

Regular Session, 2010

HOUSE BILL NO. 8

BY REPRESENTATIVE WILLIAMS

CRIMINAL/PROCEDURE: Provides for the disposal of noncontraband unclaimed property seized in certain criminal investigations

1 AN ACT

2 To enact Code of Criminal Procedure Article 228.4, relative to the disposal of
3 noncontraband unclaimed property seized in certain criminal investigations; to
4 provide for the disposal of noncontraband unclaimed property seized in criminal
5 investigations; to provide for the procedure for petitioning the court for the disposal
6 of the noncontraband unclaimed property; to provide for the distribution of proceeds
7 derived from the disposal of the noncontraband unclaimed property; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 228.4 is hereby enacted to read as
11 follows:

12 Art. 228.4. Disposal of noncontraband unclaimed property seized in criminal
13 investigations

14 Any noncontraband unclaimed property seized in connection with any
15 criminal investigation under the jurisdiction of any district attorney, municipal police
16 department, or state investigative agency shall, if it remains unclaimed for more than
17 one year after its seizure and provided it is not needed in any criminal proceeding,
18 be disposed of in the following manner:

19 (1) After the lapse of one year, the district attorney of the parish in which the
20 noncontraband property is located is authorized to petition any court in that parish

1 having proper jurisdiction for the disposal of the property in any lawful manner.

2 Any petition filed pursuant to this Article shall be without cost and on behalf of the

3 district attorney, municipal police department, or state investigative agency which

4 has custody of the noncontraband property.

5 (2) Before any district attorney petitions the court, he shall cause an

6 advertisement of his intention to seek approval of the court to be placed in the

7 newspaper designated as the official journal of the parish one time at least ten days

8 prior to filing of his petition, and he shall mail a copy of the advertisement to the last

9 known owner of the property at his last known address, postage prepaid, if the owner

10 is known. If the owner of the property is unknown, no such notice shall be mailed.

11 In the petition for disposal, the district attorney shall set forth a brief description of

12 the property to be disposed of, the court in which the proceedings will be filed, the

13 title of the proceedings, and method or methods of intended disposal.

14 (3) The petition of the district attorney shall make specific recommendations

15 as to the manner of disposal for each item of unclaimed noncontraband property and

16 pray for the court to order its disposal.

17 (4) The court shall order the disposal of the noncontraband property

18 according to the specific recommendations contained in the district attorney's

19 petition or in any legal manner within the sole discretion of the court. If the manner

20 of disposal ordered by the court is not in accordance with the manner contained in

21 the district attorney's petition, the district attorney may withdraw the petition.

22 (5) If the manner of disposal ordered by the court generates any direct

23 revenue, the proceeds shall be distributed in the following order of priority:

24 (a) For satisfaction of the court costs of the proceedings to dispose of

25 noncontraband unclaimed property.

26 (b) Thirty percent to the district attorney to defer the expenses of bringing

27 any such action before the court.

1 (c) The remaining funds to the investigative agency that stored, maintained,
2 insured, or bore the administrative costs as is related to maintaining the property
3 seized in criminal investigations.

4 (6) Weapons released to the district attorney, municipal police department,
5 or state investigative agency by the court pursuant to this Article shall become the
6 property of that office, department, or agency and may be disposed of or issued in
7 any manner which that office, department, or agency deems appropriate.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Williams

HB No. 8

Abstract: Provides procedures for the disposal of noncontraband unclaimed property which has been seized pursuant to certain criminal investigations.

Proposed law provides procedures for the disposal of any noncontraband unclaimed property seized in connection with any criminal investigation under the jurisdiction of any district attorney, municipal police department, or state investigative agency if it remains unclaimed for more than one year after its seizure.

Proposed law provides for the distribution of any revenue which is derived from the disposal of the unclaimed noncontraband property.

(Adds C.Cr.P. Art. 228.4)