

SENATE BILL NO. 118—SENATOR BROWER

FEBRUARY 13, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to forfeiture of property.
(BDR 14-462)

FISCAL NOTE: Effect on Local Government: No.
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 forfeiture; revising provisions relating to the standard of proof in proceedings for forfeiture; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) authorizes the civil forfeiture of certain property which is used in the commission of certain crimes and which is the proceeds attributable to the commission of certain crimes; and (2) provides that the plaintiff in a proceeding for forfeiture must establish proof by clear and convincing evidence that the property is subject to forfeiture. (NRS 179.1164, 179.1173) This bill reduces the standard of proof in proceedings for forfeiture to a preponderance of the evidence.

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

Section 1. NRS 179.1173 is hereby amended to read as follows:

179.1173 1. The district court shall proceed as soon as practicable to a trial and determination of the matter. A proceeding for forfeiture is entitled to priority over other civil actions which are not otherwise entitled to priority.

2. At a proceeding for forfeiture, the plaintiff or claimant may file a motion for an order staying the proceeding and the court shall grant that motion if a criminal action which is the basis of the proceeding is pending trial. The court shall, upon a motion made by the plaintiff, lift the stay upon a satisfactory showing that the claimant is a fugitive.



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1 3. The plaintiff in a proceeding for forfeiture must establish
2 proof by ~~clear and convincing~~ *a preponderance of the* evidence
3 that the property is subject to forfeiture.

4 4. In a proceeding for forfeiture, the rule of law that forfeitures
5 are not favored does not apply.

6 5. The plaintiff is not required to plead or prove that a claimant
7 has been charged with or convicted of any criminal offense. If proof
8 of such a conviction is made, and it is shown that the judgment of
9 conviction has become final, the proof is, as against any claimant,
10 conclusive evidence of all facts necessary to sustain the conviction.

11 6. The plaintiff has an absolute privilege to refuse to disclose
12 the identity of any person, other than a witness, who has furnished
13 to a law enforcement officer information purporting to reveal the
14 commission of a crime. The privilege may be claimed by an
15 appropriate representative of the plaintiff.

16 7. If the court determines that the property is not subject to
17 forfeiture, the court shall order the property and any interest accrued
18 pursuant to subsection 2 of NRS 179.1175 returned to the claimant
19 found to be entitled to the property. If the court determines that the
20 property is subject to forfeiture, the court shall so decree. The
21 property, including any interest accrued pursuant to subsection 2 of
22 NRS 179.1175, must be forfeited to the plaintiff, subject to the right
23 of any claimant who establishes a protected interest. Any such
24 claimant must, upon the sale or retention of the property, be
25 compensated for the claimant's interest in the manner provided in
26 NRS 179.118.

