

SENATE BILL NO. 288

INTRODUCED BY D. LOGE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING EVIDENTIARY SEIZURE GUIDELINES FOR LAW ENFORCEMENT WEAPONS IN OFFICER-INVOLVED SHOOTINGS; ~~AND~~ REQUIRING THE EXPEDITED RETURN OF LAW ENFORCEMENT WEAPONS UNDER CERTAIN CONDITIONS AFTER AN INVESTIGATION IS COMPLETE; REQUIRING THE EXPEDITED RETURN OF PROPERTY SEIZED AS EVIDENCE WHEN RIGHT TO POSSESSION IS ESTABLISHED AND A JUDGE ORDERS THE RETURN; AND AMENDING SECTION 46-5-312, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Evidentiary seizure of law enforcement weapons.** (1) When law enforcement is involved in an officer-involved shooting, the law enforcement officer's weapon involved in the shooting must be collected by investigators to be photographed and turned over to the state laboratory of criminalistics for test firing, collection of cartridge cases and rounds of ammunition, and to document the unique characteristics of the weapon.

(2) After an investigation is complete and no appeals are pending or no criminal charges are filed or are presently contemplated against the law enforcement officer, a weapon collected for evidence testing pursuant to subsection (1) or collected as part of a coroner's inquest pursuant to 46-4-201 must be returned within 7 days by whichever entity is appropriate to the law enforcement agency from which it was collected for redeployment in the field.

**Section 2.** Section 46-5-312, MCA, is amended to read:

**"46-5-312. Return of property seized -- right to possess.** (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:

(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.

(3) If the right to possession is established and the judge orders the property returned, the seized property must be returned within 7 days of the order to the person claiming the right to possession."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 44, chapter 3, part 3, and the provisions of Title 44, chapter 3, part 3, apply to [section 1].

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