

# Senate Study Bill 1108

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY GENERAL  
BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the disposition of seized property in a  
2 criminal proceeding.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1102DP 82  
5 jm/es/88

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1 1 Section 1. Section 809.5, subsection 1, Code 2007, is  
1 2 amended to read as follows:  
1 3 1. Seized property which is no longer required as evidence  
1 4 or for use in an investigation ~~may shall~~ be returned to the  
1 5 owner ~~without the requirement of a hearing~~, provided that the  
1 6 person's possession of the property is not prohibited by law  
1 7 and there is no forfeiture claim filed on behalf of the state.  
1 8 The seizing agency or prosecuting attorney shall send notice  
1 9 by regular mail, if the value of the property is less than  
1 10 ~~fifty five hundred~~ dollars, or ~~by~~ certified mail, if the value  
1 11 of the property is equal to or greater than ~~fifty five hundred~~  
1 12 dollars, to the last known address of any person having an  
1 13 ownership or possessory right in the property stating that the  
1 14 property ~~is released and~~ must be claimed within thirty days ~~of~~  
1 15 ~~the mailing of the notice~~. Such notice shall state that if no  
1 16 written claim for the property is ~~made upon~~ filed with the  
1 17 seizing agency within thirty days after the mailing of notice,  
1 18 the property shall be deemed abandoned and disposed of  
1 19 accordingly. ~~In the event that there is more than one party~~  
1 20 ~~who may assert a right to possession or ownership of the~~  
1 21 ~~property, the~~ The seizing agency shall not release the  
1 22 property to any party until the expiration of the date for  
1 23 filing claims ~~unless all other claimants execute a written~~  
1 24 ~~waiver~~. ~~In the event that there is more than one claim filed~~  
1 25 ~~for the return of property under this section, at the~~  
1 26 ~~expiration of the period for filing claims the seizing agency~~  
1 27 ~~or prosecuting attorney shall file a copy of all such claims~~  
1 28 ~~with the clerk of court and the clerk shall proceed as if such~~  
1 29 ~~claims were filed by the parties under section 809.3. In the~~  
1 30 ~~event that no owner can be located or no claim is filed under~~  
1 31 ~~this section for property having a value of less than five~~  
1 32 ~~hundred dollars, the property shall be deemed abandoned and~~  
1 33 ~~the seizing agency shall become the owner of such property and~~  
1 34 ~~may dispose of it in any reasonable manner. For unclaimed~~  
1 35 ~~property having a value equal to or greater than five hundred~~  
2 1 ~~dollars, forfeiture proceedings shall be initiated pursuant to~~  
2 2 ~~the provisions of chapter 809A. If the court does not order~~  
2 3 ~~the property forfeited to the state in the forfeiture~~  
2 4 ~~proceedings pursuant to chapter 809A, the seizing agency shall~~  
2 5 ~~become the owner of the property and may dispose of it in any~~  
2 6 ~~reasonable manner. Unclaimed firearms and ammunition, if not~~  
2 7 ~~forfeited pursuant to chapter 809A, shall be disposed of by~~  
2 8 ~~the department of public safety or the department of natural~~  
2 9 ~~resources pursuant to section 809.21.~~

### EXPLANATION

2 10 This bill relates to the disposition of seized property in  
2 11 a criminal proceeding.  
2 12 The bill eliminates the involvement of the prosecuting  
2 13 attorney when sending claim notices to persons with possible  
2 14 ownership interests in the seized property. Current law  
2 15 permits the agency seizing the property or the prosecuting  
2 16 attorney to send out claim notices to persons with possible  
2 17 ownership interest in seized property.  
2 18 Under the bill, if the value of the seized property is less  
2 19

2 20 than \$500, the claim notice shall be sent by regular mail; if  
2 21 the value of the seized property is equal to or greater than  
2 22 \$500, the claim notice shall be sent by certified mail.  
2 23 The bill provides that the seizing agency shall not release  
2 24 the property to any party until the expiration date for filing  
2 25 a claim of ownership for the seized property has expired.  
2 26 Under current law, the seizing agency may release the seized  
2 27 property prior to the expiration date for filing claims, if  
2 28 all the claimants issue a written waiver to the property.  
2 29 Under the bill, if a claim of ownership has not been timely  
2 30 filed for seized property and the value of the seized property  
2 31 is less than \$500, the seized property is deemed abandoned and  
2 32 the seizing agency becomes the owner of the seized property  
2 33 and may dispose of the property in a reasonable manner.  
2 34 If a claim of ownership has not been timely filed for  
2 35 seized property equal to or greater in value than \$500, the  
3 1 bill provides that forfeiture proceedings pursuant to Code  
3 2 chapter 809A shall be initiated to determine ownership of the  
3 3 seized property. If forfeiture proceedings are initiated and  
3 4 the property is forfeited, the ownership of the property vests  
3 5 with the state pursuant to Code section 809A.16, subsection 4.  
3 6 If the court does not order the property forfeited, ownership  
3 7 vests with the seizing agency and the seizing agency may  
3 8 dispose of the property in a reasonable manner.  
3 9 Under the bill and in current law, forfeited property under  
3 10 Code chapter 809A is to be delivered to the department of  
3 11 justice and disposed of by the department pursuant to Code  
3 12 section 809A.17.  
3 13 The bill also provides that all unclaimed firearms and  
3 14 ammunition, if not forfeited pursuant to Code chapter 809A,  
3 15 shall be disposed of by the department of public safety or  
3 16 department of natural resources as provided in Code section  
3 17 809.21.  
3 18 LSB 1102DP 82  
3 19 jm:rj/es/88