

## HOUSE BILL No. 2512

By Committee on Corrections and Juvenile Justice

1-27

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

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

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

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

19 (1) Destroyed;

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) Destroyed,;

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

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

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

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

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

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

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

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

9 (3) reasonable attorney fees:

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

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

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

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

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

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

1 forfeiture fund is hereby abolished.

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

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

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

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

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