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SECOND REPRINT

S.B. 36

SENATE BILL NO. 36—COMMITTEE ON JUDICIARY

PREFILED JANUARY 24, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing 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; enacting provisions pertaining to the seizure of currency; revising the provisions governing the distribution of proceeds of forfeited 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.



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1 6. The plaintiff has an absolute privilege to refuse to disclose the
2 identity of any person, other than a witness, who has furnished to a law
3 enforcement officer information purporting to reveal the commission of a
4 crime. The privilege may be claimed by an appropriate representative of
5 the plaintiff.

6 7. If the court determines that the property is not subject to forfeiture,
7 ~~the court~~ shall order the property *and any interest accrued pursuant to*
8 *subsection 2 of NRS 179.1175* returned to the claimant found to be entitled
9 to the property. If the court determines that the property is subject to
10 forfeiture, ~~the court~~ shall so decree. The property, *including any*
11 *interest accrued pursuant to subsection 2 of NRS 179.1175*, must be
12 forfeited to the plaintiff, subject to the right of any claimant who
13 establishes a protected interest. Any such claimant must, upon the sale or
14 retention of the property, be compensated for his interest in the manner
15 provided in NRS 179.118.

16 **Sec. 2.** NRS 179.1175 is hereby amended to read as follows:

17 179.1175 1. ~~After~~ *Except as otherwise provided in subsection 2,*
18 *after* property has been seized the agency which seized the property may:

- 19 (a) Place the property under seal;
20 (b) Remove the property to a place designated by the agency for the
21 storage of that type of property; or
22 (c) Remove the property to an appropriate place for disposition in a
23 manner authorized by the court.

24 2. *If an agency seizes currency, unless otherwise ordered by the*
25 *court, the agency shall deposit the currency in an interest-bearing*
26 *account maintained for the purpose of holding currency seized by the*
27 *agency.*

28 3. When a court declares property to be forfeited, the plaintiff may:

- 29 (a) Retain it for official use;
30 (b) Sell any of it which is neither required by law to be destroyed nor
31 harmful to the public; or
32 (c) Remove it for disposition in accordance with the applicable
33 provisions of NRS.

34 **Sec. 3.** NRS 179.118 is hereby amended to read as follows:

35 179.118 1. The proceeds from any sale or retention of property
36 declared to be forfeited *and any interest accrued pursuant to subsection 2*
37 *of NRS 179.1175* must be applied, first, to the satisfaction of any protected
38 interest established by a claimant in the proceeding, then to the proper
39 expenses of the proceeding for forfeiture and resulting sale, including the
40 expense of effecting the seizure, the expense of maintaining custody, the
41 expense of advertising and the costs of the suit.

42 2. Any balance remaining after the distribution required by subsection
43 1 must be deposited as follows:

44 (a) Except as otherwise provided in this subsection, if the plaintiff
45 seized the property, in the special account established pursuant to NRS
46 179.1187 by the governing body that controls the plaintiff.

47 (b) Except as otherwise provided in this subsection, if the plaintiff is a
48 metropolitan police department, in the special account established by the
49 metropolitan police committee on fiscal affairs pursuant to NRS 179.1187.



1 (c) Except as otherwise provided in this subsection, if more than one
2 agency was substantially involved in the seizure, in an equitable manner to
3 be directed by the court hearing the proceeding for forfeiture.

4 (d) If the property was seized pursuant to NRS 200.760, in the state
5 treasury for credit to the fund for the compensation of victims of crime to
6 be used for the counseling and the medical treatment of victims of crimes
7 committed in violation of NRS 200.366, 200.710 to 200.730, inclusive, or
8 201.230.

9 (e) If the property was seized as the result of a violation of
10 NRS 202.300, in the general fund of the county in which the complaint for
11 forfeiture was filed, to be used to support programs of counseling of
12 persons ordered by the court to attend counseling pursuant to paragraph (e)
13 of subsection 1 of NRS 62.211.

14 **Sec. 4.** NRS 179.1187 is hereby amended to read as follows:

15 179.1187 1. The governing body controlling each law enforcement
16 agency that receives proceeds from the sale of forfeited property shall
17 establish with the state treasurer, county treasurer, city treasurer or town
18 treasurer, as custodian, a special account, known as the
19 "..... forfeiture account." The account is a separate and continuing
20 account and no money in it reverts to the state general fund or the general
21 fund of the county, city or town at any time. For the purposes of this
22 subsection, the governing body controlling a metropolitan police
23 department is the metropolitan police committee on fiscal affairs.

24 2. The money in the account *must be aggregated in the account on a*
25 *quarterly basis and must not be disbursed or otherwise used until a*
26 *quarterly accounting of the money is completed. Upon the completion of*
27 *a quarterly accounting, the money in the account* may be used for any
28 lawful purpose deemed appropriate by the chief administrative officer of
29 the law enforcement agency, except that:

30 (a) The money must not be used to pay the ordinary operating expenses
31 of the agency.

32 (b) Money derived from the forfeiture of any property described in
33 NRS 453.301 must be used to enforce the provisions of chapter 453 of
34 NRS.

35 (c) Money derived from the forfeiture of any property described in
36 NRS 501.3857 must be used to enforce the provisions of Title 45 of NRS.

37 (d) *Seventy percent of the money aggregated in the account in excess*
38 *of \$100,000 per quarter, as determined based upon the quarterly*
39 *accounting completed pursuant to this subsection, must be distributed to*
40 *the school district in the judicial district. If the judicial district serves*
41 *more than one county, the money must be distributed to the school*
42 *district in the county from which the property was seized.*

43 3. *A school district that receives money pursuant to paragraph (d) of*
44 *subsection 2 shall deposit such money into a separate account. The*
45 *interest and income earned on the money in the account, after deducting*
46 *any applicable charges, must be credited to the account. The money in*
47 *the account must be used to purchase books and computer hardware and*
48 *software for the use of the students in that school district.*



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1 ***4. The chief administrative officer of a law enforcement agency that***
2 ***distributes money to a school district pursuant to paragraph (d) of***
3 ***subsection 2 shall submit a report to the director of the legislative***
4 ***counsel bureau before January 1 of each odd-numbered year. The report***
5 ***must contain the amount of money distributed to each school district***
6 ***pursuant to paragraph (d) of subsection 2 in the preceding biennium.***

7 **Sec. 5.** NRS 387.303 is hereby amended to read as follows:

8 387.303 1. Not later than November 10 of each year, the board of
9 trustees of each school district shall submit to the superintendent of public
10 instruction and the department of taxation a report which includes the
11 following information:

12 (a) For each fund within the school district, including, without
13 limitation, the school district's general fund and any special revenue fund
14 which receives state money, the total number and salaries of licensed and
15 nonlicensed persons whose salaries are paid from the fund and who are
16 employed by the school district in full-time positions or in part-time
17 positions added together to represent full-time positions. Information must
18 be provided for the current school year based upon the school district's
19 final budget, including any amendments and augmentations thereto, and for
20 the preceding school year. An employee must be categorized as filling an
21 instructional, administrative, instructional support or other position.

22 (b) The count of pupils computed pursuant to paragraph (a) of
23 subsection 1 of NRS 387.1233.

24 (c) The average daily attendance for the preceding school year and the
25 estimated average daily attendance for the current school year of part-time
26 pupils enrolled in courses which are approved by the department as
27 meeting the requirements for an adult to earn a high school diploma.

28 (d) The school district's actual expenditures in the fiscal year
29 immediately preceding the report.

30 (e) The school district's proposed expenditures for the current fiscal
31 year.

32 (f) The schedule of salaries for licensed employees in the current school
33 year and a statement of whether the negotiations regarding salaries for the
34 current school year have been completed. If the negotiations have not been
35 completed at the time the schedule of salaries is submitted, the board of
36 trustees shall submit a supplemental report to the superintendent of public
37 instruction upon completion of negotiations or the determination of an
38 arbitrator concerning the negotiations that includes the schedule of salaries
39 agreed to or required by the arbitrator.

40 (g) The number of teachers who received an increase in salary pursuant
41 to subsection 2 of NRS 391.160 for the current and preceding fiscal years.

42 (h) The number of employees eligible for health insurance within the
43 school district for the current and preceding fiscal years and the amount
44 paid for health insurance for each such employee during those years.

45 (i) The rates for fringe benefits, excluding health insurance, paid by the
46 school district for its licensed employees in the preceding and current fiscal
47 years.



1 (j) The amount paid for extra duties, supervision of extracurricular
2 activities and supplemental pay and the number of employees receiving
3 that pay in the preceding and current fiscal years.

4 *(k) The expenditures from the account created pursuant to subsection*
5 *3 of NRS 179.1187. The report must indicate the total amount received*
6 *by the district in the preceding fiscal year, and the specific amount spent*
7 *on books and computer hardware and software for each grade level in*
8 *the district.*

9 2. On or before November 25 of each year, the superintendent of
10 public instruction shall submit to the department of administration and the
11 fiscal analysis division of the legislative counsel bureau, in a format
12 approved by the director of the department of administration, a compilation
13 of the reports made by each school district pursuant to subsection 1.

14 3. The superintendent of public instruction shall, in the compilation
15 required by subsection 2, reconcile the revenues and expenditures of the
16 school districts with the apportionment received by those districts from the
17 state distributive school account for the preceding year.

18 **Sec. 6.** The amendatory provisions of this act do not apply to property
19 seized before October 1, 2001.

