

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 subsections 2 and 3,***
3 ***a*** law enforcement agency which has custody of property that has been
4 stolen or embezzled shall, if the agency knows or can reasonably discover
5 the name and address of the owner ~~[H]~~ ***or the person entitled to possession***
6 ***of the property,*** notify the owner ***or the person entitled to possession of***
7 ***the property*** by letter of the location of the property and the method by
8 which the owner ***or the person entitled to possession of the property*** may
9 claim 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.***

1 **3. If the property that has been stolen or embezzled was obtained**
2 **from a pawnbroker pursuant to section 3 of this act, the law enforcement**
3 **agency shall, in addition to notifying the persons described in subsection**
4 **1 or 2, as appropriate, notify the pawnbroker from whom it was obtained.**

5 **4.** The notice must be mailed by certified or registered mail:

6 (a) Upon the conviction of the person who committed the offense;

7 (b) Upon the decision of the police or district attorney not to pursue or
8 prosecute the case; or

9 (c) When the case is otherwise terminated.

10 ~~[3.]~~ **5.** If the property stolen or embezzled is not claimed by the owner
11 **or the person entitled to possession of the property** before the expiration
12 of 6 months after the date the notice is mailed or, if no notice is required,
13 after the date notice would have been sent if it were required, the magistrate
14 or other officer having it in custody shall, except as otherwise provided in
15 this subsection, on payment of the necessary expenses incurred for its
16 preservation, deliver it to the county treasurer, who shall dispose of the
17 property as provided in subsection ~~[4.]~~ **6.** If a metropolitan police
18 department which is organized pursuant to chapter 280 of NRS has custody
19 of the property, the sheriff of the department may deliver it to the county
20 treasurer and accept the net proceeds, if any, from the disposition of the
21 property pursuant to subsection ~~[4.]~~ **6** in lieu of the payment of expenses
22 incurred for the property's preservation.

23 ~~[4.]~~ **6.** Upon receiving stolen or embezzled property pursuant to this
24 section, the county treasurer shall petition the district court for an order
25 authorizing him to:

26 (a) Conduct an auction for the disposal of salable property;

27 (b) Dispose of property not deemed salable by donations to charitable
28 organizations or by destruction;

29 (c) Destroy property the possession of which is deemed illegal or
30 dangerous; or

31 (d) Dispose of property not purchased at an auction by donations to
32 charitable organizations or by destruction.

33 ~~[5.]~~ **7.** Records of the property disposed of by sale, destruction or
34 donation and an accounting of the cash received by the county treasurer
35 from the sales must be filed with the county clerk.

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

37 52.385 1. At any time after property of any person other than the one
38 accused of the crime of which the property is evidence comes into the
39 custody of a peace officer or law enforcement agency, the rightful owner of
40 the property or a person entitled to possession of the property may request
41 the prosecuting attorney to return the property to him. Upon receipt of such
42 a request, the prosecuting attorney may, before the property is released,
43 require the peace officer or law enforcement agency to take photographs of

1 the property. Except as otherwise provided in subsection 3, the peace
2 officer or law enforcement agency shall return the property to the person
3 submitting the request within a reasonable time after the receipt of the
4 request, but in no event later than ~~120~~ 180 days after the receipt of the
5 request.

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

10 3. If the prosecuting attorney to whom a request for the release of
11 property is made determines that the property is required for use as
12 evidence in a criminal proceeding, he may deny the request for the release
13 of the property.

14 4. Photographs of property returned pursuant to the provisions of this
15 section are admissible in evidence in lieu of the property in any criminal or
16 civil proceeding if they are identified and authenticated in the proceeding
17 by:

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

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

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

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

27 **Sec. 3.** Chapter 646 of NRS is hereby amended by adding thereto a
28 new section to read as follows:

29 *1. A peace officer who is involved in the investigation or prosecution*
30 *of criminal activity may place a written hold on any property received in*
31 *pledge by a pawnbroker that is related or allegedly related to the criminal*
32 *activity.*

33 *2. While a hold is placed on property pursuant to this section, the*
34 *pawnbroker who received the property in pledge shall not release or*
35 *dispose of the property to any person other than the peace officer who*
36 *placed the hold on the property. A peace officer who placed a hold on*
37 *property may obtain custody of the property from the pawnbroker if the*
38 *peace officer:*

39 *(a) Has obtained written authorization from the prosecuting attorney*
40 *which includes, without limitation, a description of the property and an*
41 *acknowledgment of the pawnbroker's interest in the property, and which*
42 *provides that the pawnbroker must be notified pursuant to NRS 179.165,*
43 *if applicable; and*

1 **(b) Gives a copy of the written authorization to the pawnbroker.**

2 **3. Property received by a peace officer pursuant to this section may**
3 **be disposed of only in the manner set forth in NRS 52.385 or 179.125 to**
4 **179.165, inclusive.**

5 **4. A peace officer who places a hold on property pursuant to this**
6 **section shall notify the pawnbroker in writing when the investigation or**
7 **prosecution has concluded or when the hold is no longer necessary,**
8 **whichever occurs sooner.**

9 **5. If a person who deposited property with a pawnbroker in pledge**
10 **attempts to redeem the property from the pawnbroker and a hold has**
11 **been placed on the property pursuant to this section, the pawnbroker**
12 **shall provide the person with the name of the peace officer who placed**
13 **the hold on the property and the name of the employer of the peace**
14 **officer who placed the hold on the property.**

15 **6. A pawnbroker and an employee of a pawnbroker who take any**
16 **action required pursuant to this section are immune from civil liability**
17 **for such action.**

18 **Sec. 4.** NRS 646.040 is hereby amended to read as follows:

19 646.040 No property received in pledge by a pawnbroker may be
20 removed from his place of business ~~{within 30 days}~~ after the receipt of the
21 property is reported to the sheriff or the chief of police as provided in this
22 chapter, unless the property is:

- 23 1. Redeemed by the owner thereof; or
24 2. ~~{Seized pursuant to a search warrant.}~~ **Released to the custody of a**
25 **peace officer in the manner set forth in section 3 of this act.**

26 **Sec. 5.** This act becomes effective on July 1, 1999.