. ● Within ten calendar days of granting expungement, the Nebraska State Patrol shall provide written notice of such expungement to any person to whom DNA records and samples have been made available. The Nebraska State Patrol shall establish procedures for providing notice of certification of expungement to the person who was granted expungement
29-4106	Person subject to DNA sample and payment of costs	<ul style="list-style-type: none"> ● A person who is convicted of a felony offense or other specified offense on or after July 15, 2010, who does not have a DNA sample available for use in the State DNA Sample Bank, shall, at his or her own expense, have a DNA sample collected. ● A person who is serving a term of probation and has a DNA sample collected pursuant to this section shall pay all costs associated with the collection of the DNA sample.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
29-4108	Confidentiality of DNA samples and DNA records	<ul style="list-style-type: none"> ● All DNA samples and DNA records submitted to the State DNA Sample Bank or the State DNA Data Base are confidential except as otherwise provided by law. The Nebraska State Patrol shall make DNA records in the State DNA Data Base available to law enforcement agencies and forensic DNA laboratories which serve such agencies and which participate in the Combined DNA Index System and upon request and in furtherance of an official investigation of a criminal offense or offender or suspected offender. ● For purposes of this subsection, person means a law enforcement agency, the Federal Bureau of Investigation, any forensic DNA laboratory, or person. ● Every person shall comply with the provisions of section 29-4109 and certify in writing to the Nebraska State Patrol that such compliance has been effectuated.
29-4306	Collection of evidence by health care professionals	<ul style="list-style-type: none"> ● Every health care professional as defined in section 44-5418 or any person in charge of any emergency room in this state shall utilize a standardized sexual assault evidence collection kit approved by the Attorney General and shall collect forensic evidence with the consent of the sexual assault or domestic violence victim without separate authorization by a law enforcement agency. ● If the sexual assault or domestic violence victim is eighteen, the consent of a parent or guardian is not required.
44-5418	Definition of health care professional	<ul style="list-style-type: none"> ● Health care professional means a physician or other health care practitioner licensed, certified, or registered to perform specified health services consistent with state law.
28-922	Tampering with physical evidence	<ul style="list-style-type: none"> ● A person commits the offense of tampering with physical evidence if, believing that an official proceeding is pending and acting without legal authority, he or she alters physical evidence with the intent to impair it in the pending or prospective official proceeding or knowingly offers any false physical evidence with intent that it be introduced in the proceeding. ● Physical evidence, as used in this section, shall mean any article, object, document, record, or other thing of physical substance.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
29-820	Disposition of seized property no longer required as evidence	<ul style="list-style-type: none"> ● Unless other disposition is specifically provided by law, when property seized is no longer required as evidence, it shall be disposed of by the law enforcement agency on such showing as the law enforcement agency may deem adequate, as follows: <ul style="list-style-type: none"> ○ Property stolen or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner; ○ Money shall be restored to the owner unless it was used in unlawful gambling or lotteries or it was used or intended to be used in violation of the law ○ Property which is unclaimed or the ownership of which is unknown shall be sold at a public auction ○ Firearms, ammunition, explosives, bombs, and like devices which have been used in the commission of crime shall be destroyed ○ Firearms which have come into the law enforcement agency's possession through a seizure or otherwise and have not been used in the commission of crime, have not been defaced or altered in any manner that violates any state or federal law, may have a lawful use and be lawfully possessed, and are not subject to section 29-440 shall be restored to the owner. ● When the following property is seized or held and is no longer required as evidence, such property shall be disposed of on order of the court as the court may deem adequate: <ul style="list-style-type: none"> ○ Goods which are declared to be contraband but may reasonably be returned to a condition in which such goods may be lawfully used by the public. ● When any animal as defined by section 28-1008 is seized or held and is no longer required as evidence, such animal may be disposed of in such manner as the court may direct. ● Unless otherwise provided by law, all other property shall be disposed of as the court shall soundly direct.
28-1008	Definition of animal	<ul style="list-style-type: none"> ● Animal means any vertebrate member of the animal kingdom. ● Animal does not include an uncaptured wild creature or a livestock animal as defined in 54-902.
54-902	Definition of livestock animal	<ul style="list-style-type: none"> ● Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, llamas, or poultry.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
29-440	Seizure and disposition of weapons involved in domestic assault	<ul style="list-style-type: none"> ● Incidental to an arrest under section 28-323, a peace officer shall seize all weapons that are alleged to have been involved or threatened to be used and may seize any firearm and ammunition in the plain view of the officer or that is discovered pursuant to a search authorized by the person being searched as necessary for the protection of any person. ● Weapons seized under this section shall be stored according to the policies of the seizing law enforcement agency. ● Disposition of weapons under this section shall be determined by court order.
28-323	Definition of domestic assault	<ul style="list-style-type: none"> ● A person commits the offense of domestic assault in the third degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner, threatens an intimate partner with imminent bodily injury, or threatens an intimate partner in a menacing manner. ● A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument. ● A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.
28-431	Seizure of narcotics	<ul style="list-style-type: none"> ● The following shall be seized by an officer of the Division of Drug Control or by any peace officer and the same shall be subject to forfeiture: <ul style="list-style-type: none"> ○ All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of the law ○ All raw materials used, or intended for controlled substances in violation of the law ○ All lookalike substances ○ All property which is used as a container for property described in subdivisions (a) and (b) of this subsection ○ All drug paraphernalia defined in section 28-439 ○ All records used in violation of the law ○ All conveyances used in transporting any controlled substance with intent to manufacture, or distribute such controlled substance in violation of the law ○ All money used to facilitate a violation of the law



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
28-431 Cont.	Seizure of narcotics Cont.	<ul style="list-style-type: none"> ● All property seized without a search warrant shall not be subject to a replevin action and: <ul style="list-style-type: none"> ○ All property described in this section shall be kept by the property division of the law enforcement agency which employs the officer who seized such property for so long as it is needed as evidence in any trial ○ When no longer required as evidence, all property described in this section shall be disposed of on order of a court of record of this state in such manner as the court in its sound discretion shall direct ○ When no longer needed as evidence, all property described in this section shall be destroyed by the law enforcement agency, except that a law enforcement agency may keep a small quantity of the property for training purposes or use in investigations. Any large quantity of property described in this section may be disposed of on order of a court of record of this state in such manner as the court in its sound discretion shall direct. ● At any time after seizure and prior to court disposition, the owner of record of such property may petition the district court of the county in which seizure was made to release such property, and the court shall order the release of the property upon a showing by the owner that he or she had no actual knowledge that such property was being used in violation of the law.
28-439	Definition of drug paraphernalia	<ul style="list-style-type: none"> ● Drug paraphernalia shall mean all equipment used in manufacturing or introducing into the human body a controlled substance in violation of the law. ● Drug paraphernalia includes syringes and needles used in injecting controlled substances into the human body and objects used for introducing marijuana or cocaine into the body, including water pipes, chamber pipes, and bongs.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
69-1317	Funds and finders' fee for abandoned property	<ul style="list-style-type: none"> ● Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. ● A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned.
69-1316	The sale of abandoned property	<ul style="list-style-type: none"> ● Except as provided in section 69-1321, all abandoned property other than money, securities, bonds, or similar property delivered to the State Treasurer under the Uniform Disposition of Unclaimed Property Act shall be sold by him or her to the highest bidder at public sale. ● Any sale held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in a newspaper of general circulation. ● The purchaser at any sale conducted by the State Treasurer pursuant to the act shall receive title to the property purchased, free from all claims of the prior holder thereof and of all persons claiming through or under them. ● Securities listed on an established stock exchange shall be sold at the prevailing prices on the exchange. Other securities may be sold over the counter at prevailing prices or by another commercially reasonable method. All securities presumed abandoned under the act and delivered to the State Treasurer shall be held for at least three years before he or she sells them.



Nebraska Property and Evidence Laws

Nebraska Statute	Description	Synopsis
69-1321	Declining to hold a sale of abandoned property	<ul style="list-style-type: none"> The State Treasurer or his or her designee, after receiving reports of property deemed abandoned pursuant to the Uniform Disposition of Unclaimed Property Act, may decline to receive any property reported which he or she deems to have a value less than the cost of giving notice and holding sale, or he or she may, if he or she deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates.
69-1307.05	Presumption of abandonment of intangible personal property held by life insurance corporation	<ul style="list-style-type: none"> All intangible personal property distributable in the course of a demutualization or related reorganization of a life insurance corporation that remains unclaimed is presumed abandoned two years after the date of the distribution of the property.



Nevada Property and Evidence Laws

Nevada Statute	Description	Synopsis
N.R.S. 176.0912 (1-3)	Required preservation of biological evidence by an agency of criminal justice.	<ul style="list-style-type: none"> ● an agency of criminal justice has the duty to preserve evidence in connection with any investigation or prosecution shall preserve such evidence until the end of any sentence imposed upon the defendant. ● An agency may establish procedures for retaining probative samples subject to the requirements of this statute and disposing of bulk evidence that does not affect the suitability of such probative samples for testing
N.R.S. 176.0912 (4)	Provision to not limit the establishment of procedures for preservation of biological evidence	<ul style="list-style-type: none"> ● The provisions of this section must not be construed to limit an agency from establishing procedures for the preservation of biological evidence from other criminal cases.
N.R.S. 484B.447	Evidence preservation when vehicle is removed from highway	Whenever a law enforcement officer provides for the removal of a vehicle from the highway and has reason to believe that its contents includes any evidence of a criminal offense, the officer shall take the steps required by law to preserve and store the evidence until released to the owner or disposed of according to law.
N.R.S. 176.0918 (4c)	Evidence preservation for purpose of genetic marker analysis	<ul style="list-style-type: none"> ● The person or agency in custody of the evidence upon the scheduling of a hearing for a petition for genetic marker analysis shall: <ul style="list-style-type: none"> ○ Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis ○ Within 90 days, prepare an inventory of all evidence relevant to the claims in the petition within the possession of the person or agency and submit a copy of the inventory to the petitioner, the prosecuting attorney, and the court
N.R.S. 488.910	Seizure of vehicle/vessel to preserve evidence of crime	<ul style="list-style-type: none"> ● If a peace officer has probable cause to believe that a vessel or its contents may contain evidence of a crime, the officer may take whatever steps are reasonable to ensure the preservation of the evidence and its safe storage ● If a criminal conviction is obtained as a result of an action mentioned above, the person convicted shall pay storage fees, if no conviction, the law enforcement agency shall pay storage fees.



Nevada Property and Evidence Laws

Nevada Statute	Description	Synopsis
N.R.S. 176.09118	“Genetic marker analysis” defined	<ul style="list-style-type: none"> ● “Genetic marker analysis” means the analytical testing process of a biological specimen that results in a DNA profile.
N.R.S. 176.09112	“Biological specimen” defined	<ul style="list-style-type: none"> ● “Biological specimen” means a biological sample, tissue, fluid or other bodily sample suitable for genetic marker analysis, obtained from a person or from physical evidence.
N.R.S. 104.2515	Preserving evidence of goods in dispute	<ul style="list-style-type: none"> ● Either party on reasonable notification to the other for the purpose of ascertaining facts and preserving evidence has the right to inspect, test, and sample the goods in possession and control of the other
N.R.S. 200.3786 (1-3)	Sexual assault forensic evidence kits, taking possession and storing as evidence	<ul style="list-style-type: none"> ● Within 72 hours after a forensic medical examination, a medical provider shall notify the law enforcement agency having jurisdiction over the alleged victim and obtain possession of the SAE kit ● A law enforcement agency shall, not later than 30 days after receiving notice of an SAE kit, submit the sexual assault forensic evidence kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis. ● The provisions of this subsection do not apply to any noninvestigatory sexual assault forensic evidence kit associated with a victim who has chosen to remain anonymous.
N.R.S. 200.3786 (4-6)	Requirements of agency after obtaining SAE	<ul style="list-style-type: none"> ● No later than 5 days after receiving an SAE shall an agency assign a criminal complaint number to the evidence ● Any law enforcement agency that submits a SAE kit to a forensic laboratory shall, immediately following such a submission, notify the victim of the information contained in subsections 1, 2 and 3. ● A forensic lab shall, not later than 120 days after receiving an SAE, test the SAE unless the victim requests in writing to defer the genetic marker analysis of the SAE.



New Hampshire Property and Evidence Laws

New Hampshire Statute	Description	Synopsis
§ 651-D:3	Preservation of Biological Material for DNA Testing	<ul style="list-style-type: none"> ● Investigating agency shall preserve biological material in connection with investigation or prosecution for five years from date of conviction/adjudication or as long as any person connected with the case remains in custody ● investigating agency can petition to destroy the evidence after five years
§ 21-M:8-d	Standardized Rape Protocol and Kit and Domestic Violence	<ul style="list-style-type: none"> ● Department of Justice shall adopt standardized rape protocol and kit and domestic violence protocol
§ 318-B:17	Disposal of Controlled Drugs in Possession of Law Enforcement Officer.	<ul style="list-style-type: none"> ● Controlled drugs shall be forfeited and destroyed.
§ 595-A:5 & B:6	Receipt, Inventory, and Return.	<ul style="list-style-type: none"> ● When a warrant is served and property is taken, the officer should give the person a receipt.
§ 595-A:6	Seizure, Custody and Disposition of Articles; Exceptions.	<ul style="list-style-type: none"> ● If an officer finds property he is empowered to take, s/he shall seize and safely keep under the direction of the court/justice so long as necessary to be produced as evidence.
§ 471-C	Lost Property; Property Presumed Abandoned.	<ul style="list-style-type: none"> ● Property unclaimed for more than five years is presumed abandoned ● Several statutes on abandoned property



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
N.J.S.A. 52:17B-77.11	Computer systems seized because of unlawful activity; evidence preservation and forensic recovery of data	<ul style="list-style-type: none"> • Each agency will approve a training program which will include, at minimum, instructions in conducting investigations with computers, telecommunications devices and other high technology instruments utilized in the commission of sex offenses. • May also include techniques in the forensic recovery, evidence preservation and analysis of data in computer systems seized because of criminal or unlawful activity
N.J.S.A. 2C:65-4.	Disposition of documentary exhibits	<ul style="list-style-type: none"> • No exhibits shall be destroyed until 60 days after the clerk of the court has posted a notice conspicuously in three places in the county, referring to the order for the disposition, describing briefly the exhibit, and indicating the date after which the exhibit will be destroyed or otherwise disposed of
NJSA 2A:84A-32a	Post-conviction DNA testing; motion; determinations; submission of DNA evidence by non-NDIS-participating laboratory to CODIS	<ul style="list-style-type: none"> • Any eligible person may make a motion before the trial court that entered the judgment of conviction for the performance of forensic DNA testing • Requirements for motion <ul style="list-style-type: none"> ○ Explain why the identity of the defendant was a significant issue in the case ○ Whether DNA testing was done at a prior time, whether the defendant objected to providing a biological sample earlier whether the defendant objected to admissibility of DNA testing evidence ○ Make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought ○ Include consent to provide a biological sample • Motion to be served on the Attorney General • Court will not grant a motion for DNA testing unless <ul style="list-style-type: none"> ○ Evidence to be tested is available and would permit the DNA testing requested by motion ○ Evidence has been subject to the chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered ○ Identity of the defendant was a significant issue in the case ○ Eligible person has made a prima facie showing evidence sought to be tested is material to the issue of the eligible person's identity as the offender;



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
NJSA 2A:84A-32a Cont.	Post-conviction DNA testing; motion; determinations; submission of DNA evidence by non-NDIS-participating laboratory to CODIS Cont.	<ul style="list-style-type: none"> ○ The requested DNA testing result would raise a reasonable probability that if favorable to the defendant, a motion for a new trial based on the new evidence would be granted ○ Evidence sought to be tested meets either of the following conditions <ul style="list-style-type: none"> ▪ Not tested previously ▪ Tested previously but the requested DNA would provide results that are reasonably more discriminating and probative identity of the offender or have a reasonable probability of contradicting prior test results ○ Testing requested employs a method generally accepted within the relevant scientific community; and <ul style="list-style-type: none"> ● The motion is not made solely for the purpose of delay
NJSA 2A:84A-32c	Party seeking to conduct DNA testing at accredited non-NDIS participating laboratory and submit profile to CODIS; request for evaluating by NDIS-participating laboratory to determine whether non-NDIS participating laboratory is in compliance with FBI Quality Assurance Standards for Forensic DNA Testing Laboratories	<ul style="list-style-type: none"> ● Evaluation processes for a non-NDIS laboratory to conduct testing
NJSA 2A:84A-32e	Legislative findings and declarations regarding preservation of biological evidence	<ul style="list-style-type: none"> ● The value of properly preserved biological evidence has been enhanced by the discovery of modern DNA testing methods, which, coupled with a comprehensive system of DNA databases that store crime scene and offender profiles, allow law enforcement to improve its crime-solving potential ● Evidence must be properly identified, collected, preserved, stored, catalogued, and organized ● Cold case investigators indicate probative biological evidence is difficult to access which can lead to innocent people mistakenly convicted



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
NJSA 2A:84A-32e Cont.	Legislative findings and declarations regarding preservation of biological evidence Cont.	<ul style="list-style-type: none"> • The failure to update policies regarding the preservation of evidence squanders valuable law enforcement resources, manpower hours, and storage space; and • Simple but crucial enhancements to protocols for properly preserving biological evidence can solve old crimes, enhance public safety, and settle claims of innocence
NJSA 2a:84A-32f	Definitions	<ul style="list-style-type: none"> • Biological evidence: Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material that was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense, whether this material is catalogued separately, such as on a slide or swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, and cigarettes; the term also shall include the contents of a sexual assault examination kit • Director: Director of the Division of Criminal Justice in the Department of Law and Public Safety
NJSA 2A:84A-32g	Preservation of biological evidence; requirements	<ul style="list-style-type: none"> • Every law enforcement or prosecuting agency shall preserve any biological evidence secured in relation to an investigation or prosecution of a crime while: <ul style="list-style-type: none"> ○ The crime remains unsolved; or ○ The person convicted of that crime remains in custody • This section applies to biological evidence that: <ul style="list-style-type: none"> ○ Was in the possession of the agency during the investigation and prosecution of the case; and ○ At the time of conviction was likely to contain biological material • The agency shall not destroy biological evidence if an additional co-defendant, convicted of the same crime, remains in custody and shall preserve this evidence while all co-defendants remain in custody • The agency shall retain evidence in the amount and in a manner sufficient to develop a DNA profile from the biological material contained in or included on the evidence • Upon written request of the defendant, the agency shall prepare an inventory of biological evidence that has been preserved in connection with the defendant's criminal case



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
<p>NJSA 2A:84A-32g Cont.</p>	<p>Preservation of biological evidence; requirements Cont.</p>	<ul style="list-style-type: none"> • The agency may destroy evidence that includes biological material before the expiration of the time period specific in subsection a of this section if: <ul style="list-style-type: none"> ○ No other provision of law requires agency to preserve it ○ Agency send certified delivery of notice of intent to destroy the evidence to <ul style="list-style-type: none"> ▪ All persons who remain in custody ▪ Attorney of record for each person in custody ▪ Public defender ▪ County prosecutor where the person was convicted and ▪ The attorney general ○ The person who received notice within 180 days does not <ul style="list-style-type: none"> ▪ File a motion for performance of forensic DNA testing under section 1 of public law 2001, c. 377 (C.2A:84A-32a) ▪ Submit a written request for retention of evidence to the agency which provided notice of its intent to destroy evidence under paragraph (2) of subsection f. of this section • If the agency receives a written request for retention of biological evidence after providing notice under paragraph (2) of subsection f of this section of its intent to destroy that evidence, the agency shall retain the evidence while the person remains in custody • The agency shall not be required to preserve physical evidence that is of such size bulk or physical character as to render retention impracticable. When such retention is impracticable, the agency shall remove and preserve portions of the material evidence likely to contain biological evidence related to the offense, in a quantity sufficient to permit future DNA testing before turning or disposing of the physical evidence • If the agency is not able to locate biological evidence that it is required to preserve under this act, the chief evidence custodian assigned to the entity charged with the preservation of evidence shall provide an affidavit stipulating under penalty of perjury that describes the efforts taken to locate that evidence and that the evidence could not be located.
		<ul style="list-style-type: none"> •



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
N.J.S.A. 2A:84A-32h	Duties of director relating to preservation of biological evidence	<ul style="list-style-type: none"> • Director shall <ul style="list-style-type: none"> ○ Devise standards regarding the proper collection, retention and cataloguing of biological evidence for ongoing investigations and prosecutions ○ Recommend practices, protocols, models and resources for cataloguing and accessing preserved biological evidence currently in the possession of the state; and ○ Administer and conduct training programs for law enforcement officers and other employees charged with preserving and cataloguing biological evidence regarding the methods and procedures outlined in this act.
NJSA 2A:84A:32i	Destruction of evidence in violation of act; disorderly person's offense	<ul style="list-style-type: none"> • Any person who by virtue of employment, or official position, has possession of, or access to, biological evidence and destroys that evidence in violation of the provisions of this act is guilty of a disorderly person's offense
NJSA 2A:84A-32j	Guidelines and Procedures	<ul style="list-style-type: none"> • AG shall promulgate guidelines and procedures governing the preservation of biological evidence as required by this act
NJSA 52:17B-245	Untested sexual assault examination kits survey; establishment; contents; distribution; reports	<ul style="list-style-type: none"> • AG in consultation with the NJ coalition against sexual assault, shall develop a survey concerning SAE kits in possession of law enforcement agencies in the State that have not been submitted to a laboratory approved by the AG for serology or DNA testing
NJSA 2c:64-1	Property subject to forfeiture	<ul style="list-style-type: none"> • Lists types of property considered contraband, such as controlled drug substances, property that has been or is intended to be used for unlawful activity etc.
NJSA 2C:64-3	Forfeiture Procedures (other than prima facie contraband)	<ul style="list-style-type: none"> • Forfeiture may be enforced by a civil action instituted within 90 days of seizure and commenced by the state against the property • Notice of the action shall be given to any person known to have a property interest in the article in question • Any person with a property interest in the article other than the defendant may secure its release pending the forfeiture action unless it is dangerous to public health, safety and welfare or State can demonstrate the property will probably be lost or destroyed if released or employed in subsequent criminal activity



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
NJSA2C:64-4	Seized Property; evidentiary use	<ul style="list-style-type: none"> • Nothing in this chapter shall impair the right of the state to retain evidence pending criminal prosecution • No forfeiture proceedings for seized property (other than prima facie contraband) when a prosecution terminates with no criminal culpability if the state fails to establish by a preponderance of evidence that the seized property has a value of >\$1,000 in cash, negotiable instrument or cash equivalents, or more than \$10,000 of other types of property • No criminal culpability if <ul style="list-style-type: none"> ○ Acquittal ○ Dismissal with prejudice (excluding when applied and defendant admitted into a program of supervisory treatment where the felony conviction can be avoided or eliminated from the record once the program is completed or ○ A finding of not guilty by reason of insanity
NJSA 2C:64-5	Seized Property; Rights of Owners and Others Holding Interests	<ul style="list-style-type: none"> • Forfeiture wont impact lessors unless they were involved or consented to act/omission upon which forfeiture is based • Property seized shall not be subject to forfeiture if: <ul style="list-style-type: none"> ○ Prosecutor can't prove by preponderance of evidence the owner was involved in or aware of the unlawful activity or ○ Defendant knew of unlawful activity but did all they could reasonably be expected to do to prevent use of it that way by an agent
NJSA 2C:65-6	Disposal of forfeited property	<ul style="list-style-type: none"> • Property which has been forfeited will be destroyed if it can serve no lawful purpose or presents a danger to public health, safety or welfare and all other forfeited property/proceeds become property of the entity funding the prosecuting agency involved and shall be disposed or distributed, appropriated and used in accordance with the provisions of this chapter



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
NJSA 2C:64-8	Seized Property; Statute of Limitations on Claims	<ul style="list-style-type: none"> • Any person who could not with due diligence have discovered that property which he owns was seized as contraband may file a claim for its return or the value thereof at the time of seizure within 3 years of seizure if he can demonstrate that he did not consent to, and had no knowledge of its unlawful use • If property has been sold, received a claim against the proceeds
NJSA 2C:64-11	Seizure and forfeiture of funds or property by law enforcement agency within county; quarterly report; contents; disclosure of information	<ul style="list-style-type: none"> • Specific contents of quarterly report from county prosecutor to attorney general that must be submitted on the first day of the month following the end of each quarter.
NJSA2C:64-12	Asset forfeiture reporting form; case tracking system and searchable database on website accessible to public; summary report	<ul style="list-style-type: none"> • AG shall develop this reporting form to be completed by a county prosecutor, establish the tracking system and annually submit a summary report to the legislature which will be made available to the public
NJSA 2C:25-21	Arrest; Criminal Complaint; Seizure of Weapons [domestic violence context]	<ul style="list-style-type: none"> • Officer may seize any weapon present during domestic violence call (power in addition to normal power to seize contraband evidence or an instrumentality fo crime) and must: <ul style="list-style-type: none"> ○ Deliver all weapons fire arms purchaser identification cards and permits to purchase a handgun to the county prosecutor and shall append an inventory of all seized items to the domestic violence report • Weapons seized in accordance with the Prevention of Domestic Violence Act of 1991 shall be returned to the owner except upon order of the court • Prosecutor may petition judge of the family part o the superior court within 45 days of seizure to obtain title to the seized weapons or to revoke any and all permits, licenses and other authorizations • If the hearing determines the firearms will not be returned to the owner, the court may: <ul style="list-style-type: none"> ○ Order the prosecutor to dispose of them if owner does not arrange transfer to appropriate person within 60 days; or



New Jersey Property and Evidence Laws

New Jersey Statute	Description	Synopsis
NJSA 2C:25-21 Cont.	Arrest; Criminal Complaint; Seizure of Weapons [domestic violence context] Cont.	<ul style="list-style-type: none"><li data-bbox="932 386 1944 557">○ Order revocation of the owner's firearms purchaser identification card or any permit, license, or authorization, in which case the court shall order the owner to surrender any firearm seized and all other firearms possessed to the prosecutor and shall order the prosecutor to dispose of the firearms if the owner does not arrange for the sale of the firearms to a registered dealer within 60 days or<li data-bbox="932 565 1472 587">○ Order other relief as deemed appropriate



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§31-27-8	Safekeeping of seized property	<ul style="list-style-type: none"> • Seized currency alleged to be subject to forfeiture shall be deposited with the clerk of the district court in an interest-bearing account; • Seized property other than currency or real property, not required by federal or state law to be destroyed, shall be placed under seal at a place designated by the district court; • Seized property shall be kept by a custodian in a manner to protect it from theft or damage and, if ordered by the district court, insured against those risks; and • Unless returned to owner, a law enforcement agency shall dispose of forfeited or abandoned property
§31-27-3	Definition	<ul style="list-style-type: none"> • Abandoned property <ul style="list-style-type: none"> ○ Personal property the rights to which and the control of which an owner has intentionally relinquished; and ○ Does not include real property • Property <ul style="list-style-type: none"> ○ Tangible or intangible personal property or real property • Property subject to forfeiture <ul style="list-style-type: none"> ○ Property or an instrumentality declared to be subject to forfeiture by the Forfeiture Act or a state law outside of the Forfeiture Act
§31-27-4	Forfeiture; conviction required; seizure of property; with process; without process	<ul style="list-style-type: none"> • (A) A person's property is subject to forfeiture pursuant to state law if: <ul style="list-style-type: none"> ○ The person was arrested for an offense to which forfeiture applies; ○ The person is convicted by a criminal court of the offense; and ○ The state establishes by clear and convincing evidence that the property is subject to forfeiture as provided in (B) • (B) following a conviction for which forfeiture applies <ul style="list-style-type: none"> ○ Property the person acquired through commission of the offense; ○ Property ○ Property directly traceable to property acquired through the commission of the offense; and ○ Any instrumentality the person used in the commission of the offense



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§31-27-4 Cont.	Forfeiture; conviction required; seizure of property; with process; without process Cont.	<ul style="list-style-type: none"> • Nothing here will prevent property for being forfeited according to a plea agreement to a felony approved by the court • At anytime the court may issue an ex parte preliminary order to seize property that is subject to forfeiture and for which forfeiture is sought and to provide for the custody of the property • Property subject to forfeiture may be seized at any time, without a prior court order if <ul style="list-style-type: none"> ○ The seizure is incident to a lawful arrest for a crime or a search lawfully conducted pursuant to a search warrant and the law enforcement officer making the arrest or executing the search has probable cause ot believe the property is subject to forfeiture and that the subject of the arrest or search warrant is an owner of the property; ○ The property subject to seizure is the subject of a previous judgment in favor of the state; or • The law enforcement officer making the seizure has probable cause to believe the property is subject to forfeiture and that the delay occasioned by the need to obtain a court order would result in the removal or destruction of the property or otherwise frustrate the seizure
§31-27-11	Transfer of forfeitable property to the federal government	<ul style="list-style-type: none"> • Law enforcement agency shall not directly or indirectly transfer seized property to a federal law enforcement agency unless <ul style="list-style-type: none"> ○ The value exceeds \$50,000 excluding the potential value of the sale of contraband; and ○ The agency determines criminal conduct that led to seizure is interstate in nature and justifies the transfer ○ Seized property may only be forfeited under federal law • Cannot transfer if doing so would circumvent the protections of the Forfeiture Act otherwise available to the interest holder in the property¹²³



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§31-27-4.1	Receipt for seized property; replevin hearing	<ul style="list-style-type: none"> • Officer shall provide an itemized receipt to the person possessing the property or, in the absence of a person to whom the receipt could be given, shall leave receipt in the place where the property was found, if possible • Within five business days of the seizure, the law enforcement officer shall provide notice by personal service or first-class mail to all owners of record of the seized property • Defendant or another person who claims an interest in the seized property may at any time within 120 days after forfeiture, claim an interest by motion requesting the court to issue a writ of replevin • Person who makes a timely motion pursuant to this section shall have a right to a hearing on the motion before the resolution of any related criminal matter or forfeiture proceeding within 60 days • State shall file an answer at least ten days before the hearing on a motion filed pursuant to this section • Court shall grant the claimant's motion if the court find that <ul style="list-style-type: none"> ○ It is likely that the final judgment will require the state to return the property to the claimant ○ The property is not reasonably required to be held for investigatory reasons ○ Property is only the reasonable means for a defendant to pay for legal representation in a related criminal or forfeiture proceeding and the law enforcement agency did not make a prima-facie showing that the property was stolen or proceeds from or is an instrumentality of a crime • Court has the discretion to return property or funds sufficient for the defendant to retain legal counsel but less than the total amount seized
§29-3-10	DNA Collection from persons arrested	<ul style="list-style-type: none"> • If 18y/o or older, the person arrested for the commission of a felony shall provide a DNA sample if none on file • Samples forwarded to the administrative center of the facility and shall not be analyzed or shall be destroyed unless one of the following conditions is met:



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§29-3-10 Cont.	DNA Collection from persons arrested Cont.	<ul style="list-style-type: none"> ○ Arrest was made upon an arrest warrant for a felony ○ The defendant has appeared before a judge/magistrate who has made the finding that there was probable cause for the arrest or ○ The defendant posted bond or was released prior to appearing before a judge/magistrate and then failed to appear for a scheduled hearing ● Samples collected in accordance with the rules and procedures adopted by the DNA oversight committee shall be subject to the confidentiality and penalty provisions of the DNA identification Act and shall be used only as authorized by that act.
§31-27-5	Notice of intent to forfeit; service of process	<ul style="list-style-type: none"> ● Within thirty days of making a seizure of property, state shall file a notice of intent to forfeit or return the property to the person from whom it was seized ● The notice will include: <ul style="list-style-type: none"> ○ A description of the property seized; ○ The date and place of seizure of the property; ○ The name and address of the law enforcement agency making the seizure; ○ The specific statutory and factual grounds for the seizure; ○ Whether the property was seized pursuant to an order of seizure, and if the property was seized without an order of seizure, an affidavit from a law enforcement officer stating the legal and factual grounds why an order of seizure was not required; and ○ In the notice, the names of persons known to the state who may claim an interest in the property and the basis for each person's alleged interest ● The notice shall be served upon the person from whom the property was seized, the person's attorney of record and all persons known or reasonably believed by the state to claim an interest in the property
§31-27-6	Forfeiture proceedings; determination; substitution of property; constitutionality; appeal	<ul style="list-style-type: none"> ● Person who claims an interest in seized property shall file a response within 30 days of the date of service of the notice of intent to forfeit ● District courts have jurisdiction over forfeiture proceedings and venue for a forfeiture proceeding is in the same court in which a venue lies for the criminal matter related to the seized property



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§31-27-6 Cont.	Forfeiture proceedings; determination; substitution of property; constitutionality; appeal Cont.	<ul style="list-style-type: none"> • Forfeiture proceeding shall be after the conclusion of the trial for the related criminal matter in an ancillary proceeding that relates to a defendant’s property before the same judge and jury if applicable and the court and the jury • Discovery conducted in an ancillary forfeiture proceeding is subject to the rules of criminal procedure • Proceeding for property valued at less than twenty thousand dollars shall be held before a judge only
§31-27-7	Title to seized property; disposition for forfeited property and abandoned property; proceeds	<ul style="list-style-type: none"> • State acquires provisional title to seized property at the time the property was used or acquired in connection with an offense that subjects the property to forfeiture. Provisional title authorizes the state to hold and protect the property. Title to the property shall vest with the state when a trier of fact renders a final forfeiture verdict and the title relates back to the time when the state acquired provisional title; provided that the title is not subject to claims by third parties • Unless possession of the property is illegal or a different disposition is specifically provided for by law and except as provided in this section, (property that is not currency) shall be delivered along with any abandoned property to the state treasurer or the state treasurer’s designee for disposition at a public auction. • Forfeited currency and all proceeds will be distributed
§29-3-8	Biometric identifying information of persons arrested; state arrest records; disposition	<ul style="list-style-type: none"> • Biometric identifying information shall be obtained each time a person is arrested • Shall be connected to the arrest record • Booking facility shall electronically collect biometric identifying information from a person arrested for the following crimes prior to the person’s release <ul style="list-style-type: none"> ○ The commission of a criminal offense amounting to a felony ○ Commission of a criminal offense not amounting to a felony but punishable by imprisonment for more than six months under the laws of the state or a political subdivision of the state ○ The violation of a provision of section 66-8-201 NMSA 1978 or the violation of a municipal or county ordinance prescribing criminal penalties for driving while under the influence of intoxicating liquor or drugs.



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§29-3-8 Cont.	Biometric identifying information of persons arrested; state arrest records; disposition Cont.	<ul style="list-style-type: none"> • Department shall immediately provide the biometric identifying data to the federal bureau of investigation
§29-16-2	Purpose of the Act	<ul style="list-style-type: none"> • Purpose of the NA Identification Act is to establish a DNA identification system for covered offenders and persons required to provide a DNA sample pursuant to the provisions of the act • Facilitate the use of DNA records by local, state and federal agencies • Establish a missing persons DNA identification system
§19-16-3	Definitions (DNA Identification Act)	<ul style="list-style-type: none"> • Covered offender = any person (1 convicted of a felony offense as an adult pursuant ot state, federal or military law; (2) convicted as an adult pursuant to youthful offender or serious youthful offender proceedings, under the Children’s ode or pursuant to comparable or equivalent proceeding sunder state, federal or military law; or (3) required to register as a sex offender pursuant to the provisions of the Sex Offender Registration and Notification Act
§29-16-4	Administrative Center; Powers and Duties; Head; Location; Written Agreement	<ul style="list-style-type: none"> • Administrative center shall establish and administer the DNA identification System, which will provide for the collection, storage, DNA testing, maintenance and comparison of sample and DNA records for forensic and humanitarian purposes.
§29-16-5	DNA oversight committee; created; powers and duties	<ul style="list-style-type: none"> • Composed of 9 voting members, shall adopt rules and procedures regarding the administration and operation of the DNA identification system • Oversees the functions of the sex offender DNA identification system, and the missing persons DNA identification system
§29-16-6	Collection of Samples	<ul style="list-style-type: none"> • Covered offender shall provide one or more samples to the administrative center as follows: <ul style="list-style-type: none"> ○ If convicted on or after July 1, 1997, shall provide a sample immediately upon request to the corrections department as long as the request is made before release from any correctional facility, or if not sentenced to incarceration, before the end of any period or probation or other supervised release;



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§29-16-6 Cont.	Collection of Samples Cont.	<ul style="list-style-type: none"> ○ A covered offender incarcerated on or after July 1, 1997 shall provide a sample immediately upon request to the corrections department as long as the request is made before release from any correctional facility ○ A covered offender on probation or other supervised release on or after July 1, 1997 shall provide a sample immediately upon request to the corrections department as long as the request is made before the end of any period of probation or supervised release ○ Covered offender required to register on the Sex Offender Registration and Notification Act shall provide a sample immediately upon request to the county sheriff located in any county in which they are required to be registered unless the provided sample while in custody ● A person 18 y/o or older who is arrested on or after January 1, 2007 for the commission of a felony shall provide a sample immediately upon request to jail or detention facility personnel, unless they have previously provided sample sufficient for DNA testing that is in possession of the administrative center and the sample has not been expunged
§29-16-8	Confidentiality; disclosure and dissemination of DNA records	<ul style="list-style-type: none"> ● DNA samples are confidential and shall not be disclosed except as authorized in the DNA identification Act pursuant to the rules and regulations developed and adopted by the DNA oversight committee ● Administrative center shall make DNA records available for identification, comparison and investigative purposes to local, state, and federal law enforcement agencies and the state medical investigator pursuant to the rules developed and adopted by the DNA oversight committee ● Administrative center may disseminate statistical or research information derived from samples and DNA testing if all personal identification is removed ● To avoid duplicate sample collection and testing, the administrative center may make information available to local, state and federal agencies whether a sample has been collected from a specific individual



New Mexico Property and Evidence Laws

New Mexico Statute	Description	Synopsis
§29-16-9	Enforcement	<ul style="list-style-type: none"> Attorney general or district attorney may petition a district court for an order requiring a covered offender or a person required to provide a DNA sample to (1) provide a sample; or (2) provide a sample by alternative means if the covered offender or person will not cooperate
§29-16-10.1	Expungement of samples and DNA records	<ul style="list-style-type: none"> Applies only to the missing persons database – can be requested to be removed by the missing person either by request by the person submitted to the administrative center or by overturning by court order of a search warrant
§29-16-12	Penalty	<ul style="list-style-type: none"> Disclosing using, or obtaining DNA samples without authorization is a fourth degree felony
§30-9-19	Sexual assault; law enforcement agency policies; submission of DNA samples y law enforcement and laboratories	<ul style="list-style-type: none"> By October 2017, every law enforcement agency shall develop an implement a policy that describes how the agency handles sample of biological material collected pursuant to a medical examination of a sexual assault victim who reported the sexual assault to the law enforcement agency
§30-9-21	Sexual assault survivor’s bill of rights	<ul style="list-style-type: none"> Health care provider requirements when examining and collecting SAE kits from the survivor of a sexual assault No costs incurred by survivors Law enforcement agency requirements when receiving the SAE kit, including they will (1) confirm contact information for survivor; (2) inform survivor of their right to have the kit tested within 180 days and that they have the right to certain information from the agency such as whether it was tested, when results were expected and if they were able to develop a DNA profile; (3) survivor has the right to information regarding tracking the kit, completion of the investigation, whether a DNA profile was developed and whether it was a match; (4) law enforcement shall notify survivor within 180 of destruction of the kit and provide information on how they may appeal to destroy the kit Crime lab shall complete processing of a sexual assault examination kit within 180 days of receipt.



New York Property and Evidence Laws

New York Statute	Description	Synopsis
N.Y. Pers. Prop. Law § 252	Found property and found instruments to be deposited with police; penalty for failure to deliver to police; delivery to persons in possession of premises where found	<ul style="list-style-type: none"> • A person who finds or comes into the possession of lost property (valued at \$20 or more) must either return the property to its owner or deposit the property at a police station or headquarters of the city where the person found or came into possession of the property within ten days of finding/acquiring the property. If not found within a city, the statute provides that the property be deposited with the appropriate state police station, park police, capital buildings police, etc.
N.Y. Pers. Prop. Law § 253	Duties of police	<ul style="list-style-type: none"> • The police with whom found property is deposited must: <ul style="list-style-type: none"> ○ Give a receipt to the person depositing the property identifying the property deposited through a description of the property, stating the facts of the deposit, or by reference numbers, duplicate copies of records, or other method connecting the receipt with the records of the police. ○ Transmit the property and the report made by the finder to the appropriate official designated to process/hold the property. ○ The official with whom the property is deposited must make an entry in the department's records, including the report given by the finder. ○ Give notice to the occupant of the premises where the property was found, including the location where it was deposited, unless the property was found on a public street or highway. If the property is an instrument, notice should be given to each person listed on the instrument. ○ Give notice to any person who they believe has an interest in the property, including the location of the office where it was deposited • Property with only salvage value may be sold by the police in such manner as may be reasonable in the circumstances. • Perishable property shall be sold by the police as soon as possible in such manner as may be reasonable in the circumstances. • Property which requires special care may be kept by the police in public or private facilities as deemed appropriate to preserve it. • Any property except instruments may be sold by the police when the expenses in dealing with it are more than half what is likely to be realized by sale at a public auction.



New York Property and Evidence Laws

New York Statute	Description	Synopsis
		<ul style="list-style-type: none"> ○ If property is sold, the proceeds (after deducting the reasonable expenses of selling and dealing with it) are treated as lost property with the value of the property sold and kept in the custody of the police under the same periods as lost property is kept, below. ● Loss property (not including instruments), including the proceeds from the sale of lost property, are kept in the custody of the police for: <ul style="list-style-type: none"> ○ Three months, for property/proceeds with less than \$100 in value ○ Six months, for property/proceeds with a value at or above \$100 but less than \$500 ○ One year, for property/proceeds with a value at or above \$500 but less than \$5000 ○ Three years, for property/proceeds with a value at or above \$5000 ● Three months before the expiration of the period above, if the property (not including instruments) has not been delivered to the owner, the police must give notice via personal service of certified mail detailing the information below to: <ul style="list-style-type: none"> ○ The owner, if known ○ Any person the police believes may have an interest in the property ○ Any person who has made a claim to the property ○ The finder ● If lost property (not including instruments) is not claimed by three months after the notice above is served or mailed, the property shall be delivered to the finder. ● If lost property (not including instruments) is not claimed by three months and ten days after the notice above is served or mailed, the owner has not claimed and the finder has not demanded delivery of the property, it will be sold at public auction. ● The proceeds of public sale of lost property (not including instruments) will be deposited with: <ul style="list-style-type: none"> ○ The abandoned property fund of the state, if the property was in the custody of the state police, or ○ the property of the city, county, town, or village where it was deposited.
N.Y. Pers. Prop. Law § 254	Disposition of lost property	<ul style="list-style-type: none"> ● Lost property (not including instruments) and proceeds should be disposed of pursuant to N.Y. Pers. Prop. Law § 253, see above.



New York Property and Evidence Laws

New York Statute	Description	Synopsis
N.Y. Pers. Prop. Law § 255	Disposition of instruments	<ul style="list-style-type: none"> • A found instrument deposited with the police must be delivered to the person entitled to the instrument after payment of all reasonable expenses incurred by the police in connection with the instrument are paid. • No instrument deposited with the police shall be sold or destroyed. • No instrument shall be returned to the finder, or his employer, or the person who deposited it with the police, or the person upon whose premises it was found.
N.Y. Crim. Proc. Law § 690.50	Search warrants; execution thereof.	<ul style="list-style-type: none"> • Upon execution of a search warrant, a police officer must return to the court the seized property and file a written and sworn inventory of the property.
N.Y. Crim. Proc. Law § 690.55	Search warrants; disposition of seized property	<ul style="list-style-type: none"> • Upon receiving property seized through a search warrant, a court must retain the property in its own custody, or direct that it be held in the custody of the person who applied for the warrant, the police officer who executed it, by the agency that employs either individual
N.Y. Penal Law §410	Seizure and forfeiture of equipment used in photographing, filming, producing, manufacturing, projecting or distributing pornographic still or motion pictures	<ul style="list-style-type: none"> • Any police officer may seize any equipment used in the photographing, filming, printing, producing, manufacturing or projecting of pornographic still or motion pictures and may seize any vehicle used in the distribution of such materials. • A police officer making such a seizure must deliver the property and a report of the surrounding facts and circumstances to the district attorney of the county in which the seizure was made, except the property shall be delivered to the police department of the cities of New York, Yonkers, or Buffalo, if applicable. • After judicial determination of the forfeiture of such property, the DA or police department with custody of the property shall sell the property at public auction with five days public notice. The net proceeds of the sale shall go to the general fund of the county in which it was seized, except the net proceeds shall go to the general fund of the cities of New York or Buffalo if applicable.



New York Property and Evidence Laws

New York Statute	Description	Synopsis
N.Y. Exec. Law §838-a	Maintenance of sexual offense evidence kits	<ul style="list-style-type: none"> • Any sexual offense evidence kits must be submitted by the police or prosecutorial agency to an appropriate forensic laboratory within ten days of receipt. • Each forensic laboratory receiving sexual offense evidence kits after November 28, 2017 (the section’s effective date) shall assess case specific information for Combined DNA Index System (CODIS) eligibility and, if eligible, analyze the kits and attempt to develop CODIS eligible profiles of any potential perpetrators from the evidence submitted. The laboratory shall report the results to the submitting agency and appropriate prosecutorial entity within ninety days after receipt. • Each forensic laboratory in the state shall issue a written quarterly report to the Division of Criminal Justice Services on: <ul style="list-style-type: none"> ○ the number of kits received, ○ the number of kits processed for the purpose of developing CODIS eligible profiles of any potential perpetrators, and ○ the number of kits not processed for testing, including, the reason such kits were ineligible for processing. • Each police and prosecutorial agency in the state shall issue a written quarterly report to the Division of Criminal Justice Services on: <ul style="list-style-type: none"> ○ the number of kits it received ○ the number of kits it submitted to a laboratory for processing ○ the number of kits in its custody that have not been processed for testing, ○ the length of time between receipt of any such sexual offense evidence kit and the submission of any such kit to the forensic laboratory.



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15-11	Sheriffs and police departments to maintain register of personal property confiscated, seized or found	<ul style="list-style-type: none"> • Each sheriff and police dept must keep and maintain a book or register of all personal property seized or confiscated • Register must contain: description of property, name of person from whom it was seized, date and place of seizure, and circumstances around possession • Must also contain: manner, date, and to whom articles are disposed or delivered • If sold, must show where proceeds of sale went
15.11.1(a-b)	Seizure, custody and disposition of articles	<ul style="list-style-type: none"> • Law enforcement officer may keep property as long as necessary for it to be used as evidence in any trial • Owner of that property may apply to get his property back • If it is deemed no longer useful or necessary for future trial, owner may get property back • The return of property is up to discretion of the court • In some cases, photographs of the item may be used in substitution of the physical evidence • Unclaimed property may be disposed per the court's discretion – may be sold or destroyed • If property is a firearm:
15-11.1(b1)	Disposition of a firearm confiscated or seized as trial evidence	<p>If the property is a firearm, the defendant may apply for an order of disposition for the firearm The judge may order disposition in the following ways:</p> <ul style="list-style-type: none"> • If the defendant is not the rightful owner, then the firearm will be returned to the rightful owner if it was stolen or they had no knowledge of defendant's unlawful intent • The firearm will be returned to defendant if he is the rightful owner, has not been convicted, and is legally eligible to own the firearm • The firearm will be destroyed (with a record of destruction) if no legible ID number or it is unsafe for use • The firearm can be turned over to law enforcement agency for official use OR sale by licensed firearm dealer <ul style="list-style-type: none"> ○ Must have legible, unique ID number ○ Proceeds of sale must go to public school maintenance ○ Must maintain a record of all firearms received



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15-11.2	Disposition of unclaimed firearms not confiscated or seized as trial evidence	<ul style="list-style-type: none"> • Definition of “unclaimed firearm” <ul style="list-style-type: none"> ○ = firearm found or received by law enforcement agency and is not a firearm seized as trial evidence • When a law enforcement agency finds or receives firearm not claimed after 180 days, they will publish a notice in a local newspaper with: <ul style="list-style-type: none"> ○ Statement that firearm is unclaimed and in their custody ○ Statement that it may be sold or disposed of if not claimed in 30 days ○ A brief description and any other necessary information to identify firearm • If unclaimed after 30 days of publication of notice, the head or chief of the LE agency may order disposition in one of these ways: <ul style="list-style-type: none"> ○ Destroyed if no legible, unique ID number or is unsafe for use (with record of destruction) ○ Sell, trade or exchange by licensed firearm dealer or public auction ○ Keep the firearm for training or experimental purposes ○ Transferring the firearm to a museum or historical society • If sold, the proceeds of sale will be retained by the agency for their use • Must have record of inventory, disposition, and allocation of proceeds of sale
15-12(a)	Publication of notice of unclaimed property in possession of sheriff or police	<ul style="list-style-type: none"> • If property is unclaimed by rightful owner for 180 days, the sheriff or police dept may publish a notice in local newspaper <ul style="list-style-type: none"> ○ With brief description of article or any necessary information to identify it • Must be claimed within 30 days of notice • After 30 days, may be sold or disposed of
15-12(b)	Advertisement and sale or donation of unclaimed bicycles	<ul style="list-style-type: none"> • Bicycles that have remained unclaimed for 60 days may be sold or donated to a charitable organization <ul style="list-style-type: none"> ○ If donated, must state that as intended disposition if they are not claimed in the published notice



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15-13 15-14 15-14.1 15-15 15-16	Public sale of unclaimed property and notice of sale	<ul style="list-style-type: none"> • Articles that are unclaimed after 30 days of notice may be sold in public auction by sheriff or police department • The sheriff or police department must advertise the sale up to 10 days prior in: <ul style="list-style-type: none"> ○ Local newspaper ○ Notice of sale on courthouse door ○ And at three other public places in the county ○ Time, place and description of items to be sold must be mentioned • May also sell the property through electronic auction service • Proceeds from sale will go to costs and expenses of sale, then to treasurer of the county board of education to help fund public schools • No sheriff, police department or officer is liable for damages of property sold
15A-268(a)	Definition of biological evidence	<ul style="list-style-type: none"> • Biological evidence = contents of sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material • That could be used to incriminate or exculpate someone in a criminal investigation
15A-268(a1-a7)	Preservation of biological evidence	<ul style="list-style-type: none"> • A custodial agency will preserve biological evidence in a manner reasonably calculated to prevent contamination or degradation • Subject to continuous chain of custody • Securely retained with official documentation to locate the evidence • The Crime Laboratory will create minimum guidelines for retention and preservation • LE agencies and Conference of Clerks of Superior Court must ensure that these guidelines are distributed to those responsible for maintaining custody • Physical evidence will be assessed by the court to determine if it is likely to retain biological evidence relevant to identifying a perpetrator <ul style="list-style-type: none"> ○ If so, will be designated as biological evidence and preserved accordingly ○ And clerk of superior court takes custody ○ Then the evidence will be returned to collecting agency, ensuring chain of custody



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15A-268(a1-a7) Cont.	Preservation of biological evidence Cont.	<ul style="list-style-type: none"> • The duty to preserve cannot be waived by defendant without a hearing • The evidence will be preserved for the following period: <ul style="list-style-type: none"> ○ Death penalty conviction – until execution ○ Life without parole conviction – until death of convicted person ○ Class B1-E Felony conviction – during period of incarceration and mandatory supervised release <ul style="list-style-type: none"> ▪ If sex offender who pleads guilty, will be held for earlier of three years from conviction date or until released ○ Bio evidence as part of homicide or rape investigation – until the crime is solved ○ Bio evidence not related to criminal investigation or prosecution – according to rules of the custodial agency ○ If keeping evidence would be impracticable or should be returned to owner, the State can petition court for retention of samples of bio evidence by cutting, swabbing, or other means to obtain enough DNA for future testing <p>Custodial agency may provide inventory of bio evidence to defendant upon written request</p>
15A-268(b-g)	Disposal of biological evidence	<p>Custodial agency may dispose of evidence prior to those time periods if:</p> <ul style="list-style-type: none"> • They sent notice of intent to dispose to the DA • They have determined they have no duty to preserve under G.S. 15A-1471 • The DA gave written notification of the intent to any defendant convicted of a felony and is incarcerated in connection with the case, the defendants counsel, and the Office of Indigent Defense Services. <ul style="list-style-type: none"> ○ Must be personally delivered by superintendent of correctional facility to defendant ○ Must specify: <ul style="list-style-type: none"> ▪ That the evidence will be destroyed until they receive written request not to do so ▪ Address of custodial agency ▪ Written request must be received within 90 days of date of receipt by def



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15A-268(b-g) Cont.	Disposal of biological evidence Cont.	<ul style="list-style-type: none"> ▪ Written request must be for one of these reasons: <ul style="list-style-type: none"> • (1) case is on appeal, • (2) case is in postconviction proceedings, • (3) def will file motion for DNA testing within 180 days of receipt (or longer with request for extension), or • (4) the case is referred to NC Innocence Inquiry Commission • If custodial agency has not received written request in compliance with those conditions, may dispose of evidence • Superintendent must sign a sworn written certification (sent to custodial agency) that the DA's notification was delivered to defendant with the date of delivery • After a hearing in response to a defendant's written request to not destroy evidence, the court may authorize custodial agency to dispose of evidence if it: <ul style="list-style-type: none"> ○ Has no significant value for biological analysis ○ Is of a size, bulk or physical character that renders its retention impracticable or should be returned to rightful owner <ul style="list-style-type: none"> ▪ Will return to collecting agency to obtain samples by cutting, swabs, or other means to permit future DNA testing • Orders regarding disposition of evidence are final and appealable within 30 days • Custodial agency will have to provide affidavit describing all efforts to locate evidence if the evidence cannot be produced when asked • If it has been destroyed, court will provide appropriate remedy if defendant's due process rights are violated
15A-268(h)	Retention of records	<ul style="list-style-type: none"> • Records must be kept showing possession, control, storage and destruction of biological evidence related to a criminal investigation
15A-268(i)	Punishment for tampering with biological evidence	<ul style="list-style-type: none"> • Knowingly and intentionally tampering with evidence that prevents it from being subjected to DNA testing or from being produced in official proceedings will be punished as follows: <ul style="list-style-type: none"> ○ Evidence for noncapital crime – Class I felony ○ Evidence for first degree murder crime – Class H felony



North Carolina Property and Evidence Laws

North Carolina Statute	Description	Synopsis
15A-266.5A(c)	Sexual Assault Examination Kit Testing Protocol – For Kits Completed on or After July 1, 2019	<ul style="list-style-type: none"> • Collecting agency must preserve the kit according to G.S. 15A-268 and notify appropriate LE agency within 24 hours • LE agency notified must: <ul style="list-style-type: none"> ○ Take custody of the sexual assault examination kit within 7 days of notification ○ Submit a reported kit to State Crime Laboratory within 45 days after taking custody ○ Submit an unreported kit to the Department of Public Safety within 45 days of taking custody
15A-266.5A(d)	Sexual Assault Examination Kit Testing Protocol – For Kits Completed on or Before January 1, 2018	<ul style="list-style-type: none"> • Any LE agency that possesses a kit completed on or before Jan 1, 2018 shall do the following: <ul style="list-style-type: none"> ○ Establish a review team ○ Survey the entire untested kit inventory and conduct a case review to determine each kit’s testing priority • Priority status kits shall be sent to State Crime Laboratory with notification and request for testing • LE agency shall continue to review untested kits until all eligible untested kits are submitted • Kits are not eligible if they are: <ul style="list-style-type: none"> ○ Unreported sexual assault examination kits ○ Have been confirmed as unfounded after comprehensive review – with summary of information indicating this status ○ Kits in which a conviction has resulted, the convicted person does not seek DNA testing and the convicted person’s DNA profile is already in CODIS
15A-266.5A(e)	Submission for other SAE kits	<ul style="list-style-type: none"> • All other SAE kits should be sent to State Crime Laboratory as soon as practicable
15A-266.5A(f)	Testing Requirements for Accepted Kits	<ul style="list-style-type: none"> • After request for testing of a SAE kit, the State Crime Laboratory should give the LE agency notice of approval and shipment instructions for the kit • The State Crime Laboratory will pursue DNA analysis and develop DNA profiles for entry into CODIS and the State DNA Database



North Dakota Property and Evidence Laws

North Dakota Statute	Description	Synopsis
§ 29-31.1-01	Definitions	<ul style="list-style-type: none"> ● Forfeitable property: <ul style="list-style-type: none"> ○ Property that is illegally possessed/contraband ○ Property used to facilitate a crime. ○ Property acquired through a crime. ● Seizing agency: <ul style="list-style-type: none"> ○ Government agency that took the property.
§ 29-31.1-03	Seizure of forfeitable property	<ul style="list-style-type: none"> ● Property deemed to be forfeitable can be seized whenever and wherever within the state. ● If the court finds the forfeiture warranted, an order must be entered transferring possession to the controlling agency. ● Property collected through forfeiture that is intended to be used as evidence must be secured by the agency causing the seizure.
§ 29-31.1-05	Transfer of forfeitable property	<ul style="list-style-type: none"> ● After seized, right to forfeitable property can only be transferred by the seizing agency or the court.
§ 29-31.1-06	Disposition of forfeited property	<ul style="list-style-type: none"> ● Seizing agency may use property for official use or transfer it to another government agency. ● Seizing agency may sell property if not prohibited or dangerous in nature, funds are to go local general fund. ● Seizing agency may dispose property in proper manner if unable to sell or use.



North Dakota Property and Evidence Laws

North Dakota Statute	Description	Synopsis
§ 29-31.1-07	Nonforfeitable interest - purchase of foreitable interest	<ul style="list-style-type: none"> ● Original owner must be reimbursed for non-forfeitable interest of property if he declines to purchase it from agency.
§ 29-31.1-08	Retention of forfeited property	<ul style="list-style-type: none"> ● If forfeited property is being used in a criminal investigation, it must be retained under the control of the prosecuting attorney until its use is no longer required.
§ 29-31.1-09	Disposition of forfeited property held as evidence in a criminal proceeding	<ul style="list-style-type: none"> ● Evidence to be disposed of by the court in a manner complying with rest of the statute.
§ 62.1-01-02	Forfeiture of a dangerous weapon or firearm by person arrested and convicted of a crime	<ul style="list-style-type: none"> ● Weapon possessed during felony or misdemeanor must be retained by agency upon conviction, may dispose of it complying with §29. ● Effort must be made to return firearm to original owner if it has been stoled.
	<p>***NOTE</p> <p>It appears that North Dakota does not have any further evidence preservation laws.</p> <p>However, sexual assault evidence collection protocols for the state of North Dakota can be found HERE.</p>	



Ohio Property and Evidence Laws

Ohio Statute	Description	Synopsis
§ 505.105	Deposit and Inventory of Stolen Property by Police or Other Officials	<ul style="list-style-type: none"> • Stolen or other property recovered by the police or other official state members shall be deposited in a place designated by the head of the department. • Each article will be logged in a book, with the name of the owner (if known), place found, date found, and officer who found it affixed, for the purpose of keeping inventory. • Inventory shall be given to person from whom it was taken, and if not claimed within thirty (30) days of arrest, returned to person from whom it was taken.
§ 2981.03	Seizure of Property and Subsequent Relief	<ul style="list-style-type: none"> • State has authority to seize and hold property it believes necessary upon commission of offense by person giving rise to seizure. • Seizure of real property shall require a court hearing. • Person who has property unlawfully seized may file in court for the return of property. • The return of property is up to discretion of the court and the person must prove by preponderance of evidence that the seizure was unlawful. •
§ 505.108	Sale and Publication of Unclaimed Stolen Items	<ul style="list-style-type: none"> • Property that is unclaimed for ninety days or more shall be sold by the chief of police. • Notice of the sale must be provided once a week for three consecutive weeks • Proceeds will be credited to the township general fund.
§ 737.32	Sale and Publication of Unclaimed Property	<ul style="list-style-type: none"> • Property that is unclaimed for ninety days or more shall be sold by the chief of police. • Notice of the sale must be provided once a week for three consecutive weeks • Proceeds will be credited to the township general fund.
§ 2981.12(1)	Disposition of Unclaimed or Forfeited Drugs	<ul style="list-style-type: none"> • Drugs shall either: <ul style="list-style-type: none"> ○ be disposed of; or ○ be placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes.
§ 2981.12(2)	Disposition of Unclaimed or Forfeited Firearms	<ul style="list-style-type: none"> • May be given to the police for use. • Firearms suitable for hunting or for collecting may be sold at public auction. • Other firearms may be sold to a federally licensed arms dealer in a manner to be deemed by the court • All firearms that are not sold in these manners will be destroyed.



Ohio Property and Evidence Laws

Ohio Statute	Description	Synopsis
§ 2981.12(4)	Disposition of Unclaimed or Forfeited Alcohol	<ul style="list-style-type: none"> • Shall be sold to the division of liquor control • Any of the acquired beer, liquor, or wine determined to be unfit for sale shall be destroyed. • If the imposed tax had not been paid for this liquor, the money from the sale shall first go to this and then the remaining will go to the state treasury.
§ 2981.12(6)	Disposition of Unclaimed or Forfeited Vehicles	<ul style="list-style-type: none"> • The agency who seized the vehicle shall have first opportunity to make use of the vehicle for its official duties. • If they do not want the vehicle, then it may be sold. • If the vehicle or its parts are missing their identification number, then vehicle must be either sold or destroyed.
§ 2933.82(A)(1)(a)	Definition of Biological Evidence	<ul style="list-style-type: none"> • The contents of a sexual assault examination kit; • Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.
§ 2933.82(B)(1)(a-c)	Preservation of Biological Evidence	<p>Biological evidence will be retained for these periods of time:</p> <ul style="list-style-type: none"> • For a murder or aggravated murder – the period of time it remains unsolved. • For sexual assault, sexual battery, and rape – a period of thirty (30) years. • If the person pleads guilty or is convicted, the earlier of: <ul style="list-style-type: none"> ▪ The length of incarceration or other related punishment; or ▪ Thirty years
§ 2933.82(B)(6-9)	Disposal of Biological Evidence.	<ul style="list-style-type: none"> • May be destroyed if the agency elects to prior to the statutory period AND notice is provided to: the person in custody, their attorney, the state public defender, the office of the prosecutor on record, and the attorney general AND none of these persons submits a request for testing or retention within one year of receipt of notice. • May be destroyed five (5) years following a guilty plea for: murder, aggravated murder, manslaughter, rape, sexual battery, or sexual assault. • If the evidence is of such a large nature that holding it in its entirety is impracticable, then a usable portion shall be retained as required by statute.



Ohio Property and Evidence Laws

Ohio Statute	Description	Synopsis
§ 2921.12(A-B)	Punishment for Tampering with Biological Evidence	<ul style="list-style-type: none"> Whoever is in violation of tampering with evidence will be guilty of a felony of the third degree.
§ 109.68 (A-D)	Sexual Assault Examination Kit Tracking System	<ul style="list-style-type: none"> The attorney general shall create a system for tracking the progression of sexual assault examination kits. The attorney general may contract with private entities for help with the system. Within one year of its implementation, all entities in the chain of custody of these kits shall participate in the tracking system.
§ 2933.82(B)(2)(a-e)	Sexual Assault Examination Kit Protocol	<ul style="list-style-type: none"> If an agency is in possession of a sexual assault kit, it will look to statute to see if time remains and pursue an investigation. The law enforcement agency shall be in charge of retrieving the sexual assault kit from the government evidence-retention agency and forwarding it to any bureau or laboratory that may need it. The DNA analysis of asexual assault kit must be performed as soon as possible from the receipt of the kit. The bureau performing the DNA analyses must subsequently return the sexual assault kit as soon as possible following its completion of testing.



Oklahoma Property and Evidence Laws

Oklahoma Statute	Description	Synopsis
tit. 74, § 150.28b	Standardized Sexual Assault Evidence Kit	<ul style="list-style-type: none"> • A sexual assault evidence kit or other DNA evidence must be submitted to appropriate crime laboratory for testing within 20 days after receipt of evidence • A collected sexual assault evidence kit must be kept in a secure and safe manner for at least fifty years or for the length of the statute of limitations for the alleged crime, whichever is longer. • Each law enforcement agency is responsible for maintenance of untested kits • Priority testing for kits that will yield evidentiary value to investigation and prosecution of assault
tit. 21, § 1271.1	Confiscation of prohibited weapons and firearms from a minor	<ul style="list-style-type: none"> • When minor is carrying prohibited weapon, such weapon may be confiscated and forfeited to the State without requiring criminal charges • When weapon has been taken by minor without permission of owner, weapon should be returned to owner • Any weapon confiscated may be sold at public auction or (when not needed as evidence) may be leased to a law enforcement agency for one year. That lease period may be renewed annually.
tit. 67, § 301	Reproduction of Public Records/Preservation of originals	<ul style="list-style-type: none"> • Any public officer of state may cause any or all public records kept by him to be photographed, microphotographed, reproduced on film, or duplicated in a manner acceptable to the State Archives and Records Commission • The originals containing duplicates should be stored in a maximum security vault and only removed for purpose of making copies. • Copies shall be placed in conveniently accessible filed
tit. 11, § 22-132	Reproduction of Records by Municipality	<ul style="list-style-type: none"> • The head of any municipal department, commission, bureau, or board may have any or all records reproduced on film or stored on optical disk.
tit. 21, § 531	Destruction or falsification of records	<ul style="list-style-type: none"> • States destruction/falsification as a crime against public justice, and classifies crime as a felony • Specifically applies to any sheriff, coroner, clerk of court, constable or other ministerial officer, and every deputy or subordinate of any ministerial officer •



Oklahoma Property and Evidence Laws

Oklahoma Statute	Description	Synopsis
tit. 22, § 1325	Unclaimed property or money in possession of sheriff's office or campus police agency	<ul style="list-style-type: none"> Any sheriff's office or campus police agency is authorized to dispose of personal property that has come to its possession by public sale, destruction, donation, or transfer for use to a governmental subdivision.
tit. 22, § 1327	Disposition of exhibits	<ul style="list-style-type: none"> Methods and timing of disposing exhibits from criminal proceedings The Court may, through a party's application, release exhibits to such party After six months from judgment becoming final, the court will make an order requiring exhibits to be destroyed as long as destruction would not prejudice the state Property disposition can also occur through transferring property to county sheriff for public sale No exhibit shall be destroyed until sixty days after the clerk has posted notice in three public places in the county
tit. 22, § 1228	Exigent Circumstances of Forced entry	<ul style="list-style-type: none"> Reasonable cause to believe exigent circumstances may constitute forced entry; one exigent circumstance is the possible destruction of evidence
tit. 21, § 454	Destroying Evidence	<ul style="list-style-type: none"> Anyone who willfully destroys evidence is guilty of a misdemeanor
tit. 74, § 150.27a	OSBI Combined DNA Index System (CODIS) Database	<ul style="list-style-type: none"> Established Database for storing blood or saliva samples and DNA profiles
tit. 74, § 150.28a	Statewide electronic tracking system for sexual assault evidence collection kits	<ul style="list-style-type: none"> All sexual assault evidence collection kits collected on or after October 1, 2019, shall be trackable on the electronic tracking system Tracking systems includes: location and status, receipt of storage of kit at law enforcement agency as well as the crime laboratory, and storage/destruction after kit is analyzed. Provides chain of custody for survivors.
tit. 63, § 2-509	Eradication of controlled dangerous substances	<ul style="list-style-type: none"> Governs species of plants that are considered controlled dangerous substances Declares duty of every person to destroy all such plants found growing on lands owned/controlled by person When peace officer of state is aware of plants, they notify sheriff and county commissioner. Within five days of notice, commissioner will notify owner/person in possession and that the plants must be destroyed or eradicated within fifteen days. If plants are not eradicated, county commissioner will destroy/eradicate plants. Knowing violators are subject to a felony and a fifty thousand dollar fine.



Oklahoma Property and Evidence Laws

Oklahoma Statute	Description	Synopsis
tit. 20, § 1005	Disposal or destruction of court records	<ul style="list-style-type: none"> The Court clerk is authorized to dispose of judicial records enumerated throughout this statute Records of criminal property cases are subject to disposal or destruction after a two-year period has elapsed since any pleading has been filed or any action taken in the case
tit. 22, § 1237	Restoration of property to person searched	<ul style="list-style-type: none"> If property taken is not same as describe in warrant, or if there is no probable cause for existence of property that which the warrant was issued, the magistrate must have the property restored to the person from whom it was taken.
tit. 22, § 1261	Seized Property – Report and Disposition of Liquor	<ul style="list-style-type: none"> Officer must file written report to court clerk and sheriff within five days of seizing personal property used for the purpose of violating any prohibitory liquor laws or gambling laws. Officer is required to mark the (liquor/wine/beer) bottles for identification by writing the date of seizure and name of whom it was seized
tit. 22, § 1372	Biological Evidence Preservation—Definitions	<ul style="list-style-type: none"> Biological evidence shall be preserved by a criminal justice agency for such period of time that any individual convicted of that crime remains incarcerated Biological evidence = physical evidentiary material originating from the human body (DNA profile/sequence)
tit. 63, § 2-508	Disposition of seized property under the Uniform Controlled Dangerous Substances Act	<ul style="list-style-type: none"> Unless provided within act, all property seized under the Uniform Controlled Dangerous Substances Act Shall be destroyed. The enumerated agencies have authority to destroy seized controlled dangerous substances when the amount seized exceeds ten pounds. Destroying agency shall: photograph substance, prepare a report, retain at least one pound of substance, and retain samples to establish violation of Trafficking in Illegal Drugs Act (if specified weight is present). Property seized that does not come under the Uniform Controlled Dangerous Substances Act may be disposed of by order of the district court when no longer needed in connection with any litigation. This includes public sale, which the statute then describes how the money from public sale shall be spent.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.455	Post-arrest procedures: Officers shall tender receipts for money or other valuables from any person in custody	<ul style="list-style-type: none"> • Jailer, peace officer or health officer who takes or receives any money or other valuables from any person in custody for safekeeping or for other purposes, the officer or jailer receiving such items shall tender one duplicate receipts of the property being surrendered to the person in custody. • Person in custody shall countersign both original and duplicate receipts. • If person in custody unable to sign or receives receipts, the same shall be signed and delivered when “reasonably possible.” • Files of the original receipts will be kept for at least 6 months after the money or valuables have been returned to the person in custody, their agent or representative, or another person entitled to same. • Violation of this provision is a Class B misdemeanor.
133.460	Forfeiture of vehicles or conveyances used in unlawful transportation of stolen animals and other property	<ul style="list-style-type: none"> • Any boat, vehicle, aircraft or other conveyance used by or with knowledge of the owner or person operating or in charge thereof in the unlawful transportation of livestock, carcasses, poultry or other personal property per ORS 142.70, or in which any such personal property unlawfully possessed is kept or concealed by or with the knowledge of such owner or person operating or in charge therefor shall be forfeited to the state. • If the person arrested is not the owner, the sheriff shall make reasonable efforts to determine name and address of owner. • If sheriff able to determine owner, sheriff shall immediately notify the owner by registered or certified mail of the seizure and the owner’s rights and duties under this section or 133.465. • Any person receiving notice under this section, or asserting a claim to rightful possession of the vehicle seized, except the defendant, may move the court having ultimate trial jurisdiction over any crime charged in connection with seizure to return vehicle of conveyance to the movant. • Movant shall serve copy of motion upon DA of county in which the vehicle or conveyance is in custody. Court shall order vehicle or conveyance returned to movant, unless court satisfies by clear and convincing evidence that movant knowingly consented to unlawful use resulting in seizure.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.460 Cont.	Forfeiture of vehicles or conveyances used in unlawful transportation of stolen animals and other property Cont.	<ul style="list-style-type: none"> • If court orders return of property, movant is not liable for any towing or storage costs incurred by seizure. • If court does not return property, and the arrested person is convicted for any offense in connection with the seizure, the property shall be subject to forfeiture.
133.465	Seizure of stolen animals or other property; arrest; bond	<ul style="list-style-type: none"> • When officer discovers any person in the act of transporting any stolen live meat food animal or fowl, any meat food animal or fowl carcass, or any part thereof, or any wool, hides, grain or any other article which has been stolen in or upon any vehicle, boat, aircraft or conveyance of any kind, the officer shall seize all such articles or things found therein, take possession of the vehicle or other conveyance and arrest any person in charge thereof. • The officer shall at once proceed against the person arrested, under the provisions of the law which has been violated, in any court having competent jurisdiction and shall deliver the vehicle or other conveyance to the sheriff of the county in which such seizure has been made. • The vehicle or other conveyance shall be returned to the owner if the owner is the person arrested, upon execution of a good and valid bond, with sufficient sureties in a sum double the value of the property, which bond shall be approved by the court and shall be conditioned upon the return of said property to the custody of the sheriff at a time to be specified by the court.
133.470	Sale of seized property; priority; knowledge	<ul style="list-style-type: none"> • The court, upon conviction of the person arrested pursuant to <u>ORS 133.465</u>, shall, unless the bona fide owner or a bona fide lienholder registers an objection as provided in this section, subject to the ownership rights of innocent third parties, order a sale of the property at public auction by the sheriff of the county where it was seized. • The sheriff, after deducting the expense of keeping the property and the cost of sale, shall pay, according to their priorities, all liens which are established by intervention or otherwise at such hearing or in other proceedings brought for said purpose and shall pay the balance of the proceeds into the general fund of the county.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.470 Cont.	Sale of seized property; priority; knowledge Cont.	<ul style="list-style-type: none"> • No claim of ownership or of any right, title or interest in the vehicle or other conveyance shall be held invalid unless the state shows to the satisfaction of the court, by clear and convincing evidence that the claimant had knowledge that the vehicle or other conveyance was used or to be used in violation of law. • No such conveyance shall be sold under this section and unless the state proves to the court, by clear convincing evidence that the person asserting a claim of ownership or other right, title or interest in the conveyance had knowledge that such conveyance was to be used to convey stolen property, in which case the court shall order the vehicle or other conveyance to be released. All liens against property sold under this section or <u>ORS 133.475</u> or <u>133.485</u> shall be transferred from the property to the proceeds of the sale of the property.
133.475	Notice Requirements	<ul style="list-style-type: none"> • If seized property is not claimed, a description shall be advertised in a daily newspaper published in the city or county where the property was taken or, if there is no daily newspaper published in such county or city, a newspaper having weekly circulation in the city or county once a week for two weeks and by notice posted in three public places near the place of seizure. • If the legal owner of a motor vehicle is licensed by the State of Oregon, as shown by the name and address of the legal owner in the records of the Dept. of Transportation shall be notified by mail. • If a claimant does not appear within 10 days after the last publication of the advertisement, the property shall be sold and the proceeds (minus expenses and costs) shall be paid into the general fund of the county.
133.485	Perishable property; sale after court order	<ul style="list-style-type: none"> • If the property that is seized is perishable, or livestock or fowls where the cost of keeping is great, the sheriff shall, upon order of the court, sell the same in the manner in which property is sold at auction.
133.495	Sale proceeds retained to satisfy court orders	<ul style="list-style-type: none"> • Proceeds of the sale in ORS 133.485 and other property seized shall be retained by lines, if not released on bond, to answer any order that may be entered by the court upon the trial of the person arrested.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.535	Property and persons subject to search and seizure	<ul style="list-style-type: none"> • Evidence of information concerning the commission of a crime; • Contraband, the fruits of the crime or things otherwise criminally possessed; • Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense; and • A person for whose arrest there is probable cause or which is unlawfully held in concealment.
133.537	Safeguarding and protecting property seized	<ul style="list-style-type: none"> • In all cases of seizure, an agency that seizes property shall take reasonable steps to safeguard and protect the things seized against loss, damage and deterioration • An agency that seizes property is not liable for loss, damage or deterioration resulting from any reasonable actions taken to secure or develop evidence.
133.595	List of things seized	<ul style="list-style-type: none"> • Promptly upon completion of a search, the officer shall make a list of thing seized, and deliver a receipt embodying the list to the person from shoe possession they are taken, or the person in apparent control of the premises or vehicle from which they are taken. • If vehicle or premises are unoccupied or there is no one present in apparent control, the executive officer shall leave the receipt affixed to the vehicle or premises.
133.623	Procedures for items seized	<ul style="list-style-type: none"> • If an officer makes an arrest in connection with a seizure, as soon thereafter as possible, shall make a written list of things seized and furnish a copy of the list to defendant. • If no claim to rightful possession has been established, the things seized may be disposed in accordance of in accordance with ORS 98.245 or the court may order that the things be delivered to the officials having responsibility under the applicable laws for selling, destroying or otherwise disposing of contraband, forfeited or unclaimed goods in official custody. If the responsible officials are state officials and the property is forfeited, the proceeds shall be deposited with the State Treasury in the Common School Fund. • If the things seized in connection with an arrest are not needed for evidentiary purposes, and if a person having a rightful claim establishes identity and right to possession beyond a reasonable doubt to the satisfaction of the seizing officer, the officer may summarily return the things seized to their rightful possessor. If the things seized are perishable and it is not possible to return them to their rightful possessor, the seizing officer may dispose of the items as justice and the necessities of the case require.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.633	Motion for return or restoration of property, appropriate court, service, costs.	<ul style="list-style-type: none"> • Within 90 days after actual notice of any seizure, or at such later date as the court in its discretion may allow: <ul style="list-style-type: none"> ○ An individual from whose person, property or premises things have been seized may move the appropriate court to return things seized to the person or premises from which they are seized. ○ Any other person asserting a claim to rightful possession of the things seized may move the appropriate court to restore the things seized to the movant. • The appropriate court to consider such motion is: <ul style="list-style-type: none"> ○ The court having ultimate trial jurisdiction over any crime charged in connection with the seizure; ○ If no crime is charged in connection with the seizure, the court to which the warrant was returned; or ○ If the seizure was not made under a warrant and no crime is charged in connection with the seizure, any court having authority to issue search warrants in the county in which the seizure was made. • The movant shall serve a copy of the motion upon the district attorney or the city attorney, whichever is appropriate, of the jurisdiction in which the property is in custody. • No filing, appearance or hearing fees may be charged for filing or hearing a motion under this section. • The things seized that are the subject of a motion for return under this section may include raw data obtained from the forensic imaging of a portable electronic device or of a computer. "Forensic imaging," "portable electronic device" and "raw data" have the meaning given those terms in ORS 133.539.
133.653	Evidentiary use; review; return of raw data	<ul style="list-style-type: none"> • An order granting a motion for return or restoration of things seized shall be reviewable on appeal in regular course. An order denying such a motion or entered under ORS 133.633 shall be reviewable on appeal upon certification by the court having custody of the things in question that they are no longer needed for evidentiary purposes.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.653 Cont.	Evidentiary use; review; return of raw data Cont.	<ul style="list-style-type: none"> • An order granting a motion for return of raw data obtained from the forensic imaging of a portable electronic device or of a computer shall include a provision that a law enforcement agency may not retain a copy of the raw data to be returned. • Forensic imaging, portable electronic device and raw data have the meanings given to them in ORS 133.539.
133.663	Substantial questions as to rightful possession	<ul style="list-style-type: none"> • If, upon consideration of a motion for return or restoration of things seized, it appears to the court that the things should be returned or restored, but there is a substantial question whether they should be returned to the person from whose possession they were seized or to some other person, or a substantial question among several claimants to rightful possession, the court may: <ul style="list-style-type: none"> ○ (a) Return the things to the person from whose possession they were seized; or ○ (b)(A) Impound the things seized and set a further hearing, ensuring that all persons with a possible possessory interest in the things in question receive due notice and an opportunity to be heard; and (B) Upon completion of the hearing provided for in subparagraph (A) of this paragraph, enter an order for the return or restoration of the things seized. • If there is no substantial question whether the things should be returned to the person from whose possession they were seized, they must be returned to the person upon the release of the defendant from custody. • Instead of conducting the hearing provided for in subsection (1)(b)(A) of this section and returning or restoring the property, the court, in its discretion, may leave the several claimants to appropriate civil process for the determination of the claims.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.707	Preservation of Biological Evidence – duties of custodian	<ul style="list-style-type: none"> • A custodian shall preserve biological evidence¹ in accordance with <u>ORS 133.705 to 133.717</u> if the evidence: <ul style="list-style-type: none"> ○ Is collected as part of a criminal investigation into a covered offense; or ○ Is otherwise in the possession of the custodian and reasonably may be used to incriminate or exculpate any person for a covered offense. • When a custodian is required to preserve biological evidence under subsection (1) of this section, the custodian shall preserve the evidence in an amount and manner that is sufficient to develop a DNA profile. Except as otherwise provided in <u>ORS 133.705 to 133.717</u>, the biological evidence must be preserved: <ul style="list-style-type: none"> ○ If the covered offense is aggravated murder, murder, rape in the first degree, sodomy in the first degree or unlawful sexual penetration in the first degree, for 60 years from the date each person is convicted of the offense or until each person convicted of the offense has died, whichever is earlier. ○ If the covered offense is aggravated vehicular homicide, manslaughter in the first degree or manslaughter in the second degree, until each person convicted of the offense has served the person’s sentence. ○ If no person is convicted of the covered offense or the law enforcement agency investigating the covered offense closes the case for a reason other than the conviction of a person, until the expiration of the statute of limitations. • A custodian is not required to preserve physical evidence solely because the physical evidence contains biological evidence if the physical evidence is of such a size, bulk or physical character as to render retention impracticable. When the retention of physical evidence is impracticable, the custodian shall remove and preserve portions of the physical evidence likely to contain biological evidence in a quantity sufficient to permit future DNA testing before returning or disposing of the physical evidence.

¹ O.R.S. § 133.705(1) (“Biological evidence” means an individual’s blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identified biological material. “Biological evidence” includes the contents of a sexual assault forensic evidence kit.”)



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.707 Cont.	Preservation of Biological Evidence – duties of custodian Cont.	<ul style="list-style-type: none"> • Upon the conclusion of any trial or hearing involving a covered offense, the court shall return any biological evidence in the possession of the court to the custodian responsible for preserving the biological evidence under <u>ORS 133.705 to 133.717</u>, unless the evidence was collected by the defense. If the evidence was collected by the defense, the court shall return the evidence to the attorney for the defendant. • If a custodian is required to preserve biological evidence under <u>ORS 133.705 to 133.717</u> and the custodian is unable to produce the evidence in a judicial proceeding, the individual to whom the custodian has delegated the duty to preserve the evidence shall prepare, sign and file with the court a sworn affidavit that indicates that the custodian is unable to produce the evidence and describes the efforts taken to locate the evidence. • If a court finds that biological evidence was destroyed in violation of <u>ORS 133.705 to 133.717</u>, the court, after determining whether the evidence was destroyed maliciously, may impose appropriate sanctions and order appropriate remedies. The court may not order the reversal of a conviction under this subsection on the sole grounds that the biological evidence is no longer available. • The Attorney General shall adopt rules establishing: <ul style="list-style-type: none"> ○ Standards for the proper collection, retention, preservation and cataloging of biological evidence applicable to criminal investigations into, and criminal prosecutions for, covered offenses; and ○ A standard form for use by custodians in providing the written notice described in <u>ORS 133.709 (1)</u>. • The Attorney General shall consult with the Department of State Police and custodians before adopting rules under this subsection.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.709	Disposal of biological evidence; return of property to victim; motion to preserve biological evidence	<ul style="list-style-type: none"> • (1)(a) A custodian may seek to dispose of biological evidence before the period of time specified in <u>ORS 133.707 (2)</u>, by providing written notice, in the form developed under <u>ORS 133.707 (7)</u>, to the district attorney having jurisdiction over the prosecution of the covered offense. Upon receipt of the notice, the district attorney shall determine whether to object to the disposal of any of the biological evidence identified in the custodian’s notice. • (b) If the district attorney objects to the disposal of any of the biological evidence identified in the custodian’s notice, the district attorney shall provide written notice of the objection to the custodian that identifies the biological evidence that the district attorney determines must be preserved. The custodian shall preserve any biological evidence identified by the district attorney in the notice until the period of time specified in <u>ORS 133.707 (2)</u> has elapsed. • (c) If the district attorney does not object to the disposal of all or a portion of the biological evidence identified in the custodian’s notice, the district attorney shall provide written notice of the intent to dispose of biological evidence, identifying the biological evidence that the district attorney has determined may be disposed of, to: <ul style="list-style-type: none"> ○ (A) The defendant; ○ (B) The most recent attorney of record for the defendant; and ○ (C) The Department of Justice. • (2) If evidence that is subject to <u>ORS 133.707</u> is the property of the victim, the victim may request that the district attorney determine whether the property may be returned to the victim. The request must be in writing and must identify the property that the victim seeks to have returned. If the district attorney: <ul style="list-style-type: none"> ○ (a) Objects to the return of any of the property to the victim, the district attorney shall notify the victim of that determination. ○ (b) Does not object to the return of all or a portion of the property, the district attorney shall provide written notice of the intent to dispose of biological evidence, identifying the property the district attorney has determined may be returned, to:



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
		<ul style="list-style-type: none"> ▪ (A) The victim; ▪ (B) The defendant; ▪ (C) The most recent attorney of record for the defendant; and ▪ (D) The Department of Justice. <ul style="list-style-type: none"> • (3)(a) Not later than 120 days after the date the district attorney provides written notice to the defendant under subsection (1)(c) or (2)(b) of this section, the defendant may file a motion to preserve biological evidence in the convicting court. The defendant shall provide a copy of the motion to the district attorney and the custodian. If the motion is timely filed, the court shall enter an order as provided in <u>ORS 133.715</u>. • (b) If the defendant fails to file a motion to preserve biological evidence before the expiration of the 120-day period specified in paragraph (a) of this subsection, the district attorney shall file with the court a copy of the notice of intent to dispose of biological evidence sent to the defendant under subsection (1)(c) or (2)(b) of this section. Following the filing of the notice, the court shall, without hearing, enter an order authorizing the disposal of the biological evidence described in the notice. The court shall provide a copy of the order to the custodian, the district attorney and each person or entity described in subsection (1)(c) or (2)(b) of this section, as applicable. • (c) The 120-day period specified in this subsection begins on the date the notice is mailed.
133.713	Inventory of biological evidence	<ul style="list-style-type: none"> • Upon written request by the defendant, the DA shall provide the defendant with an inventory of biological evidence that has been preserved under ORS 133.705 to 133.717 and is related to the covered offense for which the defendant was convicted. • A defendant or defendant’s attorney has the right to reasonably review biological evidence that is the subject of a written notice of intent to dispose of biological evidence under ORS 133.709 for the purpose of preparing a motion to preserve biological evidence.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.715	Procedure on motion to preserve biological evidence	<ul style="list-style-type: none"> • Upon receipt of a timely motion to preserve biological evidence under <u>ORS 133.709 (3)</u>, the court shall: <ul style="list-style-type: none"> ○ (a) Conduct a hearing to resolve the motion; or ○ (b) Enter an order directing the custodian to preserve the biological evidence. • (2)(a) In determining whether to order the preservation of biological evidence, the court shall consider, in addition to other factors the court considers appropriate, the following factors: <ul style="list-style-type: none"> ○ (A) Whether the identification of the offender was a disputed issue; ○ (B) Whether other biological evidence in the case contains DNA in an amount that is sufficient to develop a DNA profile and will not be disposed of; ○ (C) If the biological evidence has not previously been tested, whether it is possible to perform testing on the biological evidence; ○ (D) Whether the defendant has served all of the sentence imposed; and ○ (E) Whether the defendant has exhausted the defendant's appellate or post-conviction rights. • (2)(b) If the defendant has not exhausted the defendant's appellate and post-conviction rights, there is a presumption that the biological evidence should be preserved. • (2)(c) In making the determination described in this subsection, except as otherwise provided in paragraph (b) of this subsection, the court may assign the weight the court deems appropriate to the factors described in paragraph (a) of this subsection and to any other factor the court determines is appropriate. • (2)(d) For purposes of subparagraph (2)(a)(A) of this section, the court need not presume that identification of the offender is not a disputed issue solely because the defendant has pleaded guilty or no contest to the crime, has confessed to the crime or has made an admission. • (3) If the court enters an order authorizing the disposal of biological evidence, the order may not authorize disposal to occur sooner than 45 days after the date the order is entered. The court shall provide a copy of the order to the custodian, the district attorney and the defendant.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
133.715 Cont.	Procedure on motion to preserve biological evidence Cont.	<ul style="list-style-type: none"> • (4) Either the state or the defendant may appeal from an order entered under this section in the manner provided in ORS chapter 19 for appeals from judgments. Notwithstanding <u>ORS 19.330</u>, the filing of a notice of appeal automatically stays an order entered under this section.
181A-.324	Prioritization of testing untested sexual assault forensic evidence kits; rules; entry of results into combined DNA Index System; reports.	<ul style="list-style-type: none"> • The Department of State Police shall adopt rules concerning the prioritization of testing untested sexual assault forensic evidence kits in the department's possession. The rules must contain a requirement to test all non-anonymous kits and a prohibition on the testing of anonymous kits. • (2) The department shall test any untested sexual assault forensic evidence kits, other than anonymous kits, in the department's possession in accordance with the rules adopted pursuant to subsection (1) of this section. • (3)(a) The department shall designate an entity, position or class of positions to receive inquiries from law enforcement agencies and victims seeking information concerning the testing of sexual assault forensic evidence kits. • (3)(b) The department shall prohibit victims from directly contacting a forensic laboratory performing testing of sexual assault forensic evidence kits and may not publicize a means for victims to contact the laboratory. • (4)(a) As soon as practicable, the department shall ensure that the results from testing sexual assault forensic evidence kits that are eligible to be entered into the Combined DNA Index System are entered into the system after the testing results are obtained. • (4)(b) No later than July 1, 2019, the department shall provide a written report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in <u>ORS 192.245</u>, describing the department's progress in entering results from testing sexual assault forensic evidence kits into the Combined DNA Index System.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
181A-.324 Cont.	Prioritization of testing untested sexual assault forensic evidence kits; rules; entry of results into combined DNA Index System; reports. Cont.	<ul style="list-style-type: none"> • (5) No later than January 15 of each calendar year, the department shall provide a written report to the interim committees of the Legislative Assembly related to the judiciary in the manner provided in <u>ORS 192.245</u>. The report must detail the progress made on the backlog of untested sexual assault forensic evidence kits and include the number of new kits that have been received during the previous calendar year, the number of kits that have been tested during the previous calendar year, and the number of remaining untested kits in the possession of the department.
181A.325	Policies and Procedures Concerning Sexual Assault Forensic Kits and Contact with Victims	<ul style="list-style-type: none"> • (1) Each law enforcement agency within this state shall have policies and procedures concerning the collection, submission for testing, retention and destruction of sexual assault forensic evidence kits. The policies and procedures must be in writing, must be made available to the public as soon as possible upon request and must include <ul style="list-style-type: none"> ○ (a) Procedures for investigating reports of sexual assault. ○ (b) A time limit by which the law enforcement agency must obtain a sexual assault forensic evidence kit from a medical facility that is within seven days after the medical facility notifies the agency that the kit has been collected. ○ (c) A time limit by which a sexual assault forensic evidence kit must be submitted to the Department of State Police for testing that is within 14 days after taking possession of the kit from a medical facility. ○ (d) A requirement that the law enforcement agency submit to the department information sufficient to allow the department to prioritize the testing of a sexual assault forensic evidence kit according to the rules of the department. ○ (e) A prohibition on the submission of an anonymous kit to the department for testing. ○ (f) A requirement that all sexual assault forensic evidence kits, including anonymous kits, be retained for no less than 60 years after the collection of the evidence.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
181A.325 Cont.	Policies and Procedures Concerning Sexual Assault Forensic Kits and Contact with Victims Cont.	<ul style="list-style-type: none"> ○ g) A requirement that when a victim who did not previously participate with a law enforcement agency in the creation of a report of a sexual assault participates in the creation of a report of the sexual assault at a later time, the sexual assault forensic evidence kit associated with the report must be reclassified as a non-anonymous kit. ○ h) A requirement that when a sexual assault forensic evidence kit is reclassified as a non-anonymous kit as described in paragraph (g) of this subsection, the law enforcement agency in possession of the kit shall submit the kit to the department for testing within 14 days of the reclassification. ● (2) Each law enforcement agency within this state shall have policies and procedures concerning contact with the victims and the provision of information to victims concerning sexual assault forensic evidence kits. The policies and procedures must include: <ul style="list-style-type: none"> ○ (a) A requirement that the agency designate at least one person within the agency to receive all telephone inquiries concerning sexual assault forensic evidence kits and to serve as a liaison between the agency and the Department of State Police. ○ (b) A requirement that, at the time that a sexual assault forensic evidence kit is collected, a victim be provided with the contact information of a person described in paragraph (a) of this subsection. ○ (c) Provisions allowing sexual assault victims to request and receive information concerning sexual assault forensic evidence kits, including but not limited to the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases and the estimated destruction date for the kit. ○ (d) A requirement that a person described in paragraph (a) of this subsection provide, in response to a victim inquiry concerning a sexual assault forensic evidence kit, any information the victim requests in a manner of communication designated by the victim, as soon as possible and within 30 days of the inquiry, unless the agency declines to provide the information pursuant to paragraph (e) of this subsection.



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Oregon Statute	Description	Synopsis
181A.325 Cont.	Policies and Procedures Concerning Sexual Assault Forensic Kits and Contact with Victims Cont.	<ul style="list-style-type: none"> ○ (e) Provisions allowing the agency to decline to provide information that interferes with the investigation or prosecution of a case. ○ (f) A procedure that allows a sexual assault victim to provide the agency with written authorization for a designee to access information on the victim's behalf. ○ (g) Provisions allowing a victim to contact a person described in paragraph (a) of this subsection in order to participate with the law enforcement agency in the creation of a report of the sexual assault associated with the sexual assault forensic evidence kit.
181A.326	Collecting medical facilities notice requirement to law enforcement agencies	<ul style="list-style-type: none"> ● Within 7 days after the collection of a kit, the medical facility collecting sexual assault forensic evidence shall notify the law enforcement agency with jurisdiction over a possible sexual assault criminal investigation for which the kit has been collected.
181A.328	Tracking sexual assault forensic evidence kits	<ul style="list-style-type: none"> ● The Department of State Police shall establish a multidisciplinary committee on the tracking of sexual assault forensic evidence kits. The committee shall: <ul style="list-style-type: none"> ○ (a) Develop recommendations for establishing a statewide electronic sexual assault forensic evidence kit tracking system. ○ (b) Identify and pursue state and federal funding to establish the tracking system, including grants. ○ (c) Be composed of members that include law enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys, survivors and Sexual Assault Nurse Examiners or Sexual Assault Forensic Examiners. ○ (d) Monitor the tracking system's implementation for at least two years and recommend necessary modifications. ● (2) The department shall implement the recommendations of the multidisciplinary committee and create and maintain the statewide electronic sexual assault forensic evidence kit tracking system. The department may contract with public or private entities, including but not limited to private software and technology providers, for the creation, operation and maintenance of the tracking system. The tracking system must:



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Oregon Statute	Description	Synopsis
181A.328 Cont.	Tracking sexual assault forensic evidence kits Cont.	<ul style="list-style-type: none"> ○ (a) Record the status of sexual assault forensic evidence kits from the collection site throughout the criminal justice process, including but not limited to the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime labs, analysis at crime laboratories and storage or destruction after completion or analysis. ○ (b) Allow all agencies or facilities that receive, maintain, store or preserve sexual assault forensic evidence kits to update the status and location of the kits. ○ (c) Allow a victim of sexual assault, or a parent or guardian of a victim if the victim is a minor, to anonymously access the system and to receive updates regarding the location of the victim's sexual assault forensic evidence kit and the status of analysis, including but not limited to the initiation and completion of testing. ○ (d) Use electronic technology that allows continuous access to the tracking system by victims, medical facilities, law enforcement agencies, prosecutors, private laboratories and crime laboratories. ● (3)(a) The department may phase in the requirement of initial participation in the tracking system according to region, volume of sexual assault forensic evidence kits or other appropriate classifications. <ul style="list-style-type: none"> ○ (b) Notwithstanding paragraph (a) of this subsection, all law enforcement agencies, medical facilities, crime laboratories and other facilities that receive, maintain, store or preserve sexual assault forensic evidence kits are required to fully participate in the tracking system within one year of the tracking system's initial date of operation. ● (4) Records and information within the tracking system described in this section are exempt from disclosure under ORS 192.311 to 192.478.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
166.257	Request to return firearm or ammunition; duties of law enforcement	<ul style="list-style-type: none"> • (1) Upon receiving a request to return a firearm or ammunition relinquished to a law enforcement agency pursuant to <u>ORS 166.256</u>, the law enforcement agency shall: <ul style="list-style-type: none"> ○ (a) Notify the Department of Justice of the return request for the purposes of notifying the petitioner of the order; and ○ (b) Hold the firearm or ammunition for 72 hours after receiving the request. • (2) Prior to returning the firearm or ammunition, the law enforcement agency shall: <ul style="list-style-type: none"> ○ (a) Confirm that the person to whom the law enforcement agency will return the firearm or ammunition is the lawful owner of the firearm or ammunition, or a person with a possessory right to the firearm or ammunition; and ○ (b) Perform a criminal background check as defined in <u>ORS 166.432</u> to confirm that the person is not prohibited from possessing a firearm or ammunition under state or federal law.
166.279	Forfeiture of firearm or other deadly weapon at sentencing	<ul style="list-style-type: none"> • (1) Except as provided in subsection (4) of this section, <u>ORS 131.550</u> to <u>131.600</u> do not apply to the forfeiture of a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense. • (2) Except as provided in subsection (3) of this section, at the time of sentencing for any criminal offense in which a firearm or other deadly weapon was possessed, used or available for use to facilitate the offense, the court shall declare the weapon to be contraband and order that the weapon be forfeited. • (3) If a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense was stolen from its lawful owner and was recovered from a person other than the lawful owner, the court may not order that the weapon be forfeited but shall order that the weapon be restored to the lawful owner as soon as the weapon is no longer needed for evidentiary purposes.



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Oregon Statute	Description	Synopsis
166.279 Cont.	Forfeiture of firearm or other deadly weapon at sentencing Cont.	<ul style="list-style-type: none"> • (4) The court shall release a firearm or other deadly weapon forfeited under subsection (2) of this section to the law enforcement agency that seized the weapon. The law enforcement agency may destroy or sell the weapon, use the weapon as a service weapon or use the weapon for training, identification or demonstration purposes. When a weapon is sold pursuant to this subsection, the law enforcement agency shall pay the proceeds from the sale, less the costs of the sale, as provided in <u>ORS 131.594</u> and <u>131.597</u>. • (5) As used in this section, “deadly weapon” has the meaning given that term in <u>ORS 161.015</u>.
166.540	Return of surrendered deadly weapons; unclaimed weapons	<ul style="list-style-type: none"> • If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any deadly weapon or concealed handgun license that has been surrendered pursuant to the order shall return the surrendered items as requested by the respondent of the order only after: <ul style="list-style-type: none"> ○ (a) Confirming through a criminal background check, if the deadly weapon is a firearm, that the respondent is legally eligible to own or possess firearms under state and federal law; and ○ (b) Confirming that the extreme risk protection order is no longer in effect. • (2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a law enforcement agency pursuant to <u>ORS 166.537</u> who does not wish to have the firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer as defined in <u>ORS 166.412</u>, provided that the firearm is lawful to own or possess and the person has a legal right to transfer title of the firearm. • (3) A deadly weapon surrendered by a person pursuant to <u>ORS 166.537</u> that remains unclaimed by the owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of deadly weapons in the agency's custody.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
475.235	Analytical report of drug sample	<ul style="list-style-type: none"> • When a controlled substance is at issue in a criminal proceeding before a grand jury, at a preliminary hearing, in a proceeding on a district attorney's information or for purposes of an early disposition program, it is prima facie evidence of the identity of the controlled substance if: <ul style="list-style-type: none"> ○ (A) A sample of the controlled substance is tested using a presumptive test for controlled substances; ○ (B) The test is conducted by a law enforcement officer trained to use the test or by a forensic scientist; and ○ (C) The test is positive for the particular controlled substance. • (b) When the identity of a controlled substance is established using a presumptive test for purposes of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district attorney's information or an early disposition program, the defendant, upon notice to the district attorney, may request that the controlled substance be sent to a state police forensic laboratory for analysis. • (4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a controlled substance or sample was conducted, a certified copy of the analytical report signed by the director of a state police forensic laboratory or the analyst or forensic scientist conducting the analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the defendant has provided notice of an objection in accordance with subsection (5) of this section. • (5) If the defendant intends to object at trial to the admission of a certified copy of an analytical report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant shall file written notice of the objection with the court and serve a copy on the district attorney.



Oregon Property and Evidence Laws

Oregon Statute	Description	Synopsis
475.235 Cont.	Analytical report of drug sample Cont.	<ul style="list-style-type: none"> • (6) As used in this section: <ul style="list-style-type: none"> ○ (a) "Analyst" means a person employed by the Department of State Police to conduct analysis in forensic laboratories established by the department under <u>ORS 181A.150</u>. ○ (b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent.
471.610	Confiscation of liquor and property	<p>Whenever any officer arrests any person for violation of the Liquor Control Act, the officer may take into possession all alcoholic liquor and other property which the person so arrested has in possession, or on the premises, which is apparently being used in violation of that statute. If the person so arrested is convicted, and it is found that the liquor and other property has been used in violation of the law, the same shall be forfeited to the Oregon Liquor Control Commission, and shall be delivered by the court or officer to the commission. The commission is authorized to destroy or make such other disposition thereof as it considers to be in the public interest. In any such case, all alcoholic liquor purchased or acquired from any source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be confiscated and forfeited to the state, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund in the manner provided in this section.</p>



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
42 Pa. Cons. Stat. § 5803(j)-(k)	Every county in Pennsylvania shall provide annual audit of all forfeited property and proceeds obtained under this chapter.	<ul style="list-style-type: none"> • 5803(j) Annual audit of forfeited property. The Attorney General and each district attorney shall maintain and create appropriate records to account for property forfeited in a fiscal year and the use made of the property forfeited. • Each audit includes: date property seized, type of property seized, where property was seized, approximate value, alleged criminal behavior associated, disposition or use of property, whether forfeiture was related to criminal case and outcome of case, date of forfeiture decision. • 5803(k) Annual report and confidential information. The Attorney General shall annually submit report to House of Representatives and Senate specifying the forfeited property or proceeds of forfeited property.
42 Pa. Cons. Stat. § 5803(b), (d), (f), (g)-(i)	Seizure, custody and disposition of property	<ul style="list-style-type: none"> • 5803(b) Process and seizure of money and person property. Personal Property may be seized pursuant to: incident to arrest or search under search warrant; subject to prior judgment in favor of the Commonwealth in criminal injunction or forfeiture proceeding; probable cause to believe property is dangerous; probable cause to believe property has been or is intended to be used in violation of Controlled Substance, Drug, Device and Cosmetic Act (the “Controlled Substance Act”); warrant issued by a court of common pleas; or probable cause to believe the property is likely to result in destruction or removal of property. • 5803(b.1) Process and seizure of real property. Real Property may be seized upon process issued by court of common pleas. Until entry of order of forfeiture, the owners or occupants of real property shall not be evicted from or otherwise deprived of use and enjoyment of real property that is subject of pending forfeiture action. • 5803(d) Custody of property. When property is seized under this chapter, law enforcement shall place property in secure area or facility and either: (1) remove property to secure area or facility designed by law enforcement authority; or (2) require that the district attorney or Attorney General take custody and remove property to appropriate location for disposition.



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
42 Pa. Cons. Stat. § 5803(b), (d), (f), (g)-(i) Cont.	Seizure, custody and disposition of property Cont.	<ul style="list-style-type: none"> • 5803(f) Use of Property held in custody. The district attorney or Attorney General may: (1) retain property for official use; or (2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to public, except that proceeds from sale shall be used to pay expenses of proceeding for forfeiture and sale. The balance of proceeds shall be used and distributed in accordance with this chapter. • 5803(g) Use of cash or proceeds of property. Cash or proceeds of property shall be placed in operating fund of county in which district attorney is elected. • 5803(h) Distribution of property among law enforcement authorities. If both State and municipal law enforcement authorities were substantially involved in seizure, court shall equitably distribute property between district attorney and Attorney General. • 5803(i) Authorization to utilize property. Cash or proceeds of property shall be utilized by district attorney or Attorney General from enforcement of The Controlled Substance Act.
42 Pa. Cons. Stat. § 5805	Notice to property owners	<ul style="list-style-type: none"> • 5802(b) Notice to property owners. A copy of the forfeiture petition shall be personally served or by certified mail to owner. The notice informs the claimant to file an answer to petition setting forth their title and right to possession of said property within 30 days from service. • 5802(c) Substitute notice. Substitute notice can be done through publication in advertisement in newspaper of general circulation once a week for two successive weeks. The notice shall contain instructions for the claimant to file a petition within 30 days of the first publication.
42 Pa. Cons. Stat. § 5806	Procedure for return of property (including firearms)	<ul style="list-style-type: none"> • 5806 Motion for return of property. A person aggrieved by search and seizure may move for return of property by filing a motion in court of common pleas in judicial district where property is located. • Motion shall include: nature and extent of petitioner's right, title or interest in property, time and circumstances of petitioner's acquisition of that right, title or interest in property and any additional facts supporting the petitioner's claim.



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
42 Pa. Cons. Stat. § 5802	Controlled substance forfeiture	<ul style="list-style-type: none"> • 5802 Controlled substances forfeiture. The following property subject to forfeiture provide no property right for recovery: <ul style="list-style-type: none"> ○ (1) drug paraphernalia, controlled substances, or other drugs in violation of the Controlled Substance Act. ○ (2) all raw materials, products and equipment used or intended for use in manufacturing, compounding, processing, delivering, and importing or exporting any controlled substance in violation of Controlled Substance Act. ○ (3) all property used or intended for use as container for property in (1) and (2) ○ (4) All conveyances, including aircraft, vehicles, or vessels, used or intended for use to transport, sale, receipt, possession or concealment of property in (1) and (2) ○ (5) all books, records and research, including formulas, microfilm, tapes and data, used or intended for use in violation of Controlled Substance Act. ○ (6) all money, negotiable instruments, securities or other things of value used or intended to be used in violation of Controlled Substance Act. ○ (7) any firearms used or intended to be used to facilitation a violation of Controlled Substance Act. Firearms found in close proximity of illegally possessed controlled substances shall be presumed to be in violation of Controlled Substance act. All weapons forfeited under this chapter shall be immediately destroyed by receiving law enforcement.
42 Pa. Cons. Stat. § 5802(7); 23 Pa. Cons. Stat. § 6108(7)	Firearms forfeiture – incident to seizures under Controlled Substances Act and Protection From Abuse orders	<ul style="list-style-type: none"> • 42 Pa. Const. Stat. § 5802(7) Controlled substances forfeiture. Any firearms used or intended to be used to facilitation a violation of Controlled Substance Act. Firearms found in close proximity of illegally possessed controlled substances shall be presumed to be in violation of Controlled Substance act. • All weapons forfeited under this chapter shall be immediately destroyed by receiving law enforcement. • 23 Pa. Const. Stat. § 6108(7) Relief. A court may grant any protection order or approve any consent agreement to bring about the cessation of abuse of plaintiff or minor children (“Protection From Abuse” orders). This may include an order requiring a defendant to relinquish firearms and ammunitions to the sheriff or appropriate law enforcement agency.



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
23 Pa. Cons. Stat. § 6108.1	Recovery of relinquished firearms pursuant to Protection From Abuse orders	<ul style="list-style-type: none"> • 23 Pa. Const. Stat. § 6108.1 Return of relinquished firearms, other weapons and ammunition and additional relief. Any court order requiring relinquishment shall also provide for procedure for return. The following conditions must be met: <ul style="list-style-type: none"> ○ (1) the firearms relinquished must not be evidence of a crime; ○ (2) defendant must not be otherwise prohibited by applicable federal or state law; and ○ (3) defendant must be given clearance through PA and federal background check.
18 Pa. Cons. § 6128	Abandonment and disposition of firearms	<ul style="list-style-type: none"> • 6128(a) General rule. Firearms, weapons or ammunition possessed by law enforcement from Protection From Abuse orders, unlawful acts under 18 USC § 922(g)(9), or otherwise in the custody of law enforcement shall be deemed abandoned when: <ul style="list-style-type: none"> ○ (1) relinquished by its lawful owner and no written request to return or otherwise dispose of the firearms, weapons or ammunition made after a period of one year from date of order of relinquishment has expired. ○ (2) found, discovered or otherwise passed into custody of law enforcement and no owner can be determined after a documented search of firearms sales database, and another search made one year from date of first documented search. • 6128(b) Methods of disposal. If firearms deemed abandoned, the custodian may dispose of them by: <ul style="list-style-type: none"> ○ (1) arranging for sale to federally licensed firearms dealer by sealed bid ○ (2) arranging for lawful and complete destruction. • 6128(c) Limitation. The custodian must provide 20-day notice to person who relinquished the firearms before disposal. Notification shall be made by certified mail.
72 Pa. Cons. Stat. § 1301.1, 1301.11, 1301.12	Disposition of abandoned and unclaimed property	<ul style="list-style-type: none"> • 1301.1 Property subject to custody and control of the Commonwealth. All abandoned and unclaimed property and property without a rightful or lawful owner as hereafter is subject to custody and control of the Commonwealth. • 1301.11 Report of property subject to custody and control of the Commonwealth under this article. Every person holding property that became subject to custody of Commonwealth during the preceding year shall report to the State Treasurer. The report shall include: name and address for holder; nature and description of property; date when



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
72 Pa. Cons. Stat. § 1301.1, 1301.11, 1301.12 Cont.	Disposition of abandoned and unclaimed property Cont.	<p>property became payable, demandable, returnable to rightful owner; and other information needed.</p> <ul style="list-style-type: none"> • 1301.12 Notice and publication of lists of property subject to custody and control of the Commonwealth under this article. Within 12 months of filing the report required in Section 1301.11, the State Treasurer shall publish notice at least once in newspaper of good circulation, PA Bulletin, and Treasury Department website. The published notice shall include: name of persons listed in report; amount or description of property; and proof of claim to be presented by owner of holder within 3 months of published notice.
72 Pa. Cons. Stat. § 1301.17	Public sale of unclaimed property and notice of sale	<ul style="list-style-type: none"> • 1301.17 Disposition of property. The State Treasurer may sell to the highest bidder at public sale in the most favorable market for property involved. The State Treasurer may decline the highest bid or reoffer the property if they consider the bid insufficient. • If property is of type customarily sold on recognized market of type subject to widely distributed standard price quotations, State Treasurer may sell the property without notice by publication or otherwise. • Otherwise, publication must be provided pursuant to Section 1301.12.
35 Pa. Stat. and Cons. Stat. § 10172.2; 28 Pa. Code § 117.52	Definition of sexual assault evidence	<ul style="list-style-type: none"> • 35 Pa. Stat. and Cons. Stat. § 10172.2 Definitions. Sexual assault evidence = rape kit evidence collected by hospital or health care facility under the minimum standards published pursuant to 28 Pa. Code § 117.52(a)(1). • Biological samples include: liquid blood, urine, dry biological stained item, wet items, hair, swabs with biological material, vaginal smears, feces, buccal swabs, DNA extracts. • 28 Pa. Code § 117.52(a)(1) Minimum requirements for sexual assault emergency services. Upon sexual assault victim arriving at a hospital, the hospital shall, provide, with consent of the victim, medical examinations and laboratory or diagnostic tests required to ensure the health, safety and welfare of the victim. The hospital shall utilize a rape kit that complies with the minimum standard requirements provided below.



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Pa. Cons. Stat.	Description	Synopsis
47 Pa.B. 7899	Minimum standard requirements: sexual assault evidence collection kit contents	<ul style="list-style-type: none"> • The Sexual Assault Evidence Collection Committee (SAEC) formulated minimum standard requirements for sexual assault evidence collection in PA. The standards should be observed by all health care facilities and child advocacy centers, and these facilities and centers should meet or exceed those minimum standard requirements. • Standards provided here. • Generally includes: consent for collection and release of evidence; clothing and underpants collection; oral assault collection samples; miscellaneous collection (debris, dried secretions, tampon/sanitary napkin); fingernail swabbings; external genitalia collection sample; vaginal assault collection samples; perianal/rectal assault collection samples; buccal swab collection; transfer of evidence form.
35 Pa. Stat. and Cons. Stat. § 10172.3(c)(1); 50 Pa.B. 4221	Preservation of sexual assault evidence	<ul style="list-style-type: none"> • 35 Pa. Stat. and Cons. Stat. § 10172.3(c)(1) Submission and analysis. PA state police shall establish policies for local law enforcement agency relating to storage and preservation of evidence. • 50 Pa.B. 4221 Storage and Preservation Policy for Sexual Assault Evidence. Local law enforcement agencies must take possession of sexual assault evidence obtained by health care facility within 72 hours of being notified of its existence. • For cases that the victim has provided written notice of consent, law enforcement must submit evidence awaiting testing to approved lab within 15 days. • For cases that victim has not provided consent, evidence must be preserved and stored for period of no less than 2 years, unless consent provided before that period. • When law enforcement takes possession of sexual assault evidence, the Sexual Assault Kit (SAK) must be in a sealed condition only to be broken by laboratory personnel for purposes of testing contents of SAK. • Includes standards for short-term and long-term storage conditions. • Standards provided here.
35 Pa. Stat. and Const. Stat. § 10172.3(b)	Duties of Pennsylvania State Police	<ul style="list-style-type: none"> • As part of existing training programs, law enforcement training must ensure that the chain of custody of all rape kits is established to minimize any risk of tampering with evidence included in rape kit and that all useful and proper evidence is collected at hospital or health care facility.



Pennsylvania Property and Evidence Laws

Pa. Cons. Stat.	Description	Synopsis
18 Pa. Const. Stat. § 4910	Tampering with physical evidence	<ul style="list-style-type: none"> • No explicit statute against destroying SAK evidence, however, general statute for evidence tampering. • A person commits a misdemeanor of the second degree if he alters, destroys, conceals or removes any record, document or thing with the intent to impair its verity or availability in an official proceeding or investigation.
Pa. Stat. and Const. Stat. § 10172.5	Sexual assault victim to be notified	<ul style="list-style-type: none"> • 10172.5 Rights of sexual assault victims. Victims have right to disclosure of information regarding submission of evidence for forensic testing collected from the victim during investigation. • Right to be notified if sample is to be compared to any DNA profiles maintained in CODIS, other federally administered national database, or state database; and if there is any match and when the results are expected to be disclosed.
N/A	No sexual assault evidence collection kit tracking statutes	<ul style="list-style-type: none"> • Michelle Taylor, <i>Pennsylvania State Has Reduced its Rape Kit Backlog to 94</i>, FORENSIC (May 11, 2020), https://www.forensicmag.com/564157-Pennsylvania-State-Has-Reduced-its-Rape-Kit-Backlog-to-94/. • Pennsylvania’s backlog of rape kits awaiting testing has steadily reduced from a high of 3,000 kits backlog in 2015 to 94 kits backlog in 2020. • However, there is no comprehensive tracking system to let victims keep tabs on where their kit is in the testing process. Pennsylvania Auditor General Eugene DePasquale has stated that his office has been in discussions with legislative staff about establishing such a tracking system, but no such timelines are provided.



Rhode Island Property and Evidence Laws

Rhode Island Statute	Description	Synopsis
10-9.1-11(a)	Mandatory preservation	<ul style="list-style-type: none"> Any person to whom biological evidence has been transferred shall be obligated to preserve all biological evidence that comes into its possession during the course of a criminal investigation.
10-9.1-11(b)	Petition to destroy evidence	<ul style="list-style-type: none"> A police department or agent may be relieved of the obligation of mandatory preservation by applying to a justice of the superior court for permission to destroy biological evidence.
10-9.1-11(c)	Petition by defendant requesting testing	<ul style="list-style-type: none"> Any person who was convicted of and sentenced for a crime may, at any time, file a petition with the superior court requesting the forensic DNA testing of any evidence that is in the possession or control of the prosecution, law enforcement, laboratory, or court.
10-9.1-12	Innocence protection--DNA testing of evidence	<ul style="list-style-type: none"> During or after a term of incarceration, any prisoner convicted of, or sentenced for, a crime, violation of law, or violation of probationary or deferred sentence status may apply for post-conviction DNA testing through the Superior Court at any time. Effective: 2002; Amended: 2015.
10-9.1-12(a)	Mandatory testing	<ul style="list-style-type: none"> Mandatory testing will occur under four circumstances: (1) A reasonable probability exists that petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing, (2) the evidence is still in existence and is capable of being subjected to DNA testing, (3) The evidence, or a specific portion of the evidence identified by the petitioner, was never previously subjected to DNA testing; or that the testing requested by the petitioner may resolve an issue that was never previously resolved by previous testing, or (4) the petition before the Superior Court was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice
10-9.1-12(b)	Discretionary testing	<ul style="list-style-type: none"> A justice of the superior court may order testing if: (1) A reasonable probability exists that the requested testing will produce DNA results which would have altered the verdict or reduced the petitioner's sentence if the results had been available at the prior proceedings leading to the judgment of conviction, (2) the evidence is still in existence and is capable of being subjected to DNA testing, (3) the evidence, or a specific portion of the evidence identified by the petitioner was never previously subjected to DNA testing; or that the testing requested by the petitioner may resolve an issue that was never previously resolved by previous testing, and (4) the petition before the superior court was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice.



Rhode Island Property and Evidence Laws

Rhode Island Statute	Description	Synopsis
10-9.1-12(c)	Costs	<ul style="list-style-type: none"> • Unless the justice finds the defendant capable of paying for the testing, the Rhode Island Department of Health will pay the costs associated with DNA testing.
33-21.1-2 33-21.1-3 33-21.1-13 33-21.1-14.1 33-21.1-18 33-21.1-22	Unclaimed Intangible and Tangible Property	<ul style="list-style-type: none"> • All intangible property, including any income or increment derived from intangible property, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than three (3) years after it became payable or distributable is presumed abandoned. • Intangible property is subject to the custody of the state as unclaimed property if conditions raising a presumption of abandonment are satisfied. • Intangible property held for the owner by a court, state, or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than one year after becoming payable or distributable is presumed abandoned. • The administrator [of unclaimed intangible and tangible property] shall place an advertisement, twice a year, one not later than March 1 and one not later than October 15, at least once a week for two (2) consecutive weeks in a newspaper or combination of newspapers of general circulation that reach each county in the state. • All tangible and intangible personal property and any income from this property which has been confiscated by any city, town, or state police department and has been held in the custody of the department for six (6) months or more shall be presumed abandoned. • The administrator shall sell abandoned property to the highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved.
11-41-15	Recovered stolen property	<ul style="list-style-type: none"> • Arresting officers shall be answerable as to the property and must properly schedule return. • The property will be returned after satisfactory proof of ownership. • One may apply to the superior court to reclaim stolen property; answer will be provided within thirty days of the receipt of application. • The person in charge of the storage of the property is liable for damages of the stolen property. • Photographic evidence is allowed to be introduced in any court in the state.



Rhode Island Property and Evidence Laws

Rhode Island Statute	Description	Synopsis
11-47-22	Forfeiture and destruction of unlawful firearms	<ul style="list-style-type: none">• No property rights are recognized as to unlawfully possessed, carried, or used firearms.• Upon seizing the weapon, the officer will screen whether the weapon is reported stolen through the National Crime Information Center.• If the firearm is deemed to be stolen, the owner has ninety days to recover the property.• All firearms received by any police department shall be recorded as to its make, model, caliber, and serial number.



South Carolina Property and Evidence Laws

South Carolina Statute	Description	Synopsis
§ 17-28-320 § 17-28-30	Preservation of evidence; Post-Conviction review of evidence	Any of the following convictions require physical evidence to be preserved: <ul style="list-style-type: none"> ● Murder ● Killing by poison/stabbing/thrusting ● Manslaughter ● Homicide/aidid homicide by child abuse ● Lynching in the first degree ● Killing in a duel ● Spousal sexual battery ● Criminal sexual conduct (with a minor and/or any degree) ● Arson in the first degree resulting in death ● Burglary in the first degree for which the person is sentenced to ten years or more ● Armed robbery for which the person is sentenced to ten years or more ● Damaging or destroying a building, vehicle, or property by means of an explosive incendiary resulting in death ● Abuse or neglect of a vulnerable adult resulting in death ● Sexual misconduct with an inmate, patient, or offender ● Unlawful removing or damaging of an airport facility or equipment resulting in death ● Interference with traffic-control devices or railroad signs or signals resulting in death ● Driving a motor vehicle under the influence of alcohol or drugs resulting in death ● Obstruction of railroad resulting in death ● Accessory before the fact to any offense enumerated in this subsection.
§ 17-28-320 (B)	Documentation steps needed for preservation of evidence	<ul style="list-style-type: none"> ● Steps used to preserve evidence must be done with sufficient documentation so as to locate it at a later time. ● Evidence must be preserved under conditions reasonably designed to preserve the forensic value of the evidence.
§ 17-28-320 (c) § 17-28-30	Duration/condition of evidence preservation and timeline for request to review evidence post-conviction	<ul style="list-style-type: none"> ● Physical evidence and biological material must be preserved for seven years from the date of sentencing, or until the person is released from incarceration, dies while incarcerated, or is executed for the offense enumerated above, whichever comes first. ● Evidence may be requested by convicted person for review if they are claiming innocence no later than seven years from the date of sentencing.



South Carolina Property and Evidence Laws

South Carolina Statute	Description	Synopsis
§ 17-28-50	Details steps and notifications when someone applies to review/test evidence	<ul style="list-style-type: none"> • Once someone applies for review of evidence, AG, custodian of evidence, and the victim are to be notified • Response to application must happen with 90 days of forwarding to all appropriate parties • Amendments to request can be made any time before judgement given • More than one application for DNA evidence may be submitted
17-28-80	Preservation of test reports	<ul style="list-style-type: none"> • The court reserves all rights to preserve testing reports of physical or biological material
17-28-340	Destruction of evidence before expiration	<ul style="list-style-type: none"> • Custodian of the evidence may petition to have evidence released or destroyed if it has been ruled inculpatory, has been utilized fully throughout trial and appeals processes or retention is impractical • Victim and/or the AG have to be notified and not contest the destruction. • Custodian may be tasked with retrieving applicable portions of evidence released in order to be used for future testing
17-28-350	Willful destruction of evidence	<ul style="list-style-type: none"> • If evidence is manipulated or destroyed with intent to impair the integrity of such evidence will be guilty of a misdemeanor
17-28-360	Failing to preserve evidence	<ul style="list-style-type: none"> • Accidental destruction or mishandling of evidence will not prevent conviction or adjudication • Mishandling of evidence, unless an act of gross negligence or intentional misconduct, cannot give rise to a claim against the State.
23-3-1300	Sexual Assault Kit tracking System	<ul style="list-style-type: none"> • All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system • The system must be able to track the location of the kits throughout the criminal justice process, must be updated throughout by each custodian, allow victims to track/receive updates on status of kits • Phased implementation (passed in 2020) • State justice system required to produce report on tracking semiannually showing number of new kits in system, number of kits destroyed, kits that have been analyzed/unanalyzed, etc. (all by state and by jurisdiction)



South Carolina Property and Evidence Laws

South Carolina Statute	Description	Synopsis
62-2-105	Unclaimed interstate estates	<ul style="list-style-type: none"> • Any estate that is unclaimed gets passed to the State
27-18-180	Unclaimed property reported to be abandoned	<ul style="list-style-type: none"> • If property is reported to be abandoned, state will: <ul style="list-style-type: none"> ○ Send notice of report to person presumed to own property (\$50 or more)
27-18-230	Sale of abandoned/unclaimed property	<ul style="list-style-type: none"> • If property deemed unclaimed, the given administrator of the property may sell the property within three years of receipt
27-18-290	Destruction of unclaimed property	<ul style="list-style-type: none"> • If the administrator determines after investigation that any property has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. • No action or proceeding may be maintained against the State or any officer or against the holder for or on account of any action taken by the administrator pursuant to this section.
27-21-20 27-21-22	Sale or retaining of stolen property recovered by sheriff or police	<ul style="list-style-type: none"> • Owner must be notified within 15 days • Must be alerted that property may be sold at auction • If not recovered or sold at auction police or sheriff may retain property or give property to government- approved organization • Record of stolen property must be maintained • Funds from sales must be given to treasurer of the county and credited to general funds • May not sell illegal paraphernalia
27-21-25	Use of paraphernalia by public schools/institutions	<ul style="list-style-type: none"> • If any glassware or other drug paraphernalia which is unclaimed and which would be useful in a science laboratory is recovered it must be made available first to the public schools and second to the public institutions of higher learning in the State for use in their science programs or courses before it may be sold at public auction or otherwise disposed of in accordance with that section.
27-21-30	Recovery by owner of net proceeds of property after sale	<ul style="list-style-type: none"> • At any time within one year after the sale of any abandoned or recovered stolen property as provided for in § 27-21-20, the true owner may apply to the sheriff and after proper identification and proof of claim recover the net sum received from the sale, after necessary expenses are deducted



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-5-1	Criminal identifying information by attorney general	<ul style="list-style-type: none"> The attorney general shall procure and file for record, photographs, pictures, descriptions, fingerprints, measurements, and such other information as may be pertinent of all persons who may hereafter be taken into custody for offenses other than those arising solely out of the violation of the fish, game, conservation, or traffic laws of this state with the exception of those persons charged with driving a motor vehicle while under the influence of alcoholic beverages, and also of all criminals wheresoever the same may be procured. It shall be the duty of the person in charge of any state institution to furnish any such information to the attorney general upon his request.
23-5-2	Cooperation of attorney general with law enforcement officers to establish complete state criminal identification system	<ul style="list-style-type: none"> The attorney general shall also cooperate with, and assist sheriffs, chiefs of police, and other law enforcement officers to the end that a complete state system of criminal identification, investigation, and statistical information may be established.
23-5-3	Criminal records of inmates	<ul style="list-style-type: none"> The attorney general shall procure and file for record the fingerprint impressions and other means of identification and statistical information of all persons contained in any workhouse, jail, reformatory, penitentiary, or other penal institutions, together with such other information as he may require from the law enforcement officers of the state and its subdivisions.
23-5-6	Persons authorized to take and preserve inmate identification records	<ul style="list-style-type: none"> The warden or superintendent of any penal or reformatory institution in this state, the attorney general or his authorized assistants or agents, the sheriff of any county in this state, or the chief of police of any municipality in the state is hereby authorized and empowered, when in his judgment such proceeding shall be necessary for the purpose of identifying any person accused or convicted of crime, or for the purpose of preventing the escape or of facilitating the recapture of any such person, to cause to be taken or made and preserved such photographs, impressions, measurements, descriptions, and records as may in the judgment of any of said officials be deemed necessary.
23-5-7	Identification records to be filed and preserved	<ul style="list-style-type: none"> Any department or institution that makes or takes any photograph, impression, measurement, description, or record including confidential criminal investigative information, taken or made as provided for in § 23-5-6 shall be filed and preserved by the department or institution.



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-5A-2	Establishment and recordkeeping requirements of State DNA databank	<ul style="list-style-type: none"> ● DNA Databank should serve as repository for DNA samples ● Should store and maintain records related to: crime scene evidence and forensic casework; convicted persons who are required to provide DNA samples; unidentified persons or body parts; relatives of missing persons; and anonymous DNA profiles.
23-5A-3	Duties of State forensic laboratory regarding DNA evidence	<ul style="list-style-type: none"> ● Duty of State forensic laboratory to administer DNA record system to support law enforcement agencies and other criminal justice agencies ● Promulgate rules regarding DNA evidence collection, storage, and transfer, and the dissemination of information relating to the DNA evidence; ● Provide for liaison with the FBI and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Identification Index or in any DNA database designated by the South Dakota State Forensic Laboratory.
23-5A-11	DNA Samples to be forwarded to State Forensic Laboratory	<ul style="list-style-type: none"> ● DNA samples collected pursuant to this chapter shall be forwarded to the South Dakota State Forensic Laboratory in accordance with procedures established by the South Dakota State Forensic Laboratory.
23-5A-15	Mistaken collection or placement of sample does not invalidate sample's use in database	<ul style="list-style-type: none"> ● The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake.
23-5A-16	Attorney general's office may promulgated rules for DNA samples and records collected.	<ul style="list-style-type: none"> ● The attorney general's office may promulgate rules pursuant to chapter 1-26, for the collection, submission, identification, analysis, storage, and disposition of the DNA samples and DNA records collected under this chapter. ● The DNA records shall be securely stored in the State DNA Database consistent with the procedures established by the FBI. ● These procedures shall also require compliance with national quality assurance standards to ensure that the DNA records satisfy standards for acceptance of such records into the national DNA identification index.
23-5A-18	Stored DNA sample permissible uses	<ul style="list-style-type: none"> ● All or part of the remainder of the DNA sample stored in the State DNA Databank may be used only for forensic validation studies and forensic protocol development purposes and to create a statistical database provided that no personally identifying information is included or for retesting to validate or update the original analysis or for quality control purposes.



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-5A-20	Revocation of license of public DNA labs	<ul style="list-style-type: none"> ● The South Dakota State Forensic Laboratory may revoke the right of any public forensic DNA laboratory within the state to access and contribute DNA records to the State DNA Database if the required disclosure and quality assurance standards required by this chapter are not met.
23-5A-21	Third party contractors	<ul style="list-style-type: none"> ● The South Dakota State Forensic Laboratory may contract with third parties for the purposes of implementing this chapter. ● Any other party contracting to carry out the functions of this chapter is subject to the same restrictions and requirements of this chapter, insofar as applicable, as the South Dakota State Forensic Laboratory, as well as any additional restrictions imposed by the South Dakota State Laboratory.
23-5A-22	Confidentiality of records	<ul style="list-style-type: none"> ● Any DNA record or DNA sample submitted to the South Dakota State Forensic Laboratory pursuant to this chapter is confidential and may not be disclosed to or shared with any person or agency unless disclosure is authorized by this chapter.
23-5A-23	Records not public	<ul style="list-style-type: none"> ● Any DNA record or sample submitted is not a public record
23-5A-25	Release of stored records for certain authorized purposes	<ul style="list-style-type: none"> ● (1) For law enforcement identification purposes, including the identification of human remains, to federal, state, or local criminal justice agencies; ● (2) For criminal defense and appeal purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged or was convicted; ● (3) If personally identifiable information is removed, for forensic validation studies, forensic protocol development or quality control purposes and for establishment or maintenance of a population statistics database, to federal, state, or local forensic laboratories or law enforcement agencies; and ● (4) If ordered by the court for determination of parentage and if there is no other available DNA sample and all other reasonable opportunities to locate a known sample have been exhausted.



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-5A-28	Request for expungement of DNA records	<ul style="list-style-type: none"> • A person can request expungement of record on the grounds that the arrest that led to the inclusion of the person's DNA record or DNA profile has not resulted in a felony charge within one year; has been resolved by a dismissal, acquittal, or misdemeanor conviction; or has not resulted in a felony conviction; or the conviction or delinquency adjudication on which the authority for including that person's DNA record or DNA profile was based has been reversed and the case dismissed.
23-5A-30	Expungement not required if certain other evidence would be destroyed	<ul style="list-style-type: none"> • The South Dakota State Forensic Laboratory is not required to destroy an item of physical evidence obtained from a sample if evidence relating to another person would thereby be destroyed.
23-5B-5	Preservation of evidence in state custody	<ul style="list-style-type: none"> • The attorney general or the state's attorney who prosecuted the case, shall take all reasonable actions necessary to ensure that all evidence which was collected in connection with the investigation or prosecution of the case, and which remains in the actual or constructive custody of the state or any of its political subdivisions, is preserved pending completion of the proceedings under this chapter.
23-5C-2	Preservation of sexual assault kit	<ul style="list-style-type: none"> • The health care facility shall inform the victim that the sexual assault kit will be preserved by law enforcement for a period of at least seven years from the date of the examination or treatment or until the victim reaches the age of twenty-five, whichever is later, before it is destroyed. • Any examination or treatment under this section shall include the preservation of confidentiality of any test, procedure, or sample that may serve as evidence in the prosecution for the rape or sexual assault.
23-5C-3	Preservation of sexual assault kit	<ul style="list-style-type: none"> • A health care facility shall assign a code number to a sexual assault kit, and provide the code number to the victim as well as information identifying the law enforcement agency where the kit will be stored. The health care facility shall maintain the code record for at least seven years from the date the health care facility examined or treated the victim or until the victim reaches the age of twenty-five, whichever is later. The health care facility may not affix to the sexual assault kit any information of the victim's identity other than the code number under this section.



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-5C-3 Cont.	Preservation of sexual assault kit Cont.	<ul style="list-style-type: none"> ● A law enforcement agency in possession of a sexual assault kit shall preserve the kit for at least seven years from the date of examination or treatment or until the victim reaches the age of twenty-five, whichever is later, before it is destroyed. If a victim, or a victim or witness assistant, exercises the option of reporting the rape or sexual assault to a law enforcement agency, the code number under this section shall be provided by the victim to the law enforcement agency where the kit is being stored and used to identify the appropriate sexual assault kit.
23-5C-4	DNA record from sexual assault kits should be uploaded to database	<ul style="list-style-type: none"> ● Any DNA record for a sexual assault kit analyzed under this section shall be uploaded into a database specified by the Division of Criminal Investigation.
23-6-8	Information received by bureau; filing, form and classification of records; preservation	<ul style="list-style-type: none"> ● The director shall file, or cause to be filed, all information received by the bureau and shall make, or cause to be made, a complete and systematic record and index thereof, to provide a convenient method of reference and consultation. ● As far as practicable all such records shall coincide in form and classification with those of the appropriate agency in the United States Department of Justice, and with those of similar bureaus in other states, in order to permit easy interchange of information and records. ● Information and records received by the bureau may not be destroyed except as provided by § 23-6-8.1.
23-6-8.1	Destruction of records of certain persons, incidents, and offenses	<ul style="list-style-type: none"> ● The director of the Bureau of Criminal Statistics may authorize the destruction of information and records of: <ul style="list-style-type: none"> ● (1) Persons who are dead; ● (2) Persons seventy-five years of age or older unless a violation has occurred within the last ten years; ● (3) Incidents that are no longer considered crimes under the laws of the State of South Dakota; ● (4) Misdemeanor offenses whose final date of disposition occurred at least ten years prior to authorized destruction date.



South Dakota Property and Evidence Laws

South Dakota Statute	Description	Synopsis
23-7-8.6	List, record, or registry of privately owned firearms, owners, or holders of permits prohibited	<ul style="list-style-type: none"> No state agency, political subdivision, official, agent, or employee of any state agency or political subdivision may knowingly keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms, or any list, record, or registry of holders of permits to carry a concealed pistol.
23-7-8.9	Retention of firearm data by law enforcement officer limited	<ul style="list-style-type: none"> The provisions of §§ 23-7-8.6 to 23-7-8.9, inclusive, do specifically prohibit any law enforcement officer from retaining any notes, data, or pieces of information, either collectively or individually, unless the retention of such notes, data, or pieces of information is pertinent to a specific ongoing investigation or prosecution. Access by law enforcement to information necessary to perform a periodic National Instant Criminal Background Check of gold card or enhanced pistol permit holders under § 23-7-68 is authorized.
South Dakota Statute	Description: Property; Safekeeping; Lost and Found Property	Synopsis
43-37-6	Duties of borrower; preservation of thing	<ul style="list-style-type: none"> A borrower for use must use great care to preserve the thing lent in safety and good condition. If it is a living animal he must treat it kindly and provide all things necessary and suitable for it. He is bound to have and exercise such skill in the care of the thing lent as he causes the lender to believe he possesses and he must repair all deterioration or injury to the thing arising by his negligence.
43-37-11	Expenses; compensation for cost to preserve thing from injury	<ul style="list-style-type: none"> The borrower of a thing for use, or for exchange, must bear all its expenses during the loan, except such as are necessarily incurred by him to preserve it from unexpected and unusual injury. For such expense he is entitled to compensation from the lender, who may, however, exonerate himself by surrendering the thing to the borrower.
43-40-1	Liability of hotels for guest property	<ul style="list-style-type: none"> No innkeeper or hotel keeper, whether individual, partnership, or corporation, who constantly has in the inn or hotel a metal safe or suitable vault in good order and who keeps on the doors of the sleeping rooms used by guests suitable locks or bolts, and on the transoms and windows of the rooms suitable fastenings and who keeps a copy of this section printed in distinct type constantly and conspicuously posted in each guest room, is liable for the loss or injury suffered by any guest, unless the guest offered to deliver any valuable property to the innkeeper or hotel keeper for custody in the metal safe or vault,



South Dakota Property and Evidence Laws

South Dakota Statute	Description: Property; Safekeeping; Lost and Found Property	Synopsis
43-40-1 Cont.	Liability of hotels for guest property Cont.	<p>and the innkeeper or hotel keeper omitted or refused to take it and deposit it in the safe or vault for custody and to give the guest a receipt.</p> <ul style="list-style-type: none"> • However, the keeper of any inn or hotel is not obliged to receive from any one guest for deposit in the safe or vault any property exceeding a total value of three hundred dollars, and is not liable for any excess of such property, whether received or not.
43-40-3	Guest's receipt for property delivered for safekeeping	<ul style="list-style-type: none"> • It shall be the duty of every guest and of everyone intending to be a guest of any hotel in this state, upon delivering to the proprietor of such hotel, or to his servants, any baggage or other articles of property of such guest for safekeeping, elsewhere than to the room assigned to such guest, to demand, and of such hotel proprietor to give, a check or receipt therefore in such case, to evidence the fact of such delivery.
43-40-5	Personal property of hotel guest not deposited for safekeeping	<ul style="list-style-type: none"> • The liability of the keeper of any inn or hotel, whether individual, partnership, limited liability company, or corporation, for loss of or injury to personal property placed by any guest under the keeper's care, other than that described in §§ 43-40-1 to 43-40-4, inclusive, is that of a depository for hire, except that if the loss or injury is caused by fire not intentionally produced by the innkeeper or the innkeeper's servants, the innkeeper is not liable. • In no case may the liability exceed the sum of one hundred fifty dollars for each trunk and its contents, fifty dollars for each valise and its contents, and ten dollars for each box, bundle, or package, and contents, so placed under the innkeeper's care, and all other miscellaneous effects, including wearing apparel and personal belongings, fifty dollars, unless the innkeeper has consented in writing with the guest to assume a greater liability.
43-40-6	Guest leaving property at inn or hotel after departure or before arrival--Held at owner's risk	<ul style="list-style-type: none"> • Whenever any person shall suffer his baggage or property to remain in any inn or hotel, after leaving the same as a guest, and after the relation of innkeeper and guest between such guest and the proprietor of such inn or hotel has ceased, or shall forward the same to such inn or hotel before becoming a guest thereof and the same shall be received into such inn or hotel, such innkeeper may at his option hold such baggage or property at the risk of such owner.



South Dakota Property and Evidence Laws

South Dakota Statute	Description: Property; Safekeeping; Lost and Found Property	Synopsis
43-41-1	Obligation of finder of lost thing	<ul style="list-style-type: none"> One who finds a thing lost is not bound to take charge of it; but if he does so, he is thenceforward a depository for the owner, with the rights and obligations of a depository for hire.
43-41-2	Duty of person finding lost personal property other than domestic animal	<ul style="list-style-type: none"> Whenever any person finds any lost personal property, other than a domestic animal, under circumstances which give him knowledge or means of inquiry as to the true owner, he shall forthwith make all reasonable efforts to ascertain and notify such owner; When such efforts do not result in the discovery of the true owner or when the circumstances do not give him such knowledge or means of inquiry, he shall cause such lost personal property to be advertised, appraised, and otherwise dealt with as provided in chapter 40-29 in the case of an estray.
43-41-3	Duty to notify owner	<ul style="list-style-type: none"> If the finder of a thing knows or suspects who is the owner, he must, with reasonable diligence, give such owner notice of the finding; and if such finder fails to do so he is liable in damages to the owner, and has no claim to any reward offered by such owner for the recovery of the thing, or to any compensation for trouble or expenses.
43-41-4	Finder may put found thing in storage	<ul style="list-style-type: none"> The finder of a thing may exonerate himself from liability at any time by placing it in storage with any responsible person of good character, at a reasonable expense.
43-41-5	Reasonable proof of ownership	<ul style="list-style-type: none"> Finder may require reasonable proof of ownership before giving it up
43-41-6	Compensation of finder, necessary expenses, preservation, reward	<ul style="list-style-type: none"> The finder of a thing is entitled to compensation for all expenses necessarily incurred by him in its preservation, and for any other service necessarily performed by him about it, and to a reasonable reward for keeping it
43-41-7	Surrender of thing to finder	<ul style="list-style-type: none"> The owner of a thing found may exonerate himself from the claims of the finder by surrendering it to him in satisfaction thereof.



South Dakota Property and Evidence Laws

South Dakota Statute	Description: Property; Safekeeping; Lost and Found Property	Synopsis
43-41-8	Sale by finder of thing found	<ul style="list-style-type: none"> • The finder of a thing may sell it if it is a thing which is commonly the subject of sale, when the owner cannot with reasonable diligence be found; or being found, refuses upon demand to pay the lawful charges of the finder, in the following cases: • (1) When the thing is in danger of perishing or of losing the greater part of its value; or • (2) When the lawful charges of the finder amount to two-thirds of its value.
43-41-9	Manner of selling thing found by finder	<ul style="list-style-type: none"> • A sale under the provisions of § 43-41-8 must be made in the same manner as the sale of a thing pledged.
43-41-10	Things intentionally abandoned	<ul style="list-style-type: none"> • The provisions of this chapter have no application to things which have been intentionally abandoned by their owners.
43-41-11	Disposition of certain abandoned, lost, or confiscated bicycles	<ul style="list-style-type: none"> • If any abandoned, lost, or confiscated bicycle is under the control or care of or has been placed in storage by any local government agency or law enforcement agency and if more than ninety days have passed since the bicycle first came in the possession of the local government agency or law enforcement agency, the bicycle may be donated to a charitable organization, veterans organization, or benevolent organization that is nonprofit and recognized as tax-exempt under section 501(c)(3), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the United States Internal Revenue Code of 1986 as amended to January 1, 2000, for distribution to the public based on need in a manner to be determined by the charitable, veterans, or benevolent organization.
43-41B 43-41B-2 43-41B-18 43-41B-29 43-41B-32	Uniform Unclaimed Property Act: Property Presumed Abandoned Report of Abandoned Property Destruction of Property Retention of Records	<ul style="list-style-type: none"> • Property presumed abandoned general rule: (a) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.



South Dakota Property and Evidence Laws

South Dakota Statute	Description: Property; Safekeeping; Lost and Found Property	Synopsis
43-41B 43-41B-2 43-41B-18 43-41B-29 43-41B-32 Cont.	Uniform Unclaimed Property Act: Property Presumed Abandoned Report of Abandoned Property Destruction of Property Retention of Records Cont.	<ul style="list-style-type: none"> • (b) Property is payable or distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment. • The holder of unclaimed property shall, before filing the annual report required by this section, communicate with the owner and take necessary steps to prevent abandonment from being presumed by exercising due diligence to ascertain the whereabouts of the owner. This includes the mailing of notice to each person having an address if the person is entitled to property of the value of fifty dollars or more presumed abandoned under this chapter. • If the administrator determines after investigation that any property delivered under this chapter has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the administrator pursuant to this section. • (a) Every holder required to file a report under § 43-41B-18, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for ten years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by rule of the administrator. • (b) Any holder that sells in this state its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the holder is directly liable, or that provides such instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.



Tennessee Property and Evidence Laws

Tennessee Statute	Description	Synopsis
Tenn. R. Crim. P., Rule 41	Search and Seizure	<ul style="list-style-type: none"> ● Authority to issue warrant ● Applications of seizure warrants ● Process and execution, generally
18-1-206(a)	Physical evidence; disposition	<ul style="list-style-type: none"> ● Applicable to physical evidence other than documents and firearms given specifications ● After disposition is effectively authorized, a court may approve disposition of the physical evidence in any of the enumerated ways <ul style="list-style-type: none"> ○ Return to owner, preservation by specified organization, sale, or destruction ● Overall process of disposition
38-6-113(b-c(1))	DNA analysis; procedures; databank	<ul style="list-style-type: none"> ● Tennessee Bureau of Investigation develops uniform procedures for collection and preservation of human biological specimens for DNA analysis ● Applicable for alleged or suspected violations of listed statute sections ● TBI adopts uniform procedures to maintain, preserve, and analyze aforementioned specimens for DNA. <ul style="list-style-type: none"> ○ TBI also establishes a centralized system to cross-reference DNA data ○ Used for criminal law enforcement or missing persons purposes
38-6-123(a-b)	Sexual assault collection kit; inventory; untested kits; report	<ul style="list-style-type: none"> ● Forensic medical examinations carried out by a healthcare provider to victims of sexual criminal offenses to gather and preserve evidence of a sexual assault to use in court ● All law enforcement agencies and departments tasked with preserving sexual assault collection kits must keep an inventory of all kits they store
39-11-707	Procedure for seizure of property	<ul style="list-style-type: none"> ● Property seized under this part may be removed, preserved, padlocked, maintained, stored, or disposed. ● Other specifics concerning notice, procedure, and liability



Tennessee Property and Evidence Laws

Tennessee Statute	Description	Synopsis
39-17-714	Disposal	<ul style="list-style-type: none"> ● Upon conviction of specified violators, their alcoholic beverages may be destroyed or otherwise disposed of
39-17-1317(g)(1), (h)(1)	Confiscation and disposition	<ul style="list-style-type: none"> ● Weapons may be preserved if serving as evidence for official proceedings ● The weapon may be sold or retained for law enforcement purposes after the specified time <ul style="list-style-type: none"> ○ Weapons owned by innocent owners should be returned given conditions ● No seized weapon shall be used for law enforcement purposes, sold, or destroyed except in accordance with this section
40-17-118(c)	Stolen property; confiscation; disposition	<ul style="list-style-type: none"> ● The authority holding the property is responsible for its return to the lawful owner and is liable for damage or destruction occasioned by delays in the return
40-35-321(b), (d)(1), (e)	DNA analysis; specimens	<ul style="list-style-type: none"> ● A court shall order a person convicted under any of the listed statute sections to provide a biological specimen for DNA analysis <ul style="list-style-type: none"> ○ The specimen shall be forwarded to the Tennessee Bureau of Investigation for its maintenance ● Also applicable to defendants registered as sexual offenders pursuant to chapter 39, part 2 of this title after the relevant dates <ul style="list-style-type: none"> ○ The specimen shall be forwarded to the Tennessee Bureau of Investigation for its maintenance ● Upon acquittal of specified defendants or dismissal of said defendant's charges, the TBI shall destroy the sample and all records of the sample, if no longer required
40-35-322(b-e)	Biological evidence	<ul style="list-style-type: none"> ● Biological evidence for criminal offenses shall be preserved <ul style="list-style-type: none"> ○ If one of more of the defendants received a death sentence based upon the offense ○ Until all the defendants sentenced to death die or all related charges are dismissed ● Biological evidence to be preserved by <ul style="list-style-type: none"> ○ Investigating law enforcement agencies for evidence not introduced at trial ○ Clerk of the court for evidence introduced at the defendant's trial ● Only biological samples taken from a larger piece of evidence and documented through photographs or case files are required to be preserved ● Section applies to specified biological evidence



Tennessee Property and Evidence Laws

Tennessee Statute	Description	Synopsis
53-11-201	Receipts; public sales; claims	<ul style="list-style-type: none"> ● Forfeiture of narcotic drugs or marijuana ● Property confiscated shall be sold at public sale by the department of general services given conditions ● If a ruling of the commissioner is favorable to the claimant of the confiscated property, the property must be delivered to the claimant instead ● Other provisions concerning notice, payments, hearings, reviews, and process generally
53-11-408(a)(4)	Powers and duties of bureau of investigation	<ul style="list-style-type: none"> ● Tennessee Bureau of Investigation may destroy wild or illicit growth of plant species from which controlled substances and controlled substance analogues may be extracted
53-11-451	Forfeitures	<ul style="list-style-type: none"> ● Applicable to specified controlled substances, controlled substance analogues, and other materials and instruments related to their production and distribution ● Specifics of seizure and custody ● Property shall be utilized in the county's drug enforcement program ● Proceeds from the authorized sales of the property shall be utilized for the county's drug enforcement program ● Items may be destroyed as directed in the provision
57-9-101	Illegal manufacturing; equipment and product; destruction	<ul style="list-style-type: none"> ● Specified law enforcement authorities shall search for, seize, and capture all pertinent equipment, materials, and containers connected to the illicit manufacture of intoxicants ● These officers shall destroy the intoxicants in the scene not exempted ● The related property must also be destroyed given conditions
67-4-1020	Unstamped products; contraband seizure	<ul style="list-style-type: none"> ● Forfeiture of certain tobacco products ● Property confiscated shall be delivered to the department for sale at public auction given conditions ● Proceeds shall go into the state treasury ● Other related property also subject to confiscation ● Confiscation power extends to other illicit intoxicants



Tennessee Property and Evidence Laws

Tennessee Statute	Description	Synopsis
67-4-1021	Unstamped products; contraband; seizure; process	<ul style="list-style-type: none">● Forfeiture of certain tobacco products● Property confiscated shall be sold at public sale by the department of general services given conditions● If a ruling of the commissioner is favorable to the claimant of the confiscated property, the property must be delivered to the claimant instead● Other provisions concerning notice, payments, hearings, reviews, and process generally
68-11-241(a)	Disposal of prescription drugs and controlled substances; emergency rulemaking	<ul style="list-style-type: none">● Facilities licensed under this part may destroy controlled substances and other prescription drugs using any means permitted by the federal drug enforcement administration



Texas Property and Evidence Laws

Texas Statute	Description	Synopsis
18.09-18.10	Seizure and custody of property	<ul style="list-style-type: none"> • An officer directed to search for and seize property must maintain possession and bring it before the magistrate. • The officer who seized the property should retain custody of it until the magistrate issues an order directing the manner of safekeeping the property. • Without magistrate approval, the property may not be removed from the county in which the warrant was issued. • However, the officer or his department may send any item(s) seized to a lab for analysis.
18.17	Disposition of abandoned or unclaimed property	<ul style="list-style-type: none"> • If property is (1) not held as evidence, (2) not destroyed or not returned to its rightful possessor by a magistrate, and (3) has remained unclaimed for 30 days, then it should be delivered to a person designated by the municipality for disposal. • The person designated to dispose of the property must mail notice to the last known address of the property's owner by certified mail. • The notice must: describe the property, give the name and address of the holding officers, and state that the owner has 90 days to claim the property before it will be disposed of. • The proceeds of disposal will be placed in the treasury of the municipality giving notice.
18.181	Seizure, custody and disposition of explosive weapons and chemical dispensing devices.	<p>After seizure, the officer shall:</p> <ul style="list-style-type: none"> • Photograph the weapon in the position it was recovered • Record any identification designations on the weapon • If possible, move weapon to isolated area • Submit a sample of explosive material for analysis • Disassemble the weapon, store the nonhazardous components and destroy the rest • Photograph the destruction process • Retain records of destruction and components for evidence in court proceedings.



Texas Property and Evidence Laws

Texas Statute	Description	Synopsis
18.182	Disposition of Item Bearing Counterfeit Mark	<ul style="list-style-type: none"> • “Counterfeit mark” a mark identical to or substantially indistinguishable from a protected mark the use or production of which is not authorized by the owner of the protected mark. • “Protected mark” means a trademark or service mark or an identification mark that is: (A) registered with the secretary of state;(B) registered on the principal register of the United States Patent and Trademark Office; or (C) registered under the laws of another state. • The court entering judgment shall order that any seized item possessing a counterfeit mark be: <ul style="list-style-type: none"> (1) forfeited to the owner of the protected mark, if the owner of the protected mark requests the return of the item; or (2) destroyed.
18.183	Deposit of money pending disposition	<ul style="list-style-type: none"> • Until a final judgment is rendered, seized money must be deposited in an interest-bearing bank account in: <ul style="list-style-type: none"> ○ (1) the jurisdiction of the agency that made seizure; or ○ (2) the county in which it was seized. • When a final judgment is rendered, the money and any interest should be distributed back to its rightful possessor.
18.19	Disposition of seized weapons	<ul style="list-style-type: none"> • Weapons seized in connection with an offense involving the use of a weapon shall be held by the law enforcement agency making the seizure. • If there is no prosecution or conviction for an offense involving the weapon seized, then: <ul style="list-style-type: none"> ○ The magistrate, before the 61st day after determining there will be no prosecution or conviction, shall notify the rightful possessor they are entitled to the weapon upon written request to the magistrate ○ If the rightful possessor does not claim the weapon before the 121st day after notification, then the magistrate shall order: the weapon destroyed, sold at public sale, or forfeited to the state for use by the law enforcement agency



Texas Property and Evidence Laws

Texas Statute	Description	Synopsis
18.19	Disposition of seized weapons Cont.	<p style="text-align: center;">holding the weapon or by a county forensic laboratory designated by the magistrate.</p> <ul style="list-style-type: none"> • If there is a prosecution or conviction for an offense involving the weapon seized, then the person is entitled to the weapon UNLESS: <ul style="list-style-type: none"> ○ the court determines based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense that possession of the seized weapon would pose a threat to the community or one or more individuals; or • the offense for which the person is convicted or receives deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center.
Art. 38.43	Evidence Containing Biological Material	<ul style="list-style-type: none"> • “Biological evidence” is defined as: (1) the contents of a sexual assault examination kit; or (2) any identifiable biological material collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used to (a) identify the person who committed the offense or (b) exclude a person from the group of person who may have committed the offense.
Art. 38.43	Preservation biological evidence	<p>Biological evidence must be retained and preserved for:</p> <ul style="list-style-type: none"> • (1) At least 40 years, or until S.O.L. has expired when the actor is unapprehended; or • (2) If defendant has been convicted, then must be preserved until the defendant is executed, dies, or is released on parole.



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
24-2-102	Grounds for seizing property.	<ul style="list-style-type: none"> • Who is authorized to seize property. If authorized, property may be seized if there is probable cause to believe that the property is: directly or indirectly dangerous to health or safety, is evidence of a crime, has been used or was intended to be used to commit a crime, or is proceeds of a crime. • Property may also be seized under this chapter when the seizure is incident to an arrest; or the property is the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this title.
24-2-103	Property seized by a peace officer -- Custody and control of property.	<ul style="list-style-type: none"> • When property is seized by a peace officer, the peace officer or its employing agency shall provide a receipt describing the property seized, the date of seizure, and the name and contact information of the officer's employing agency to the person from whom the property was seized. • The peace officer shall provide the person from whom the property was seized with information regarding the forfeiture process. • The agency shall maintain a copy of the receipt and send it with the property in the event it is transferred. • The agency maintaining the property shall hold the property in safe custody and maintain a record of the property. • Property seized under this title not recoverable by replevin. • Controlled substances or other contraband may be processed for evidence. • Cash and other readily negotiable instruments shall be placed into a separate, restricted, interest-bearing account maintained by the agency.
24-3-102	Property received in evidence.	<ul style="list-style-type: none"> • The clerk shall retain the property or shall return the property to the custody of the peace officer or the agency employing the peace officer. • The property shall be retained by the clerk or the officer/officer's agency until all direct appeals and retrials are final, at which time shall be disposed of under § 24-3-103 and/or § 24-3-103.5. • The prosecuting attorney may decline to authorize disposal of the property.



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
24-3-103	Property no longer needed as evidence -- Disposition of property.	<ul style="list-style-type: none"> • Allows the prosecuting attorney to take action when the prosecuting attorney determines that property no longer needs to be held as evidence, and the steps they shall take. • The agency shall exercise due diligence in attempting to notify the rightful owner and advise them the property is to be returned. • Rule for computer contraband and personal digital data. • Steps a person claiming ownership of the property must take before the agency releases it. • Receipt listing when property is returned • What the agency may do if they cannot locate the rightful owner or the rightful owner is not entitled to lawfully possess the property, except if the property is a firearm. If the property is a firearm, the agency shall dispose of it according to § 24-3-103.5 • What the agency must do before applying the property or the proceeds from the sale of property to a public use.
24-3-103.5	Disposition of firearms no longer needed as evidence.	<ul style="list-style-type: none"> • An agency shall dispose of a confiscated or unclaimed firearm by: (a) selling or destroying it in accordance with Subsection (3); giving it to the state-approved dealer to sell/destroy in accordance with Subsection (4) and the agreement between the state-approved dealer and the department; or (c) after the agency gets approval from the legislative body of the agency's jurisdiction, transferring it to the Bureau of Forensic Services for testing. • Subsection (4) regulates the agreement between the department and a federally licensed firearms dealer.
24-3-104	Petition to return property held as evidence.	<ul style="list-style-type: none"> • A person claiming ownership of property held in evidence may file a petition with the court for return of the property. The petition may be filed in: the court in which criminal proceedings have commenced regarding conduct for which the property is held as evidence; or the district court of the jurisdiction where the property was seized, if there are no pending criminal proceedings. • A copy of the petition must be served on the prosecuting attorney and the agency which has possession of the property. • The court has six options on how it may dispose of the property after providing opportunity for an expedited hearing on the petition.



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
24-3-104 Cont.	Petition to return property held as evidence. Cont.	<ul style="list-style-type: none"> • Before the property can be returned to a person claiming ownership, the person must establish by clear and convincing evidence that they are the rightful owner and may lawfully possess the property. • The agency holding the property must return the property to the claimant as expeditiously as possible if the court orders the property to be returned.
53-10-107	Admissibility in evidence of certified copies of division files.	<ul style="list-style-type: none"> • A copy of any fingerprint, record, document, or other evidence in the files of the division, certified by the commissioner to be a true copy of the original, is admissible in evidence in the same manner as the original.
53-10-108	Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.	<ul style="list-style-type: none"> • Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files is limited to twelve categories of agencies/individuals: <ul style="list-style-type: none"> ○ criminal and noncriminal justice agencies, employment background checks, governor's office, clearances for foreign travel/citizenship, preplacement adoptive study, state agencies, commissioner authorization, office of the lieutenant governor. • The applicable entities listed above are furthered limited by what purpose they may request the information for and protocols for doing so, covered in subsections (3)-(6), (10), (13), (15), 16). • Criminal justice agencies have priority. • Creates a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained a record that person has not been granted access to, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity. • A person who discovers or becomes aware of any unauthorized use of records created, maintained, or to which access is granted by the division must inform the commissioner and the director of the UT Bureau of Criminal Identification of the unauthorized use.
53-10-403	DNA specimen analysis -- Application to offenders, including minors.	<ul style="list-style-type: none"> • Who §§ 53-10.403.6, 404, 404.5, 405, and 406 apply to, and the list of offenses that would subject a person to those sections. • Defines who a minor is for the purposes of subsection (1).



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
53-10-406	DNA specimen analysis -- Bureau responsibilities.	<ul style="list-style-type: none"> • Lists eleven tasks the bureau must complete, including administration, storage, and destruction of DNA specimen. • Procedures for DNA analysis may include all techniques which the Dept. of Public Safety determines are accurate and reliable in establishing identity. • All DNA specimens received shall be classified as protected and the Dept. of Public Safety may not transfer for disclose any DNA specimen, physical evidence, or criminal identification information obtained, stored, or maintained under this section, except under its provisions. • The department may deny inspection if there is a reasonable likelihood it would prejudice a pending criminal investigation. • The department shall adopt procedures governing the inspection of records, DNA specimens, challenges to accuracy of records, and shall accommodate the need to preserve those materials from contamination and destruction. • Gives criteria for when a person whose DNA specimen has been obtained under this part may submit a motion for a court order requiring the destruction of the DNA specimen and any criminal identification. • When the department is and is not required to destroy DNA specimen, physical evidence. • Subsection 12(a) prohibits a person from willfully obtaining, analyzing, disclosing, or failing to destroy or ensure the destruction of the DNA specimen and information, and 12(b) provides punishment for the offenses listed in 12(a).
67-4a-201	When property presumed abandoned.	<ul style="list-style-type: none"> • Lists fourteen categories of property and their specific time periods that are presumed abandoned if the property is unclaimed by the apparent owner, subject to § 67-4a-208.
67-4a-208	Indication of apparent owner interest in property.	<ul style="list-style-type: none"> • How to measure the period after which property is presumed abandoned. • Six indications of an apparent owner's interest in property. • Action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner. • Communications with the apparent owner by a person other than the holder or the holder's representative are not by themselves an indication of interest in the property by the apparent owner.



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
67-4a-301	Address of apparent owner to establish priority.	<ul style="list-style-type: none"> • What is the last known address of an apparent owner. • Which state is to be the state of the last known address of the apparent owner. • Presumption on the address of the apparent owner when insurance or annuity is involved.
76-5-604	Sexual assault kit processing -- Restricted kits. All sexual assault kits to be submitted.	<ul style="list-style-type: none"> • Unless otherwise restricted by the health care provider, the agency shall enter the required victim information into the statewide sexual assault kit tracking system within 24 hours of performing a sexual assault examination. • Only a healthcare provider may designate a kit as restricted at the time of collection. • Each kit shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility. That agency is then required to enter the required information into the statewide tracking system within five business days from receipt. • Each restricted kit received by a law enforcement agency that relates to an incident that occurred outside of that agency's jurisdiction shall transfer it to the law enforcement agency that has jurisdiction within ten days of learning that another agency has jurisdiction. • Rules on the submission of kits and a suspect standard or a consensual partner elimination standard to the UT Bureau of Forensic Sciences. • Failure to meet the deadlines under this section or an agency's rules is not a basis for dismissal of a criminal action or a bar to the admissibility of evidence in a criminal action.
76-5-605	Sexual assault kit retention and disposal.	<ul style="list-style-type: none"> • Evidence that may be subject to DNA evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant may not be disposed of before a trial of a criminal defendant, with two exceptions.
77-24a-2	Disposition by police agency.	<ul style="list-style-type: none"> • Lost or mislaid property now in the possession of a peace officer or law enforcement agency shall be turned over to, held, and disposed of only by the local law enforcement agency whose authority extends to the area where the item was found.
77-24a-3	Statement of finder of property.	<ul style="list-style-type: none"> • Five statements a finder of lost or mislaid property must give to a local law enforcement agency.



Utah Property and Evidence Laws

Utah Statute	Description	Synopsis
77-24a-4	Locating owner of property.	<ul style="list-style-type: none"> • The local law enforcement agency shall take reasonable steps to determine the identity and location of the owner and notify the owner that the property is in custody. • To get the property back, the owner must provide personal identification, identify the property, and pay any costs incurred by the agency, including costs for advertising or storage
77-24a-5	Disposition of unclaimed property.	<ul style="list-style-type: none"> • If the owner of lost or mislaid property cannot be determined and notified, or if the owner fails to appear to claim the property after three months since its receipt by the local law enforcement agency, the agency shall: publish notice of the intent to dispose on UT's Public Legal Notice Website; post a similar notice on the public website of the political subdivision the agency is located in; and post a similar notice in a designated public place. • An owner has nine days to make a claim for the lost or mislaid property from the publication and posting before the agency alerts the finder who turned the property over. • A finder may take the lost or mislaid property if they pay the costs of advertising/storage and sign a receipt. If the finder doesn't take the property, the agency shall either apply the property to a public interest use, sell it, or destroy it. • Any finder who is employed by a law enforcement agency may not claim or receive property under this section.



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
7-561(b)	Authority of liquor control investigators	<ul style="list-style-type: none"> • Commissioner of Liquor and Lottery, the Director of Enforcement for the Division of Liquor Control, investigators employed by the Board of Liquor and Lotter or by the Division of Liquor Control, or any other law enforcement officer • May take into custody the person found in the act of manufacturing alcohol or possessing a means of manufacturing alcohol, unlawfully selling, bartering, possessing, furnishing, transporting alcoholic beverages • May seize any property involved, including the alcohol, vessels, and implements of sale as well as the apparatus for manufacturing, should there be one
7-562(b)	Search warrants	<ul style="list-style-type: none"> • Officer shall seize and convey the alcoholic beverages, alcohol, or other apparatus to a secure place and keep it until the court renders a final judgment on it
7-563(c)(1)	Search without a warrant	<ul style="list-style-type: none"> • Upon proof that the alcoholic beverages or alcohol were found in the possession of the accused in a public place, with intent to sell contrary to law, the seized alcoholic beverages or alcohol shall be adjudged forfeited and disposed of by order of the court
7-564(a)	Notice of seizure	<ul style="list-style-type: none"> • Any officer who seizes alcoholic beverages/alcohol shall give prompt notice of the seizure to the State's Attorney of the county
7-567	Forfeiture of seized property	<ul style="list-style-type: none"> • If after a hearing the court determines that the alcoholic beverages/alcohol/other property were intended for unlawful sale/distribution, it shall be adjudged forfeited and condemned • Property that is forfeited and condemned under this section will be turned over to the Commissioner of Liquor and Lottery for the benefit of the State
7-570	Forfeiture and condemnation of seized vehicle/craft	<ul style="list-style-type: none"> • If when seizing alcoholic beverages or alcohol, an officer takes possession of a vehicle, air or watercraft, he/she shall promptly make a complaint under oath or affirmation to a judge of the Criminal Division of the Superior Court in the jurisdiction where the seizure occurred • If the vehicle is adjudged forfeited and condemned, it shall be sold at a public sheriff's sale for the benefit of the State



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
7-574	Reopening of forfeiture proceeding	<ul style="list-style-type: none"> • Within one year of forfeiture adjudication of a vehicle, air or watercraft, a claimant may provide notice to the State’s Attorney of the county that he/she had no knowledge of the forfeiture hearing and may apply to have the case reopened • Must post a bond “in a sufficient sum” • If he/she establishes her claim at rehearing, the court shall certify the Commissioner of Finance and Management to issue his or her warrant to pay the sum • Amount will not exceed the net amount actually realized by the State from the sale of the vehicle
7-575 7-577	Claim by owner for seized goods	<ul style="list-style-type: none"> • The owner/possessor/keeper for seized property including the alcoholic beverages, alcohol, or other apparatus for the manufacture of alcohol may file a written claim with the court before which the proceedings are pending, setting forth reasons why it should not be forfeited • Court may require a posting of a bond to the State “in sufficient sum” • If court renders judgment against the claimant, the property will be adjudged forfeited and condemned, and the court will enter judgment against the claimant for all costs of prosecution incurred after the filing of his/her claim
7-578	Disposition of liquor condemned on appeal	<ul style="list-style-type: none"> • If appellant fails to enter and prosecute his/her appeal, or if judgment is against him/her on appeal, the court in which the appeal is finally decided shall order the alcoholic beverages or alcohol to be disposed of under an order of a judge of the Criminal Division of the Superior Court
7-579 7-580	Seized property via writ of replevin	<ul style="list-style-type: none"> • Any property in this section seized by an officer by a writ of replevin shall not be delivered to the claimant, but shall be held by the officer serving the writ until the final determination of the seizure • Afterwards, this property shall be delivered to the party in whose favor the judgment was rendered or to an officer who has the authority to hold/dispose of it under the original proceedings • These proceedings shall occur without delay



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
7-1009	Contraband and seizure (tobacco)	<ul style="list-style-type: none"> • Any cigarettes/tobacco products or commercial cigarette rolling machines in violation of sections 7-1003, 20-2757, 32-7786, 33-1919, or 7-1011 shall be deemed contraband and shall be subject to seizure by the Commissioner, his/her agents/employees, or any law enforcement officer in this State. • All cigarettes or other tobacco products seized shall be destroyed • Any vehicle, aircraft, or watercraft in which property considered contraband is found may be seized and subject to forfeiture/condemnation
7-832	Seizure and forfeiture of unlawful cannabis	<ul style="list-style-type: none"> • Cannabis possessed unlawfully may be seized and is subject to forfeiture
27-1241	Definition of “property” for purposes of unclaimed property	<ul style="list-style-type: none"> • “Property” means tangible property described in section 27-1243 or a fixed and certain interest in tangible property that is held, issued, or owed in the course of a holder’s business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. • Lists terms which evidence property or to which property refers in (13)
27-1242 27-1243 27-1244	Presumption of abandonment	<ul style="list-style-type: none"> • Property is presumed to be abandoned if it is unclaimed by the apparent owner during time periods dependent on the type of property listed (see statute for full list of lengths of time) • At the time the interest is presumed abandoned, any other property right accrued or accruing to the owner as a result of the interest is also abandoned • Property is unclaimed if in the time periods listed in (a), the apparent owner has not communicated in writing or other means on record • Tangible property held in a safe deposit box or other safekeeping depository in this state are presumed abandoned if the property remains unclaimed by the owner for more than five years after expiration of the lease or rental period on the box/depository • Unclaimed demutualization proceeds are deemed abandoned two years after the date the property is first distributable if, at the time of the first distribution, the last known address of the owner on the books and records of the holder is known to be incorrect, or the distribution or statements are returned by the post office as undeliverable, and the owner has not communicated with the holder



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
27-1247	Report of unclaimed property	<ul style="list-style-type: none"> • A holder of property presumed abandoned shall make a report to the treasurer concerning the property which shall contain identification, description, dates, and locations necessary to verify the claim • This must be filed before May 1 of each year and cover the preceding calendar year
27-1248(a)	Payment or delivery of unclaimed property	<ul style="list-style-type: none"> • Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by section 1247 of this title, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the treasurer the property described in the report as unclaimed. However, if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the treasurer until 120 days after filing the report required by section 1247 of this title.
27-1249	Notice and publication of lists of unclaimed property	<ul style="list-style-type: none"> • The treasurer shall notify apparent owners of unclaimed property. In deciding whether to use an additional method, and which of those methods to use, the treasurer shall employ the method he or she deems to be the most cost-effective method available within its appropriations, while also giving consideration to the effectiveness of the method. • The treasurer shall notify all apparent owners of unclaimed property via the internet, publication in a newspaper, individual contact, email, telephone, or any other manner he/she considers effective • The treasurer is not required to publish in the notice an item of less than \$100.00 in value. • The treasurer may establish a program to assist other state agencies holding property not presumed to be abandoned to locate the owners of the property.
27-1250	Custody by state; recovery by holder	<ul style="list-style-type: none"> • Upon payment or delivery of property to the treasurer, the state assumes custody and responsibility for the safekeeping of the property • A holder who has delivered property may reclaim the property if it is still in possession of the treasurer, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder. Upon recovering the property, the holder shall



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
27-1250 Cont.	Custody by state; recovery by holder Cont.	<p>reassume custody, responsibility for the safekeeping of the property, and liability with respect to the property.</p> <ul style="list-style-type: none"> • Property removed from a safe deposit box shall be received by the treasurer subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The treasurer shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the treasurer in selling the property
27-1252	Public sale of unclaimed property	<ul style="list-style-type: none"> • The treasurer shall, within one year, sell abandoned property to the highest bidder at public sale. • He/she need not offer the property for sale if they consider that the probable cost of sale will exceed the proceeds • The treasurer shall, within one year, sell all abandoned securities, sold at prices prevailing on the exchange at the time of sale • A purchaser of property at a sale conducted by the treasurer pursuant to this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them
27-1258	Destruction of property having no substantial commercial value	<ul style="list-style-type: none"> • If the treasurer determines that property delivered under this chapter has no substantial commercial value, the treasurer may destroy or otherwise dispose of the property at any time • An action or proceeding may not be maintained against the state or any officer or against the holder for or on account of an act of the treasurer under this section, except for intentional misconduct or malfeasance



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
20-2307(a) 20-2302	Definitions involving firearms	<ul style="list-style-type: none"> • States that a firearm has the same definition in this state’s legislation as in the USC • “Unlawful firearms” refers to firearms, which, when possessed, constitute a violation of federal or state law or used in violation of any federal or state law or in the commission of any federal or state felony • “Unlawful per se” means firearms the possession of which is unlawful under any circumstances under state or federal law • “Abandoned firearms” means firearms in the possession of the Department of Public Safety that are no longer needed as evidence and remain unclaimed for more than 18 months from the date the firearms come into the Department’s possession
20-2307(b) 20-2307(c)	Relinquishment and handling of unlawful firearms	<ul style="list-style-type: none"> • Relinquished firearms/ammunition/other weapons shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer • A law enforcement agency or approved federally licensed dealer that takes possession of the firearm/ammunition/other weapon must photograph, catalogue and store the item in accordance with standards and guidelines established by the Department of Public Safety • A firearm/ammunition/other weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter
20-2307(g)	Retrieval of unlawful firearms/weapons	<ul style="list-style-type: none"> • A law enforcement agency or approved federally licensed dealer who takes possession of firearms/ammunition/other weapon for storage purposes shall not release the items to the owner without a court order • If the owner fails to retrieve the firearm/ammunition/weapon and pay the applicable storage fee within 990 days of the court order releasing the items, the firearm/ammunition/weapon may be sold at fair market value.



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
20-2303 20-2305	Disposition of unlawful firearms and unlawful per se firearms	<ul style="list-style-type: none"> Any unlawful firearm in the possession of an agency which is not needed as evidence for or in a criminal prosecution or other judicial/administrative proceeding shall, within 30 days of its receipt by the agency, be delivered to such place and in such manner as the commissioner of public safety designates for ultimate disposition Any unlawful firearm in the possession of an agency needed as evidence for or in criminal prosecution or other judicial or administrative proceeding may be retained by the agency for such purposes and until the conclusion of such prosecution or proceeding. Upon notice to the agency from a state's attorney, other prosecuting official, or other state/federal official having jurisdiction over the subject matter that the unlawful firearm may be released, the agency shall, within 30 days of such notification, deliver the unlawful firearm to such place and in such manner as the commissioner of public safety designates for ultimate disposition
Rule 509(c)(2)	Preservation of evidence	<ul style="list-style-type: none"> Evidence submitted to the court shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the informed public entity. All counsel and parties are permitted to be present at every state of proceedings under this paragraph except a showing in camera at which no counsel or party shall be permitted to be present.
13-5561(b)(1)	Definition of biological evidence	<ul style="list-style-type: none"> "Biological evidence" means (A) sexual assault forensic examination kit; or (B) semen, blood, saliva, hair, skin tissue, or other identified biological material
13-3281(c)	Sexual assault survivor's rights	<ul style="list-style-type: none"> A sexual assault survivor has the right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor. If opting into this, the survivor additionally has the rights to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection; the right to have the kit or its contents preserved without charge for the duration of the maximum applicable statute of limitations; the right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a collection kit; the right to be informed of a



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
13-3281(c) Cont.	Sexual assault survivor's rights Cont.	DNA profile match on a kit reported to law enforcement or on a confidential kit, toxicology report, or medical record documenting a medical forensic examination, if the disclosure would not impede/compromise an ongoing investigation; and, upon written request, the right to receive written notification from the appropriate official with custody no later than 60 days before the date of the kit's intended destruction/disposal, and be granted further preservation of the kit or its probative contents.
13-5435(b)	Access to a sexual assault nurse	<ul style="list-style-type: none"> The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.
10-4522	Unclaimed Evidence (Fish & Wildlife)	<ul style="list-style-type: none"> A person shall reclaim and remove his/ her property seized as evidence of the violation from the fish and wildlife warden or officer in possession of the property, or risk forfeiture of the property as provided in this section. At any time after the final disposition of a charge relating the violation, the Commissioner may serve notice upon the defendant, stating that the property shall be forfeited unless the defendant reclaims and removes the property within 60 days of receipt of written notice. Written notice may be delivered personally or by certified mail. If notice is provided by mail, notice shall be deemed received three days after mailing by the Department. Written notice that is mailed shall be sent to the defendant at the address indicated on the citation on which the seizure was based. Property unclaimed after 60 days from the date of receipt of notice shall be forfeited to the State and, at the discretion of the Commissioner, may be destroyed, sold, or donated to a governmental entity, nonprofit organization, or children's camp. If the State has knowledge that the seized property is owned by a person other than the defendant and the State wishes to dispose of the property, the State shall make a reasonable attempt to identify the owner and provide notice to that person in accordance with the above.



Vermont Property and Evidence Laws

Vermont Statute	Description	Synopsis
10-4522 Cont.	Unclaimed Evidence (Fish & Wildlife) Cont.	<ul style="list-style-type: none"> • A person claiming to be the bona fide owner of the seized property who is not the defendant may provide evidence of ownership to the fish and wildlife warden or officer in possession of the property, and, if satisfied that the person is the bona fide owner, the warden or officer shall release the property to such person. • After final disposition of a charge related to the seizure of the property, if the owner of the seized property is unknown, the Commissioner may publish notice twice, 14 days apart, in a newspaper of general circulation in the county where the evidence was seized. The notice shall include a description of the property, and if known, the date when the property was seized and the place where the property was seized. The notice shall state that the property is in the possession of the Commissioner, and that claims should be directed to the Commissioner. If no person claims the property within 60 days of the date of the first publication of notice, the property shall be forfeited to the Commissioner. At the discretion of the Commissioner, the property may be destroyed, sold, or donated to a governmental entity, nonprofit organization, or children's camp. • This section shall not apply to property seized as evidence of a violation of section 4513, 4606, or 4747 of this title. • Proceeds realized from property that the Commissioner has sold under this section shall be deposited in the Fish and Wildlife Fund.
10-4513	Seizure/disposal of unlawful devices for taking wild animals	<ul style="list-style-type: none"> • Fish, wild animals, and illegal devices for taking fish or wild animals found in the possession of a person in violation of a provision of this part, shall be seized and confiscated in the name of the State and the Commissioner may sell or otherwise dispose of the same as he or she deems for the best interests of the State and for that purpose may order the transportation of the same at any time.



Virginia Property and Evidence Laws

Virginia Statute	Description	Synopsis
§ 10.1-1119	Preservation of evidence as to conserving forest supply	<ul style="list-style-type: none"> • State Forester must preserve all evidence he takes with reference to conserving the forests and the best methods to do so • He must report to each session of the General Assembly and publish his findings periodically
§ 8.2-515	Preserving evidence of goods in dispute	<ul style="list-style-type: none"> • Either party, with reasonable notification to the other, has the right to inspect, sample, and test the goods for the purpose of ascertaining the facts and preserving the evidence • The parties may agree to a third-party inspection of the good to determine their conformity or condition, and may agree that these findings are binding for litigation
§ 19.2-270.4:1	Storage, preservation and retention of human biological evidence in felony cases.	<ul style="list-style-type: none"> • A person convicted of a felony but not sentenced to death may enter a motion for the storage, preservation, and retention of specifically identified human biological evidence or representative samples for up to 15 years from the time of conviction • The evidence shall be stored by the Department of Forensic Science • Upon motion or upon good cause shown, the court may alter the time of storage • For a person sentenced to death, any human biological evidence or representative samples shall be stored by the Department of Forensic Science until the judgment is executed • Order shall state the method of custody, transfer, and return to ensure the integrity of the evidence • If physical evidence is of a nature, size, or quantity that makes storage, retention, or preservation of all the evidence impractical, the court may order the storage of only representative samples of the evidence
§ 17.1-128	Recording evidence and incidents of trial in certain civil cases and cost thereof; cost of transcripts; preservation of original notes or records; certified transcript prima facie correct	<ul style="list-style-type: none"> • In all civil cases, the court or judge trying the case may order the recording of the evidence and incidents of trial • The certified transcript shall be deemed prima facie a correct statement of the evidence and incidents of trial



Virginia Property and Evidence Laws

Virginia Statute	Description	Synopsis
§ 8.01-379.2:1	Spoilation of Evidence	<ul style="list-style-type: none"> • A party or potential litigant has a duty to preserve evidence that may be relevant to reasonably foreseeable litigation • In considering whether and when the duty arose, the court will consider the totality of the circumstances • If evidence that should have been preserved is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced, the court may order measures no greater than necessary to cure the prejudice to the other party; or, upon finding that the party acted recklessly or with intent to deprive the other party of the evidence's use, may: (a) presume that the evidence was unfavorable to the party; (b) instruct the jury that it may or shall presume that the evidence was unfavorable to the party; or (c) dismiss the action or enter a default judgment.
§ 20-146.11	Cooperation between courts; preservation of records	<ul style="list-style-type: none"> • Courts in Virginia may request the courts of another state to: 1. Hold an evidentiary hearing; • 2. Order a person to produce or give evidence pursuant to procedures of that state; • 3. Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding; • 4. Forward to the court of this Commonwealth a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and • 5. Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child. • Virginia may also hold any of the preceding hearings at the request of another state • Travel expenses may be assessed to the parties • Records of child custody proceedings shall be preserved until the child reaches 18 years old
§ 8.01-389	Judicial records as evidence; full faith and credit; recitals in deeds, deeds of trust, and mortgages; "records" defined; certification	<ul style="list-style-type: none"> • Records of judicial proceedings shall be prima facie evidence provided that they are certified by the clerk of court • Recitals of any fact in a deed or deed of trust of record conveying any interest in real property shall be prima facie evidence of that fact • The certification of any record in this section automatically authenticates it for the purpose of admission into a trial, hearing, or proceeding



Virginia Property and Evidence Laws

Virginia Statute	Description	Synopsis
§ 19.2-165	Recording evidence and incidents of trial in felony cases; cost of recording; cost of transcripts; certified transcript deemed prima facie correct; request for copy of transcript	<ul style="list-style-type: none"> • In all felony cases, there shall be a verbatim recording of the evidence and incidents of the trial. The expense shall be paid by the Commonwealth; however, if the defendant is convicted, the Commonwealth is eligible to receive the court reporter fee out of the fixed felony fee. • The clerk shall receive the evidence at the time the court admits it and shall maintain control over the evidence until it is transferred on appeal, destroyed, or returned • In felony cases where it appears that the defendant will appeal but cannot pay for a copy of the transcript of the evidence for an appeal, the court will, upon motion from the defendant's attorney, order the evidence transcribed at the Commonwealth's cost. If the conviction is not reversed, all charges shall be assessed to the defendant. • The transcript of any case, certified by the reporter or other authorized individual, is prima facie evidence of the evidence and events of the trial.
§ 18.2-268.7	Transmission of blood test samples; use as evidence (Driving Motor Vehicle While Intoxicated)	<ul style="list-style-type: none"> • A blood sample forwarded for analysis will be examined for alcohol, drug content, or both and be given a certificate indicating the name of the accused; the date, time, and by whom the blood was examined; a statement that the seal on the vial was not tampered with; a statement that the vial was approved for samples; and a statement of its drug or alcohol contents. • The statement is admissible in court as evidence of the facts therein • The remainder of the blood shall be preserved for 90 days after the analysis, and is admissible as evidence on the motion of the accused • During the 90-day period, the accused may have the remainder of the blood sent to an independent lab for analysis
§ 27-34.1	Power of fire marshal or fire chief to take property found at scene of fire or explosion; restitution of such property	<ul style="list-style-type: none"> • Fire chief, fire marshal, or designated representative is permitted to take and preserve any property found at the scene of a fire or explosion while in the act of extinguishing or found later, when such property indicates the fire or explosion was intentionally caused • A person whose property is so taken may petition the court or city and the court may order restitution as is appropriate for the preservation of evidence



Virginia Property and Evidence Laws

Virginia Statute	Description	Synopsis
§ 9.1-1103	Forensic Science Academy	<ul style="list-style-type: none"> • The Forensic Science Academy is transferred to the Department of Forensic Science • The Academy shall provide advanced training to law-enforcement agencies in the location, collection, and preservation of evidence
§ 54.1-2970.1	Individual incapable of making informed decision; procedure for physical evidence recovery kit examination; consent by minors	<ul style="list-style-type: none"> • A medical professional may perform a physical evidence recovery kit examination for a person who is believed to be a sexual assault victim and who is incapable of making an informed decision regarding consent to the examination when: (1) There is a need to conduct the exam before the victim is likely to be able to make an informed decision in order to preserve physical evidence of the assault from degradation; (2) No legally authorized representative is reasonably available to give consent; and (3) a capacity reviewer provides written certification that the individual is unable to provide consent and the examination should be performed. • If the parent or guardian refuses to provide consent, the minor may consent •
§ 30-34.2:2	Disposal of unclaimed firearms, other weapons, or other unclaimed personal property in possession of the Division of Capitol Police	<ul style="list-style-type: none"> • The Division of Capitol Police may dispose of unclaimed firearms, other weapons, and other personal property that has been in their possession for 120 days • An unclaimed firearm or other weapon is one that was acquired by a LEO pursuant to his duties, is not needed in any criminal prosecutions, has not been claimed by its rightful owner, and that the State Treasurer has indicted will be declined if remitted under the Virginia Disposition of Unclaimed Property Act • Other personal property has the same definition as above • The Division of Capitol Police may destroy unclaimed firearms or other weapons by any means that renders them permanently inoperable • Prior to the destruction of firearms, other weapons, and other personal property, the department shall make reasonable attempts to notify by mail the rightful owner of the property, and shall obtain from the attorney for the Commonwealth of the jurisdiction from which the item came a statement advising that the item is not needed for a criminal prosecution • The Division may also donate an unclaimed firearm to the Department of Forensic Police in lieu of destroying it



Virginia Property and Evidence Laws

Virginia Statute	Description	Synopsis
§ 52-11.5 § 15.2-1721	Disposal of unclaimed firearms or other weapons in possession of the law enforcement agencies	<ul style="list-style-type: none"> • Law enforcement agencies may destroy unclaimed firearms or other weapons that have been in their possession for more than 120 days and are not suitable for service within the department • An unclaimed firearm or other weapon is one that was acquired by a LEO pursuant to his duties, is not needed in any criminal prosecutions, has not been claimed by its rightful owner, and that the State Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act • The Department may destroy unclaimed firearms or other weapons by any means that renders them permanently inoperable. Prior to destruction, the Department must comply with applicable notice laws (§ 55.1-2500). • The Department may also donate an unclaimed firearm to the Department of Forensic Police in lieu of destroying it
§ 15.2-1719	Disposal of unclaimed property in possession of sheriff or police	<ul style="list-style-type: none"> • Any locality may provide by ordinance for (i) the public sale or (ii) the retention for use by the law-enforcement agency, of any unclaimed personal property that has been in the possession of law-enforcement agencies and unclaimed for more than 60 days • Unclaimed personal property is property that was acquired by a LEO pursuant to his duties, is not needed in any criminal prosecutions, has not been claimed by its rightful owner, and that the State Treasurer has indicated will be declined if remitted under the Virginia Disposition of Unclaimed Property Act • Prior to a sale or retention of an item, the agency shall make reasonable efforts to notify the rightful owner of the property, obtain a statement from the Commonwealth attorney that the property is not needed as evidence in a criminal prosecution, and print notice in a newspaper once a week for two consecutive weeks. • The funds from a sale shall be kept separate for 60 days in case an owner comes forward with proof of ownership. Within three years of a sale, an owner may come forward with proof of ownership and claim the remaining proceeds from the sale or the item.



Washington Property and Evidence Laws

Washington Statute	Description	Synopsis
5.70.010	Preservation of DNA Work Product	<ul style="list-style-type: none"> • Where defendant has been charged and convicted of violent or sex offense, DNA, investigatory reports, and records must be maintained throughout length of sentence and any period of community custody up to final discharge • Where defendant charged and convicted under RCW 9.9A.507, DNA work product, investigatory reports, and records maintained for 99 years or death of defendant, whichever is sooner • If no conviction, the DNA work product, investigatory reports, and records must be maintained for 99 years or throughout the period for statute of limitations, whichever is sooner • Failure to preserve is not grounds for challenging admissibility of other DNA work product in a case
5.70.020	Destruction of DNA Reference Samples	<ul style="list-style-type: none"> • Court may order destruction of DNA reference samples taken from defendant that was acquitted or conviction under RCW 9.9A.030 was overturned • A person may individually ask for the same as above, if same conditions are met
5.70.030	Storage and Preservation of Unreported Sexual Assault Kits	<ul style="list-style-type: none"> • Any unreported kit collected on or after June 30, 2020, must be transported from collecting entity to local law enforcement • By January 1, 2021, all unreported kits collected before June 30, 2020 must be transported to local law enforcement • The law enforcement agency will store and preserve the kit for 20 years from the collection date
5.70.040	Sexual Assault Kits	<ul style="list-style-type: none"> • When kit is received by law enforcement, must within 30 days, submit request for lab exam • Beginning May 1, 2022, once a request is made for lab exam, must perform exam within 45 days of request • This applies to all sexual assault examinations performed on or after July 24, 2015.
5.70.050	Duty to Submit Sexual Assault Kits	<ul style="list-style-type: none"> • Not required when forensic analysis has already been conducted, an adult or emancipated minor has documented expression they do not want it submitted, the kit is non-investigatory



Washington Property and Evidence Laws

Washington Statute	Description	Synopsis
63.21	Lost and found Property	<ul style="list-style-type: none"> • A finder can claim property that is not unlawful to possess after appraisal, surrender of property, notice of intent to claim, and publication • An owner can extinguish finder’s claim within 60 days of notice if they satisfactorily establish their ownership right • Law enforcement duties of found property are to advise on legality of possession, advise on the procedure of claiming the found property, and retaining property until determination is made • This does not apply to certain property
63.24	Unclaimed property in the hands of bailee	<ul style="list-style-type: none"> • If owner is known, and property has been unclaimed for 30 days, bailee shall notify owner either personally or by mail • If owner is unknown bailee must attempt to give notice • If 60 days after notice is given, and property is still unclaimed, the bailee shall donate the property if less than \$100 or forward the property police if property is more than \$100
63.26	Unclaimed Property Held by Museum or Historical Society	<ul style="list-style-type: none"> • Any property held by museum or historical society is deemed abandoned if it has been held for 5+ years unclaimed • Loaned property shall be deemed donated if no claim or action to recover is made after termination or expiration of the loan and 90 days have passed since proper notice
63.29	Uniform Unclaimed Property Act	<ul style="list-style-type: none"> • Act lays out in about 47 sections rules for unclaimed property • Includes general rules for <ul style="list-style-type: none"> ○ Intangible unclaimed items ○ Stock ○ Refunds ○ Public sale of abandoned property ○ Property held by landlords ○ Property in self-storage ○ Gift certificate ○ And others



Washington Property and Evidence Laws

Washington Statute	Description	Synopsis
63.29 Cont.	Uniform Unclaimed Property Act Cont.	<ul style="list-style-type: none"> • Also includes <ul style="list-style-type: none"> ○ Periods of limitation ○ Filing a claim with a department ○ Retention of records ○ Interest and penalties ○ Enforcement ○ And other procedures
63.32	Unclaimed property in hands of city police	<ul style="list-style-type: none"> • Unclaimed property in possession of police that have given notice to owners and waited 60 days may: <ul style="list-style-type: none"> ○ Sell the property at a public auction ○ Retain the property for police use ○ Destroy the property • Notice of sale must be posted in an official newspaper at least 10 days prior to the sale date • If after the sale, the owner of the personal property comes forward, they are entitled to receive reimbursement any time within 3 years of the sale
63.35	Unclaimed property in hands of state patrol	<ul style="list-style-type: none"> • Unclaimed property in possession of police that have given notice to owners and waited 60 days may: <ul style="list-style-type: none"> ○ Sell the property at a public auction ○ Retain the property for police use ○ Destroy the property • Notice of sale must be posted in an official newspaper at least 10 days prior to the sale date • If after the sale, the owner of the personal property comes forward, they are entitled to receive reimbursement any time within 3 years of the sale • 63.24 and 63.29 does not apply to personal property in possession of the state patrol



Washington Property and Evidence Laws

Washington Statute	Description	Synopsis
63.40	Unclaimed property in hands of sheriff	<ul style="list-style-type: none"> • Unclaimed property in possession of police that have given notice to owners and waited 60 days may: <ul style="list-style-type: none"> ○ Sell the property at a public auction ○ Retain the property for police use ○ Destroy the property • Notice of sale must be posted in an official newspaper at least 10 days prior to the sale date • If after the sale, the owner of the personal property comes forward, they are entitled to receive reimbursement any time within 3 years of the sale • 63.24 does not apply to personal property in possession of the sheriff
63.42	Unclaimed inmate personal property	<ul style="list-style-type: none"> • If certain situations have been met (set as transfer to another facility or death) and 6 months have passed, the property is considered abandoned • If an inmate escapes, their property is considered abandoned after 3 months • Illegal items owned by and in the possession of inmates either become evidence or are destroyed • If owner's address is known, 30 day notice is required before property is destroyed • All personal property that may not be donated or is not money will be destroyed after it has been abandoned • The property must be inventoried before it is destroyed • 63.24 and 63.29 does not apply to personal property in possession of the state patrol
77.130.010	Unclaimed person property-disposition-firearms	<ul style="list-style-type: none"> • Unclaimed firearms in possession of officers of the department that confiscated it, that have given notice to owners and waited 60 days may: <ul style="list-style-type: none"> ○ Sell the property at a public auction ○ Retain the property for police use ○ Destroy the property • At the end of 1 year, any unclaimed firearm must be disposed of pursuant to RCW 9.41.098



West Virginia Property and Evidence Laws

West Virginia Statute	Description	Synopsis
15A-1-8	Preservation of biological evidence from criminal cases	<ul style="list-style-type: none"> • West Virginia does not currently have any statute that addresses the preservation of biological evidence. • This statute directs the Secretary of Military Affairs and Public Safety to undertake a study and submit a report to the Legislature.
15A-1-8(a)	Definitions of biological evidence, DNA, and Secretary	<ul style="list-style-type: none"> • Biological evidence defined: <ul style="list-style-type: none"> ○ Sexual assault forensic examination kit; or ○ Semen, blood, saliva, hair, human body tissue, or other biological material containing human DNA • DNA defined: <ul style="list-style-type: none"> ○ Deoxyribonucleic acid • Secretary defined: <ul style="list-style-type: none"> ○ Secretary of Military Affairs and Public Safety
15A-1-8(b-d)	Process for and importance of conducting a study and submitting a report on biological evidence	<ul style="list-style-type: none"> • The Secretary will investigate effective modes and methods of storing and preserving biological evidence obtained by law enforcement in criminal investigations and prosecutions. • On or before January 1, 2020, the Secretary will submit a proposed plan and proposed legislation to the President of the Senate and the Speaker of the House of Delegates. • The proposed plan and legislation will create a program within the Department of Military Affairs and Public Safety for centralized storage and preservation of biological evidence obtained throughout the state. • In enacting this statute, the legislature acknowledges the importance of preserving biological evidence.
29-3A-2	Person in command at fire scene may take and preserve certain property	<ul style="list-style-type: none"> • A Fire chief, fire line officer, or any member in charge of fire fighters at the scene of a fire is authorized and empowered to take and preserve any property that indicates that the fire was intentionally set. • A person whose property is taken and preserved at the scene of a fire can petition the county circuit court for return of their property. • The court may order the property to be returned if bond is posted and other conditions for evidence preservation are met.



West Virginia Property and Evidence Laws

West Virginia Statute	Description	Synopsis
36-8A-2	Yearly reports for unclaimed stolen property	<ul style="list-style-type: none"> • On or before September 1 each year, each law-enforcement agency with unclaimed stolen property in its possession must file an unclaimed stolen property report with the Treasurer. • Each report must include: <ul style="list-style-type: none"> ○ Description of each item (including serial number, if applicable) ○ Estimated value of each item ○ Whether any nonprofit has requested that any item be donated to it ○ Whether any nonprofit might be considered to receive a donated item ○ Whether the law-enforcement agency could use the item for any legitimate and authorized law enforcement or educational purpose ○ Chief executive's recommendation for disposition of each item ○ If any property consists of firearms or ammunition, a description of the chief executive's best efforts to determine if the firearm has been lost, stolen, or otherwise unlawfully obtained from an innocent owner
36-8A-3	Treasurer's response to unclaimed stolen property report	<ul style="list-style-type: none"> • Within 30 days of receiving a report for unclaimed stolen property, the Treasurer must respond to the law-enforcement agency that sent the report. For each item, the treasurer indicates whether the item will be: <ul style="list-style-type: none"> ○ Delivered to the treasurer; ○ Sold at a public sale; ○ Donated to a nonprofit; or ○ Used for a legitimate and authorized law enforcement or educational purpose • Treasurer may not authorize a law-enforcement agency to donate any firearms or ammunition. See Section 5.
36-8A-4	Disposition of unclaimed stolen property other than firearms and ammunition	<ul style="list-style-type: none"> • Within 90 days of the Treasurer's response (section 3, above), the law-enforcement agency must dispose of all items in the manner required by the Treasurer. • For items delivered to the Treasurer, within three years, the Treasurer must sell the items to the highest bidder at a public sale. • For items to be sold at a public sale, the chief executive of the law-enforcement agency must hire an auctioneer licensed in WV to conduct the sale. • For items to be donated, the chief executive must donate those items to a nonprofit. • For items to be used for education purposes, the chief executive must ensure that they are used for a legitimate and authorized law-enforcement or educational purpose.



West Virginia Property and Evidence Laws

West Virginia Statute	Description	Synopsis
36-8A-4 Cont.	Disposition of unclaimed stolen property other than firearms and ammunition Cont.	<ul style="list-style-type: none"> • If the Treasurer gives discretion to the law-enforcement agency, the chief executive must first try to donate the item; then use it for educational purposes; then sell it.
36-8A-5	Regarding the disposition of firearms in state custody	<ul style="list-style-type: none"> • Prior to disposal, the chief executive of each law-enforcement agency must use best efforts to determine if the firearm lost by, stolen, or otherwise obtained from an innocent owner. If so, the firearm must be returned to the owner (unless they legally cannot possess a firearm). • If the lawful owner cannot be found (or cannot legally possess a firearm), the law-enforcement agency may trade the firearms or ammunition with licensed firearms collectors, dealers, importers, or manufacturers. • Any firearms that are forfeited or abandoned to a law-enforcement agency must be returned to the State Treasurer, who will dispose of the firearms by sale at a public auction to persons licensed as firearms collectors, dealers, importers, or manufacturers. <ul style="list-style-type: none"> ○ Surplus funds from any such auction will be transferred to the state general fund. ○ Treasurer must keep a record of all firearms acquired and sold. ○ If a firearm is determined to be unsafe (due to wear, damage, or modification), it will be either transferred to the State Police forensic lab, transferred to a museum or historical society, or destroyed.
57-5-11	Disposal of exhibits or articles offered in evidence; disposal of property in hands of law-enforcement officials	<ul style="list-style-type: none"> • A circuit court or judge has several means of disposing of exhibits or articles offered in evidence from a hearing or trial in that court: <ul style="list-style-type: none"> ○ By returning the item to the owner ○ By destruction, sale, or otherwise • The exhibit or article must remain in custody or control of the court for a specified length of time: <ul style="list-style-type: none"> ○ If the case is not appealed, for 30 days after the expiration of time within which an appeal can be made from the final order or judgment. ○ If the case is appealed, 30 days after any final order or judgment from the appellate court. • If the owner of the exhibit or article is known, the owner must be notified, and the item must be returned if the owner desires.



West Virginia Property and Evidence Laws

West Virginia Statute	Description	Synopsis
		<ul style="list-style-type: none"> • The court or judge has the power to direct the sale of any exhibit or article. <ul style="list-style-type: none"> ○ The court or judge will direct the notice and terms of the sale as well as the officer or other person who will conduct the sale. ○ Proceeds from any such sale will be applied to the reasonable costs and expenses of the sale (as deemed by the court or judge). ○ The remainder of proceeds will be paid into the State Treasury. • This section does not extend to the county commission of any county. • If another statute expressly provides a different method of disposition, that statute applies.
61-11A-9(a)(3-7)	Rights of a sexual assault victim pertaining to preservation of evidence obtained in a forensic medical examination	<ul style="list-style-type: none"> • A sexual assault victim as the right to: <ul style="list-style-type: none"> ○ Have a sexual assault evidence collection kit tested and preserved by the investigating law-enforcement agency ○ Be informed in writing by the investigating law-enforcement agency of the results of a forensic medical investigation, if the disclosure doesn't impede or compromise any ongoing investigation ○ Be informed in writing of any policies governing the forensic medical examination and the preservation obtained from the examination ○ Upon written request, receive notification of the intended destruction or disposal of the evidence obtained in the forensic medical examination from the custodian of such evidence ○ Upon written request, have the evidence obtained from a forensic medical examination preserved for an additional period not to exceed 10 years
62-1A-7	Disposition of seized property in criminal procedure	<ul style="list-style-type: none"> • Any property seized pursuant to a warrant will be preserved as directed by the court or magistrate for use as evidence. • After property is used as evidence, it will be returned, destroyed, or disposed of as directed by the court or magistrate.



Wisconsin Property and Evidence Laws

Wisconsin Statute	Description	Synopsis
968.18	Receipt for seized property	<ul style="list-style-type: none"> • Any officer who takes something without a search warrant must give a receipt as soon as practicable to the person they took it from • Failure to give a receipt does not render the evidence seized inadmissible upon a trial. • guarantees the same rights of persons whose property is seized without a warrant as those whose property is taken with a search warrant
968.19	Custody of Property Seized	<ul style="list-style-type: none"> • Property seized under a search warrant/validly seized without a warrant shall be safely kept by the officer • They may leave it in the custody of the sheriff if necessary for the purpose of being produced as evidence on any trial.
968.20	Return of Property Seized	<ul style="list-style-type: none"> • Any person claiming the right to possession of property seized with or without a search may apply for its return to the circuit court for the county in which the property was seized or where the search warrant was returned, <ul style="list-style-type: none"> ○ a court may commence a hearing, on its own initiative, to return property seized under 268.26 ○ If an initial appearance under 970.01 is scheduled, the application for the return of the property shall be filed within 120 days of the initial appearance • This does not include an animal taken into custody under 173.13(2) or withheld from its owner under 173.21(1)(a)
968.20(1g)	Hearing for the Return of Property Seized	<ul style="list-style-type: none"> • The court shall order notice to be given the district attorney and to all persons who have an interest in the property. • The court shall hold a hearing to hear all claims about its ownership. Unless commenced by the court, the hearing must be within 30 days after a motion is filed. • Either party may move the court for one extension of no more than 10 days. • If the right to possession is proved to the court's satisfaction, it shall order the property returned if the court finds any of the following: <ul style="list-style-type: none"> ○ It's likely that the final judgement will be that the property must be returned to the clamant and it's not reasonably needed as evidence or, if needed, satisfactory arrangements can be made for its return for subsequent use



Wisconsin Property and Evidence Laws

Wisconsin Statute	Description	Synopsis
968.20(1g) Cont.	Hearing for the Return of Property Seized Cont.	<ul style="list-style-type: none"> ○ The property is the only reasonable means for a defendant to pay for legal representation in the forfeiture or criminal proceeding, the property is not likely to be needed for payment of victim compensation, restitution, or fines, and the property is not reasonably needed as evidence or for other investigatory reasons. <ul style="list-style-type: none"> ▪ If the court makes this finding, it may order the return of funds or property sufficient to obtain legal counsel but less than the total amount seized and require an accounting. ● All proceedings and investigations in which it might be required have been completed.
968.20(1h)	Court Order to Not Transfer Property	<ul style="list-style-type: none"> ● If a court orders property returned, the court shall order the person not to sell, transfer, assign, or otherwise encumber the property until the court orders the property either returned or forfeited ● If the person is subsequently convicted of or found to have committed the offense, the court shall order the person to surrender the returned property for proceedings
968.20(1mb-e)	Returning Dangerous Weapons	<ul style="list-style-type: none"> ● If the seized property is a dangerous weapon or ammunition, the property shall not be returned to any person who committed a crime involving the use of the dangerous weapon or the ammunition. ● Seized property that is a dangerous weapon or ammunition may be returned to the rightful owner under this section if the owner had no prior knowledge of and gave no consent to the commission of the crime. ● If the seized property is a firearm, the property has not been returned under this section, and a person claiming the right to possession of the firearm has applied for its return, the court shall order a hearing to occur within 20 days ● If, at the hearing, all conditions under sub. (1) have been met and the person is not prohibited from possessing a firearm under state or federal law, the court shall order the property returned if one of the following has occurred: <ul style="list-style-type: none"> ○ The district attorney affirmatively declined to file charges in connection with the seizure ○ All charges filed in connection with the seizure against the person have been dismissed. ○ 10 months have passed since the seizure and no charges in connection with the seizure have been filed against the person.



Wisconsin Property and Evidence Laws

Wisconsin Statute	Description	Synopsis
968.20(1mb-e) Cont.	Returning Dangerous Weapons Cont.	<ul style="list-style-type: none"> ○ The trial court has reached final disposition for all charges in connection with the seizure and the person has not been adjudged guilty, or not guilty by reason of mental disease or defect, of a crime in connection with the seizure. ○ The person has established that he or she had no prior knowledge of and gave no consent to the commission of the activity that led to the seizure.
968.20(3-4)	Disposing of Seized Dangerous Weapons	<ul style="list-style-type: none"> ● First class cities shall dispose of dangerous weapons or ammunition seized 12 months after taking possession of them if the owner, authorized under (1m), has not requested their return and if the dangerous weapon or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding. ● Any property seized, other than property covered under 968.205, that poses a danger to life or other property in storage, transportation or use and that is not required for evidence or further investigation shall be safely disposed of upon command of the person in whose custody they are committed.
968.205	Preservation of Certain Evidence	<ul style="list-style-type: none"> ● If physical evidence that is in the possession of a law enforcement agency includes any biological material that was collected in connection with a criminal investigation and is from a victim, it shall be preserved until every person in custody as a result of the conviction/adjudication has reached his or her discharge date. <ul style="list-style-type: none"> ○ To be kept in an amount and manner sufficient to develop a DNA profile, from the biological material contained in or included on the evidence ● A law enforcement agency may destroy evidence that includes biological material before the expiration of the time period specified if all of the following apply: <ul style="list-style-type: none"> ○ The agency sends a notice of its intent to destroy the evidence to all persons who remain in custody as a result of the criminal conviction and to either the attorney of record for each person in custody or the state public defender. ○ No person who is notified files a motion for testing of the evidence or submits a written request for retention of the evidence to the agency within 90 days after the date on which the person received the notice: <p style="margin-left: 20px;">No other provision of federal or state law requires the law enforcement agency to retain the evidence.</p>



Wisconsin Property and Evidence Laws

Wisconsin Statute	Description	Synopsis
978.08	Preservation of Certain Evidence	<ul style="list-style-type: none"> • Exact same laws as 968.205 • Only difference is the terms apply to “district attorney” instead of “law enforcement agency.”
165.77	DNA Analysis and Data Bank	<ul style="list-style-type: none"> • Laboratories may analyze DNA after a request by law enforcement agencies regarding investigations, defense attorneys regarding their clients or individuals regarding their own specimen on certain occasions. • Laboratories shall maintain a data bank based on data obtained from deoxyribonucleic acid analysis of those specimens. • The laboratories may compare the data obtained from one specimen with the data obtained from other specimens. • The laboratories may make data obtained from any analysis and comparison available to law enforcement agencies in connection with criminal or delinquency investigations and, upon request, to any prosecutor, defense attorney or subject of the data. The data may be used in criminal and delinquency actions and proceedings.
165.79	Evidence Privileged	<ul style="list-style-type: none"> • Evidence of DNA analysis by laboratories is privileged and only available to law enforcement officers • Upon request of a defendant in a felony action, approved by the presiding judge, the laboratories shall conduct analyses of evidence on behalf of the defendant • No prosecuting officer is entitled to an inspection of information and evidence submitted to the laboratories by the defendant, or of a laboratory's findings, or to examine laboratory personnel as witnesses concerning the same • Upon the termination or cessation of the criminal proceedings, the privilege of the findings obtained by a laboratory may be waived in writing by the department and the prosecutor involved in the proceedings. • employees may then be subpoenaed in civil actions in regard to any information and analysis of evidence previously obtained in the criminal investigation



Wisconsin Property and Evidence Laws

Wisconsin Statute	Description	Synopsis
165.81	Disposal of Evidence	<ul style="list-style-type: none"> • When DOJ is informed that physical evidence in the possession of the laboratories is no longer needed, they may destroy it, retain it in the lab, return it to the submitting agency, or turn it over to the University of Wisconsin upon the request of the head of any department of the University of Wisconsin • Any electric weapon in the possession of the laboratories shall either be destroyed or be turned over to an agency authorized to have electric weapons • If the evidence is biological material in relation to a criminal investigation, laboratories shall preserve the physical evidence until every person in custody as a result of the conviction, adjudication, or commitment has reached his or her discharge date • To be kept in an amount and manner sufficient to develop a DNA profile, from the biological material contained in or included on the evidence
402.515	Preserving Evidence of Goods in Dispute	<ul style="list-style-type: none"> • Either party on reasonable notification to the other and for the purpose of ascertaining the facts and preserving evidence has the right to inspect, test and sample the goods including such of them as may be in the possession or control of the other



Wyoming Property and Evidence Laws

Wyoming Statute	Description	Synopsis
§ 7-12-304(d)	DNA Testing and Relation to Chain of Custody	<ul style="list-style-type: none"> ● Motion pursuant to W.S. 7-12-303(c) is filed ● If this motion is successfully filed, the state shall preserve all material and relevant evidence for DNA testing ● Chain of Custody documentation must be provided for DNA Testing <p>However, the evidence can be destroyed if the motion is not filed in a certain amount of time, and the State would have to explain the reason for the destruction</p>
§ 7-2-105(r)	Preservation of Biological Evidence	<ul style="list-style-type: none"> ● If the evidence was not consumed in previous DNA testing, Law Enforcement agencies must preserve biological material recovered in the investigation ● The material shall be preserved for 5 years or for as long as any person incarcerated in connection with the case is incarcerated or remains in custody ● The material may be disposed of 5 years later if the proper personnel have been notified ● If practicable, Law Enforcement shall preserve biological material that would be sufficient to permit future DNA Testing