

Amendment No. 207

Senate Amendment to Senate Bill No. 191	(BDR 14-204)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

NCA/BAW



Date: 4/2/2015

S.B. No. 191—Revises provisions relating to the return of seized property.
(BDR 14-204)



SENATE BILL NO. 191—SENATOR BROWER

FEBRUARY 25, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the return of seized property.
(BDR 14-204)

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 criminal procedure; revising provisions relating to the return of seized property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a procedure by which a person who is aggrieved by an unlawful search and seizure of his or her property may move a court for the return of the property and the suppression of its use as evidence. (NRS 179.085) This bill establishes a procedure by which a person who is aggrieved by the seizure and deprivation of property under certain other circumstances may move a court for the return of the property.

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

Section 1. NRS 179.085 is hereby amended to read as follows:

179.085 1. A person aggrieved by an unlawful search and seizure *or the deprivation of property* may move the court having jurisdiction where the property was seized for the return of the property ~~and~~

~~2. A person aggrieved by an unlawful search and seizure may move for the return of the property and to suppress for use as evidence anything so obtained, on the ground that:~~

(a) The property was illegally seized without warrant;

(b) The warrant is insufficient on its face;

(c) There was not probable cause for believing the existence of the grounds on which the warrant was issued; ~~for~~

(d) The warrant was illegally executed. ~~It~~ *or*

(e) Retention of the property by law enforcement is not reasonable under the totality of the circumstances.

~~3. A person aggrieved by the deprivation of property may move for the return of the property on any of the grounds set forth in subsection 2 or on the ground that the retention of the property by law enforcement is not reasonable under the totality of the circumstances.~~

1 ~~4.~~ The judge shall receive evidence on any issue of fact necessary to the
2 decision of ~~the~~ ~~that~~ motion.

3 ~~2. filed pursuant to this section.~~

4 ~~5.~~ If ~~the~~ ~~that~~ motion ~~filed pursuant to subsection 2~~ is granted ~~it~~ on a
5 ground set forth in paragraph (a), (b), (c) or (d) of subsection 1, the property
6 ~~shall~~ must be restored ~~unless otherwise subject to lawful detention~~ and it ~~shall~~
7 must not be admissible evidence at any hearing or trial.

8 ~~3.~~ ~~The~~

9 ~~6.~~ If ~~that~~ the motion ~~filed pursuant to subsection 3~~ is granted ~~it~~ on the
10 ground set forth in paragraph (e) of subsection 1, the property must be restored,
11 but the court may impose reasonable conditions to protect access to the property
12 and its use in later proceedings.

13 ~~7.~~ 4. A motion to suppress evidence on any ground set forth in paragraphs
14 (a) to (d), inclusive, of subsection 1 may also be made in the court where the trial is
15 to be had. The motion ~~shall~~ must be made before trial or hearing unless
16 opportunity therefor did not exist or the defendant was not aware of the grounds for
17 the motion, but the court in its discretion may entertain the motion at the trial or
18 hearing.

19 ~~8.~~ 5. If a motion pursuant to this section is filed when no criminal
20 proceeding is pending, the motion must be treated as a civil complaint seeking
21 equitable relief.