

Amendment No. 678

Assembly Amendment to Senate Bill No. 25 First Reprint (BDR 18-220)

Proposed by: Assembly Committee on Government Affairs

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JWP/TMC



Date: 5/19/2013

S.B. No. 25—Makes various changes relating to technological crimes.
(BDR 18-220)



SENATE BILL NO. 25—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to technological crimes.
(BDR 18-220)

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

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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 technological crimes; authorizing the Attorney General to take certain actions to prevent technological crimes; revising the provisions governing actions which constitute theft to include the theft of audio or visual services; revising the provisions governing the appointment of an Executive Director of Technological Crime within the Office of the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Attorney General to investigate and prosecute any alleged technological crime, pursue the forfeiture of property relating to a technological crime and bring an action to enjoin or obtain any equitable relief to prevent the occurrence or continuation of any technological crime.

Existing law authorizes a district attorney to institute a civil proceeding for the forfeiture of property used in the course of, intended for use in the course of, derived from or gained through a technological crime. Currently, the Attorney General may institute such a proceeding only if the property at issue is seized by a state agency. (NRS 179.1229, 179.1231) Section 1.5 of this bill removes this limitation on the authority of the Attorney General and authorizes the institution of a forfeiture proceeding by a district attorney or the Attorney General, as determined in each case by an agreement between the district attorney and the Attorney General.

Existing law describes certain actions which constitute theft. (NRS 205.0832) **Section 2** of this bill revises those provisions to include the theft of audio or visual services.

Existing law creates the Technological Crime Advisory Board. (NRS 205A.040) Existing law also requires the appointment of an Executive Director of Technological Crime within the Office of the Attorney General upon approval by two-thirds of the members of the Board. (NRS 205A.070) **Section 3** of this bill requires the appointment to be made upon approval by a majority of the members of the Board.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General may:

(a) Investigate and prosecute any alleged technological crime.

(b) Pursue the forfeiture of property relating to a technological crime in accordance with the provisions of NRS ~~179.1156 to 179.1211~~ 179.1211 to 179.1235, inclusive.

(c) Bring an action to enjoin or obtain any other equitable relief to prevent the occurrence or continuation of a technological crime.

2. As used in this section, "technological crime" has the meaning ascribed to it in NRS 205A.030.

Sec. 1.5. NRS 179.1231 is hereby amended to read as follows:

179.1231 1. Property subject to forfeiture under NRS 179.1219 or 179.1229 may be seized by a law enforcement agency upon process issued by a court. Before an order of civil forfeiture is issued without legal process, notice of the claim for forfeiture of real property may be given in the manner provided in NRS 14.010 and 14.015. A seizure of personal property may be made without legal process if the seizure is incident to:

(a) A lawful arrest or search; or

(b) An inspection under an administrative warrant.

2. Property seized or made the subject of notice under this section is deemed to be in the custody of the agency, subject only to orders of the court which has jurisdiction over the proceedings for forfeiture. An agency which has seized such property without process shall begin proceedings for forfeiture promptly. Such an action takes precedence over other civil proceedings. The seized property is subject to an action to claim the delivery of the property if the agency does not file the complaint for forfeiture within 60 days after the property is seized. If a complaint for forfeiture is filed after an affidavit claiming delivery, the complaint must be treated as a counterclaim.

3. When property is seized pursuant to this section, pending forfeiture and final disposition, the law enforcement agency may:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

4. The district attorney or the Attorney General may institute civil proceedings under this section for the forfeiture of property subject to forfeiture pursuant to NRS 179.1229. The district attorney and the Attorney General ~~may~~ institute such proceedings when the property is seized by a state agency; shall determine by agreement between themselves which of them will institute such a proceeding in a particular case. If a district attorney or the Attorney General has not instituted such a proceeding or has not pursued one which was instituted, ~~in accordance with the agreement,~~ the prosecutor designated in the agreement ~~the Attorney General~~ shall ~~may~~ intercede after giving the prosecutor designated in the agreement 30 days' written notice of the intention to do so. ~~to the district attorney.~~ In any action so brought, the district court shall proceed as soon as practicable to the hearing and determination. Pending final determination in an action brought pursuant to this section, the district court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including, without limitation, the acceptance of satisfactory

1 performance bonds, as the court deems proper in connection with any property or
2 interest subject to forfeiture.

3 5. Upon a finding of civil liability under this section, the court may order the
4 forfeiture of the appropriate property.

5 **Sec. 2.** NRS 205.0832 is hereby amended to read as follows:

6 205.0832 1. Except as otherwise provided in subsection 2, a person
7 commits theft if, without lawful authority, the person knowingly:

8 (a) Controls any property of another person with the intent to deprive that
9 person of the property.

10 (b) Converts, makes an unauthorized transfer of an interest in, or without
11 authorization controls any property of another person, or uses the services or
12 property of another person entrusted to him or her or placed in his or her possession
13 for a limited, authorized period of determined or prescribed duration or for a limited
14 use.

15 (c) Obtains real, personal or intangible property or the services of another
16 person by a material misrepresentation with intent to deprive that person of the
17 property or services. As used in this paragraph, "material misrepresentation" means
18 the use of any pretense, or the making of any promise, representation or statement
19 of present, past or future fact which is fraudulent and which, when used or made, is
20 instrumental in causing the wrongful control or transfer of property or services. The
21 pretense may be verbal or it may be a physical act.

22 (d) Comes into control of lost, mislaid or misdelivered property of another
23 person under circumstances providing means of inquiry as to the true owner and
24 appropriates that property to his or her own use or that of another person without
25 reasonable efforts to notify the true owner.

26 (e) Controls property of another person knowing or having reason to know that
27 the property was stolen.

28 (f) Obtains services, *including, without limitation, audio or visual services,*
29 *or parts, products or other items related to such services which the person knows or,*
30 *in the case of audio or visual services, should have known* are available only for
31 compensation without paying or agreeing to pay compensation or diverts the
32 services of another person to his or her own benefit or that of another person
33 without lawful authority to do so.

34 (g) Takes, destroys, conceals or disposes of property in which another person
35 has a security interest, with intent to defraud that person.

36 (h) Commits any act that is declared to be theft by a specific statute.

37 (i) Draws or passes a check, and in exchange obtains property or services, if
38 the person knows that the check will not be paid when presented.

39 (j) Obtains gasoline or other fuel or automotive products which are available
40 only for compensation without paying or agreeing to pay compensation.

41 2. A person who commits an act that is prohibited by subsection 1 which
42 involves the repair of a vehicle has not committed theft unless, before the repair
43 was made, the person received a written estimate of the cost of the repair.

44 **Sec. 3.** NRS 205A.070 is hereby amended to read as follows:

45 205A.070 1. Upon approval by ~~two-thirds~~ *a majority* of the members of
46 the Board, the Board shall appoint an Executive Director of Technological Crime
47 within the Office of the Attorney General.

48 2. The Executive Director is in the unclassified service of the State and serves
49 at the pleasure of the Board.

50 3. The Board shall establish the qualifications, powers and duties of the
51 Executive Director.

52 **Sec. 4.** This act becomes effective on July 1, 2013.