

ASSEMBLY BILL NO. 647—COMMITTEE ON JUDICIARY

(ON BEHALF OF ATTORNEY GENERAL)

MARCH 22, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning disposal of stolen or embezzled property and property evidencing crime. (BDR 14-588)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to crimes; authorizing a person entitled to possession of property that has been stolen or embezzled and is in the custody of a law enforcement agency to claim such property; increasing the time within which a law enforcement agency must return property evidencing a crime to the person who is entitled to possession of the property; revising the provisions governing removal of property received in pledge by a pawnbroker; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 179.165 is hereby amended to read as follows:
2 179.165 1. ~~[A]~~ ***Except as otherwise provided in subsection 2, a*** law
3 enforcement agency which has custody of property that has been stolen or
4 embezzled shall, if the agency knows or can reasonably discover the name
5 and address of the owner ~~[A]~~ ***or the person entitled to possession of the***
6 ***property,*** notify the owner ***or the person entitled to possession of the***
7 ***property*** by letter of the location of the property and the method by which
8 the owner ***or the person entitled to possession of the property*** may claim
9 it.
10 2. ***If the property that has been stolen or embezzled is a firearm, the***
11 ***law enforcement agency shall notify only the owner of the firearm of the***
12 ***location of the property and the method by which the owner may claim it.***
13 3. The notice must be mailed by certified or registered mail:

- 1 (a) Upon the conviction of the person who committed the offense;
- 2 (b) Upon the decision of the police or district attorney not to pursue or
- 3 prosecute the case; or
- 4 (c) When the case is otherwise terminated.

5 ~~13.1~~ 4. If the property stolen or embezzled is not claimed by the owner
6 *or the person entitled to possession of the property* before the expiration
7 of 6 months after the date the notice is mailed or, if no notice is required,
8 after the date notice would have been sent if it were required, the
9 magistrate or other officer having it in custody shall, except as otherwise
10 provided in this subsection, on payment of the necessary expenses incurred
11 for its preservation, deliver it to the county treasurer, who shall dispose of
12 the property as provided in subsection ~~14.1~~ 5. If a metropolitan police
13 department which is organized pursuant to chapter 280 of NRS has
14 custody of the property, the sheriff of the department may deliver it to the
15 county treasurer and accept the net proceeds, if any, from the disposition of
16 the property pursuant to subsection ~~14.1~~ 5 in lieu of the payment of
17 expenses incurred for the property's preservation.

18 ~~14.1~~ 5. Upon receiving stolen or embezzled property pursuant to this
19 section, the county treasurer shall petition the district court for an order
20 authorizing him to:

- 21 (a) Conduct an auction for the disposal of salable property;
- 22 (b) Dispose of property not deemed salable by donations to charitable
- 23 organizations or by destruction;
- 24 (c) Destroy property the possession of which is deemed illegal or
- 25 dangerous; or
- 26 (d) Dispose of property not purchased at an auction by donations to
- 27 charitable organizations or by destruction.

28 ~~15.1~~ 6. Records of the property disposed of by sale, destruction or
29 donation and an accounting of the cash received by the county treasurer
30 from the sales must be filed with the county clerk.

31 **Sec. 2.** NRS 52.385 is hereby amended to read as follows:

32 52.385 1. At any time after property of any person other than the one
33 accused of the crime of which the property is evidence comes into the
34 custody of a peace officer or law enforcement agency, the rightful owner
35 of the property or a person entitled to possession of the property may
36 request the prosecuting attorney to return the property to him. Upon receipt
37 of such a request, the prosecuting attorney may, before the property is
38 released, require the peace officer or law enforcement agency to take
39 photographs of the property. Except as otherwise provided in subsection 3,
40 the peace officer or law enforcement agency shall return the property to the
41 person submitting the request within a reasonable time after the receipt of
42 the request, but in no event later than ~~120~~ 180 days after the receipt of the
43 request.

1 2. In the absence of such a request, the prosecuting attorney may
2 authorize the peace officer or law enforcement agency that has custody of
3 the property to return the property to its owner or a person who is entitled
4 to possession of the property.

5 3. If the prosecuting attorney to whom a request for the release of
6 property is made determines that the property is required for use as
7 evidence in a criminal proceeding, he may deny the request for the release
8 of the property.

9 4. Photographs of property returned pursuant to the provisions of this
10 section are admissible in evidence in lieu of the property in any criminal or
11 civil proceeding if they are identified and authenticated in the proceeding
12 by:

13 (a) The rightful owner of the property or person entitled to possession
14 of the property to whom the property was released;

15 (b) The peace officer or representative of the law enforcement agency
16 who released the property; or

17 (c) A credible witness who has personal knowledge of the property,
18 in accordance with the provisions of NRS 52.185 to 52.295, inclusive.

19 5. Any property subject to the provisions of this section which is not
20 returned under the provisions of this section must be disposed of as
21 provided in NRS 179.125 to 179.165, inclusive.

22 **Sec. 3.** NRS 646.040 is hereby amended to read as follows:

23 646.040 No property received in pledge by a pawnbroker may be
24 removed from his place of business within 30 days after the receipt of the
25 property is reported to the sheriff or the chief of police as provided in this
26 chapter, unless the property is:

27 1. Redeemed by the owner thereof; or

28 2. ~~{Seized pursuant to a search warrant.}~~ *Released to the custody of a*
29 *peace officer.*