

809.5 Disposition of seized property.

1. Seized property which is no longer required as evidence or for use in an investigation shall be returned to the owner, provided that the person's possession of the property is not prohibited by law and there is no forfeiture claim filed on behalf of the state.

a. The seizing agency shall send notice by restricted certified mail, return receipt requested, to the last known address of any person having an ownership or possessory right in the property stating that the property must be claimed within thirty days from the date of receipt of the notice. Refusal of restricted certified mail, return receipt requested, shall be construed as receipt of the notice. Such notice shall state that if no written claim for the property is filed with the seizing agency within thirty days from the date of receipt of the notice, the property shall be deemed abandoned and disposed of accordingly.

b. The seizing agency shall not release the property to any party until the expiration of the date for filing claims. In the event that there is more than one claim filed for the return of property under this section, at the expiration of the period for filing claims the seizing agency shall file a copy of all such claims with the clerk of court and the clerk shall proceed as if such claims were filed by the parties under section 809.3. In the event that no owner can be located or no claim is filed under this section for property having a value of less than five hundred dollars, the property shall be deemed abandoned and the seizing agency shall become the owner of such property and may dispose of it in any reasonable manner.

c. For unclaimed property having a value equal to or greater than five hundred dollars, forfeiture proceedings shall be initiated pursuant to the provisions of chapter 809A. If the court does not order the property forfeited to the state in the forfeiture proceedings pursuant to chapter 809A, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner. Unclaimed firearms and ammunition, if not forfeited pursuant to chapter 809A, shall be disposed of by the department of public safety or the department of natural resources pursuant to section 809.21.

2. Upon the filing of a claim and following hearing by the court, property which has been seized shall be returned to the person who demonstrates a right to possession, unless one or more of the following is true:

a. The possession of the property by the claimant is prohibited by law.

b. There is a forfeiture notice on file and not disposed of in favor of the claimant prior to or in the same hearing.

c. The state has demonstrated that the evidence is needed in a criminal investigation or prosecution.

3. The court shall, subject to any unresolved forfeiture hearing, make orders appropriate to the final disposition of the property including, but not limited to, the destruction of contraband once it is no longer needed in an investigation or prosecution.