

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 613
HOUSE BILL 212

AN ACT TO PERMIT STOLEN PROPERTY TO BE RESTORED TO RIGHTFUL OWNERS IN ADVANCE OF TRIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 15 is hereby amended by adding a new section to read as follows:

§ 15-11.1. Seizure, custody and disposition of articles; exceptions. — (a) If a law enforcement officer seizes property pursuant to lawful authority, he shall safely keep the property under the direction of the court or magistrate as long as necessary to assure that the property will be produced at and may be used as evidence in any trial. Upon application to the court by the lawful owner or a person, firm, or corporation entitled to possession, after notice to all parties, including the defendant, and after hearing, the court may in its discretion order any or all of the property returned to the lawful owner or a person, firm, or corporation entitled to possession. The court may enter such order as may be necessary to assure that the evidence will be available for use as evidence at the time of trial, and will otherwise protect the rights of all parties. Notwithstanding any other provision of law, photographs or other identification or analyses made of the property may be introduced at the time of the trial provided that the court determines that the introduction of such substitute evidence is not likely to substantially prejudice the rights of the defendant in the criminal trial.

(b) In the case of unknown or unapprehended defendants or of defendants willfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem, who shall be a licensed attorney, to represent and protect the interest of such unknown or absent defendants. The judicial findings concerning identification or value that are made at such hearing whereby property is returned to the lawful owner or a person, firm, or corporation entitled to possession, may be admissible into evidence at the trial. After final judgment all property lawfully seized by or otherwise coming into the possession of law enforcement authorities shall be disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold or destroyed in accordance with due process of law.

(c) Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.