

SENATE BILL NO. 36—COMMITTEE ON JUDICIARY

PREFILED JANUARY 24, 2001

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Referred to Committee on Judiciary

SUMMARY—Changes standard of proof in proceeding for forfeiture of property.  
(BDR 14-14)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: No.

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

AN ACT relating to forfeitures; changing the standard of proof in a proceeding for the forfeiture of property; 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 179.1173 is hereby amended to read as follows:  
2     179.1173 1. The district court shall proceed as soon as practicable to  
3 a trial and determination of the matter. A proceeding for forfeiture is  
4 entitled to priority over other civil actions which are not otherwise entitled  
5 to priority.  
6     2. At a proceeding for forfeiture, the plaintiff or claimant may file a  
7 motion for an order staying the proceeding and the court shall grant that  
8 motion if a criminal action which is the basis of the proceeding is pending  
9 trial. The court shall, upon a motion made by the plaintiff, lift the stay upon  
10 a satisfactory showing that the claimant is a fugitive.  
11     3. ~~[A party to]~~ *The plaintiff in* a proceeding for forfeiture must  
12 establish proof by ~~[a preponderance of the evidence.]~~ *clear and convincing*  
13 *evidence that the property is subject to forfeiture.*  
14     4. In a proceeding for forfeiture, the rule of law that forfeitures are not  
15 favored does not apply.  
16     5. The plaintiff is not required to plead or prove that a claimant has  
17 been charged with or convicted of any criminal offense. If proof of such a  
18 conviction is made, and it is shown that the judgment of conviction has  
19 become final, the proof is, as against any claimant, conclusive evidence of  
20 all facts necessary to sustain the conviction.  
21     6. The plaintiff has an absolute privilege to refuse to disclose the  
22 identity of any person, other than a witness, who has furnished to a law

1 enforcement officer information purporting to reveal the commission of a  
2 crime. The privilege may be claimed by an appropriate representative of  
3 the plaintiff.

4 7. If the court determines that the property is not subject to forfeiture,  
5 it shall order the property returned to the claimant found to be entitled to  
6 the property. If the court determines that the property is subject to  
7 forfeiture, it shall so decree. The property must be forfeited to the plaintiff,  
8 subject to the right of any claimant who establishes a protected interest.  
9 Any such claimant must, upon the sale or retention of the property, be  
10 compensated for his interest in the manner provided in NRS 179.118.

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