

ASSEMBLY BILL NO. 425—COMMITTEE ON JUDICIARY

MARCH 26, 2021

Referred to Committee on Judiciary

**SUMMARY**—Establishes provisions relating to the criminal forfeiture of property used in or derived from unlawful acts relating to the possession, distribution or use of controlled substances. (BDR 14-483)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
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 criminal procedure; establishing the Criminal Forfeiture Process Act; revising provisions relating to the civil forfeiture of property and proceeds attributable to certain crimes; authorizing the Peace Officers' Standards and Training Commission to provide training in the certification of peace officers relating to the Act; repealing certain provisions relating to property subject to forfeiture; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the seizure, forfeiture and disposition of certain property and proceeds attributable to the commission of certain crimes, including, certain crimes relating to controlled substances. (NRS 179.1156-179.121, 453.301) **Sections 2-35** of this bill enact the Criminal Forfeiture Process Act governing the seizure, forfeiture and disposition of contraband and property used in or derived from crimes relating to the possession, distribution or use of controlled substances. **Sections 4, 5 and 6** of this bill define certain terms for the purpose of the Act. **Section 7** of this bill sets forth the Legislature's findings and declarations concerning the Act.

**Section 8** of this bill provides that the Act governs the seizure, forfeiture and disposition of contraband and property used in or derived from crimes relating to the possession, distribution or use of controlled substances, notwithstanding any other provision of law relating to the seizure, forfeiture and disposition of property attributable to certain crimes apply to such property or contraband. **Section 49** of this bill repeals the provisions of law which authorize the civil forfeiture of property attributable to certain crimes relating to controlled substances. **Sections**



36, 37, 38, 40, 41, 42, 45, 46 and 47 of this bill make conforming changes relating to the applicability of the Act.

**Section 9** of this bill provides that the court with jurisdiction over the underlying criminal proceedings has jurisdiction over any proceedings relating to the seizure, forfeiture and disposition of contraband and property under the Act. **Section 9** also requires the attorney appointed to represent the defendant in the criminal proceedings to also represent the defendant in proceedings relating to the seizure, forfeiture and disposition of contraband and property under the Act.

**Section 10** of this bill authorizes contraband, real property and personal property to be seized if the contraband or property was used in or derived from an unlawful act relating to the possession, distribution or use of controlled substances.

**Section 10** establishes an exemption from seizure under the Act for money totaling \$200 or less and motor vehicles valued at \$2,000 or less, unless the office of a prosecuting attorney establishes higher dollar amounts for the seizure of money or motor vehicles. **Section 10** also requires the office of a prosecutor to advise certain state or local law enforcement agencies regarding any publication which determines the value of motor vehicles.

**Section 11** of this bill: (1) authorizes a state or local law enforcement agency to seize contraband at any time without a court order if the contraband was seized incident to a lawful search; and (2) requires the State to seek a court order authorizing a state or local law enforcement agency to dispose of the contraband in accordance with state law at the time that the contraband is no longer needed as evidence in the criminal proceedings of the defendant.

**Section 12** of this bill authorizes the State to file a verified application with the court for the seizure of real property or personal property by a state or local law enforcement agency. **Section 12** authorizes the court to issue a preliminary order for the seizure of the property if the State proves by a preponderance of the evidence that the property is subject to forfeiture. **Section 12** provides that the preliminary order: (1) may be granted without notice to the defendant or any party with an interest in the property; and (2) expires not later than 90 days after issuance by the court. Finally, **section 12** authorizes: (1) the State to file a verified application for an extension of the preliminary order; and (2) the court to grant the extension upon the provision of notice to the defendant and any person with an interest in the property and a hearing on the application.

**Section 13** of this bill authorizes a state or local law enforcement agency to seize personal property without a court order if: (1) the seizure is incident to a lawful arrest or search; (2) the property is subject to a previous judgment of forfeiture in this State; or (3) the State has probable cause to believe that the property will be destroyed or removed during the time it would take the State to obtain a court order.

**Section 14** of this bill requires the state or local law enforcement agency who seized the contraband, real property or personal property to give an itemized receipt to the person whose contraband or property was seized or to leave the itemized receipt at the place where the contraband or property was seized.

After real property or personal property is seized by a state or local law enforcement agency, **section 15** of this bill requires the State to complete a search of public records and notify the defendant and other persons with an interest in the property that the property has been seized by a state or local law enforcement agency. The notice must include certain language relating to the right of the defendant and other persons with an interest in the seized property to a pretrial hearing on the seizure. **Section 16** of this bill establishes provisions relating to such a pretrial hearing, including, those circumstances where a court is required to return seized property to the defendant or another person with an interest in the property.



**Section 17** of this bill prohibits a state or local law enforcement agency from requesting, requiring or inducing any person to waive his or her interest in real property or personal property seized by the state or local law enforcement agency.

**Section 18** of this bill provides that the State gains provisional title to seized real property or personal property until the property is forfeited, at which time the State gains real title to the property. **Section 18** also provides that the State immediately receives real title to contraband at the time of its seizure by the state or local law enforcement agency.

**Section 19** of this bill prohibits real property or personal property seized by a state or local law enforcement agency from being forfeited under the Act if: (1) the State does not file criminal charges against a person for a violation of state law relating to the possession, distribution or use of controlled substances; or (2) the state dismisses any such charge against the defendant.

**Section 20** of this bill: (1) authorizes real property and personal property to be forfeited as part of a plea agreement or pursuant to the stipulation of the parties; and (2) sets forth the procedure relating to such forfeiture.

**Section 21** of this bill requires the State to file a notice of proposed forfeiture with the information or indictment charging the defendant, or anytime thereafter, but not later than the date of the trial of the defendant. **Section 21** also requires the court alone to make a determination regarding the forfeiture of the seized real property or personal property after the conviction of the defendant and sets forth the standards for making such a determination. **Section 21** authorizes the forfeiture of seized real property or personal property before the conviction of the defendant if the defendant dies, gets deported or absconds. Finally, **section 21** establishes appellate rights concerning the parties to the forfeiture decision.

**Section 22** of this bill authorizes the court to order the forfeiture of substitute property owned by the defendant under certain circumstances. **Section 23** of this bill provides that a defendant is not jointly and severally liable for an award of forfeiture owed by other defendants.

**Section 24** of this bill: (1) authorizes a defendant to petition the court to determine whether the forfeiture of real property or personal property is unconstitutionally excessive; and (2) establishes procedures concerning a hearing on such a petition.

**Section 25** of this bill requires a state or local law enforcement agency to sell forfeited property and requires the proceeds of the sale in addition to any money forfeited to be distributed in accordance with a specific order of priority. **Section 26** of this bill prohibits forfeited property from being sold to certain persons.

**Section 27** of this bill: (1) prohibits real property or personal property subject to a bona fide security interest from being forfeited; (2) authorizes to the State to summarily return property to a person who holds a bona fide security interest; (3) authorizes a person who holds a bona fide security interest in the seized property to file a petition for the return of the property; and (4) affords parties appellate rights regarding a decision on the petition. **Section 28** of this bill establishes similar provisions relating to innocent owners. **Section 29** of this bill awards certain fees and costs to holders of security interests and innocent owners who succeed on a petition for the return of seized property.

**Section 30** of this bill applies certain rules to actions taken by parties under the Act. **Section 31** of this bill prohibits the State from seeking personal money judgments or other remedies unless expressly prescribed by the Act. **Section 32** requires real property or personal property to be returned to a person within a reasonable period of time not to exceed 5 days after the issuance of a court order to that effect.

Existing law requires law enforcement agencies to make annual reports to the Attorney General concerning the forfeiture of property. (NRS 179.1205) **Section 33** of this bill requires state or local law enforcement agencies acting under the



provisions of the Act to comply with such annual reporting requirements. **Section 39** of this bill makes a conforming change relating to the report.

**Section 34** of this bill prohibits a state or local law enforcement agency from transferring seized contraband, real property or personal property to a federal agency seeking the adoption of the contraband or property.

**Section 35** of this bill requires: (1) the Attorney General to establish guidelines concerning the participation of state or local law enforcement agencies in joint tasks forces; and (2) the guidelines to be published on the Internet website of the Department of Public Safety.

Existing law requires the Peace Officers' Standards and Training Commission to certify peace officers in this State and sets forth various training requirements concerning the certification of peace officers. (NRS 289.550-289.605) **Section 43** of this bill authorizes the certification of peace officers to include training concerning the provisions of the Act. **Section 44** of this bill makes a conforming change relating to the certification of peace officers.

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

**Section 1.** Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 35, inclusive, of this act.

**Sec. 2.** *Sections 2 to 35, inclusive, of this act may be cited as the Criminal Forfeiture Process Act.*

**Sec. 3.** *As used in sections 2 to 35, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this act have the meanings ascribed to them in those sections.*

**Sec. 4.** *"Actual knowledge" means direct and clear awareness of information, a fact or a condition.*

**Sec. 5.** *"Contraband" means goods that are unlawful to possess.*

**Sec. 6.** *"Real property" means:*

- 1. Land, including, land under water;*
- 2. Anything growing on land; and*
- 3. Permanent or temporary buildings, structures, fixtures or improvements on land.*

**Sec. 7.** *The Legislature finds and declares that the public policy of this State relating to sections 2 to 35, inclusive, of this act is to:*

- 1. Deter criminal activity by reducing the economic incentives;*
- 2. Confiscate property used in violation of the law;*
- 3. Disgorge the fruit of illegal conduct; and*
- 4. Protect against the wrongful forfeiture of property.*

**Sec. 8.** *Notwithstanding any other provision of law, sections 2 to 35, inclusive, of this act govern the seizure, forfeiture and*



1 *disposition of property and contraband used in or derived from an*  
2 *unlawful act relating to the possession, distribution or use of*  
3 *controlled substances.*

4 **Sec. 9.** 1. *A court with jurisdiction over any underlying*  
5 *criminal proceedings shall have jurisdiction over any proceedings*  
6 *relating to the seizure, forfeiture and disposition of property*  
7 *pursuant to sections 2 to 35, inclusive, of this act.*

8 2. *If an attorney is appointed by the court to represent a*  
9 *defendant in the criminal proceedings, the attorney shall represent*  
10 *the defendant in the proceedings relating to the seizure, forfeiture*  
11 *and disposition of property pursuant to sections 2 to 35, inclusive,*  
12 *of this act.*

13 **Sec. 10.** 1. *Except as otherwise provided in subsection 2,*  
14 *contraband, real property and personal property is subject to*  
15 *seizure pursuant to sections 11, 12 and 13 of this act, as*  
16 *applicable, if the contraband or property was used in or derived*  
17 *from an unlawful act relating to the possession, distribution or use*  
18 *of a controlled substance.*

19 2. *The following types of property are not subject to seizure*  
20 *pursuant to sections 11, 12 and 13 of this act:*

21 (a) *Except as otherwise provided in paragraph (b), money*  
22 *totaling \$200 or less and motor vehicles valued at \$2,000 or less;*  
23 *and*

24 (b) *Money or motor vehicles which exceed the dollar amounts*  
25 *described in paragraph (a), respectively, unless the office of a*  
26 *prosecutor adopts a policy delineating higher dollar amounts*  
27 *which is based on the:*

28 (1) *Type and number of occurrences in the jurisdiction of*  
29 *the office of the prosecutor where the money and motor vehicles*  
30 *are subject to seizure pursuant to sections 2 to 35, inclusive, of this*  
31 *act; and*

32 (2) *Average value of money and motor vehicles seized in*  
33 *the jurisdiction of the office of a prosecuting attorney minus the*  
34 *cost to the office for the seizure, forfeiture and disposition of the*  
35 *money or motor vehicles pursuant to sections 2 to 35, inclusive, of*  
36 *this act.*

37 3. *Each office of a prosecutor shall advise the state or local*  
38 *law enforcement agencies in the jurisdiction of the office as to any*  
39 *publication that may be used to establish the value of motor*  
40 *vehicles for the purpose of subsection 2.*

41 **Sec. 11.** 1. *Contraband may be seized by a state or local law*  
42 *enforcement agency at any time without a court order if the*  
43 *seizure is made incident to a lawful search.*

44 2. *At any time in which contraband is no longer needed as*  
45 *evidence in the underlying criminal proceedings of the defendant,*



1 *the State may petition the court for the destruction of the*  
2 *contraband in accordance with State law.*

3 *3. The court may grant a petition described in subsection 2*  
4 *after notice has been provided to the defendant and any other*  
5 *party with an interest in the contraband and the State, at a hearing*  
6 *on the petition, proves by a clear and convincing evidence that the*  
7 *contraband was used in or derived from an unlawful act relating*  
8 *to the possession, distribution or use of a controlled substance.*

9 **Sec. 12.** *1. The State may file a verified application*  
10 *requesting that personal property or real property be seized by a*  
11 *state or local law enforcement agency.*

12 *2. If it appears to the satisfaction of the court from the*  
13 *specific facts shown by the verified application that the personal*  
14 *property or real property is subject to seizure pursuant to section*  
15 *10 of this act, the court may grant a preliminary order for the*  
16 *seizure of the property.*

17 *3. A preliminary order may be granted without notice to the*  
18 *defendant and any other party with an interest in the property.*

19 *4. Except as otherwise provided in subsection 5, a*  
20 *preliminary order expires within such time, not to exceed 90 days,*  
21 *as the court fixes. At the time of such expiration, the property*  
22 *seized pursuant to this section must be returned to the owner.*

23 *5. The State may file a verified application requesting the*  
24 *extension of a preliminary order issued pursuant to subsection 2.*

25 *6. If good cause is shown for the extension, the court may*  
26 *grant the extension after notice is provided to the defendant and*  
27 *any person with an interest in the property and a hearing on the*  
28 *application. An extension granted pursuant to this subsection*  
29 *expires upon a determination of forfeiture pursuant to section 20*  
30 *or 21 of this act.*

31 **Sec. 13.** *1. In addition to the seizure of personal property*  
32 *by court order pursuant to section 12 of this act, personal property*  
33 *may be seized by a state or local law enforcement agency if:*

34 *(a) The seizure is incident to a lawful arrest or search;*

35 *(b) The personal property subject to seizure has been the*  
36 *subject of a prior judgment in favor of the State; or*

37 *(c) The State has probable cause to believe that the delay*  
38 *occasioned by the necessity to obtain a court order would result in*  
39 *the removal or destruction of the personal property that is*  
40 *forfeitable pursuant to sections 20 or 21 of this act.*

41 **Sec. 14.** *1. When contraband, real property or personal*  
42 *property is seized pursuant to section 11, 12 or 13 of this act, as*  
43 *applicable, the state or local law enforcement agency that seized*  
44 *the property or contraband shall:*



(a) Give an itemized receipt to the person possessing the contraband or property; or

(b) In the absence of a person possessing the contraband or property, leave an itemized receipt at the place where the contraband or property was found, if reasonably practicable.

2. The receipt must contain a unique identification number.

3. Upon providing the receipt to a person or leaving the receipt at the place where the contraband or property was found pursuant to this section, notice of the seizure of the contraband or property shall be deemed complete.

**Sec. 15.** 1. Not later than 30 days after the seizure of real property or personal property pursuant to section 12 or 13 of this act, the State shall:

(a) Perform a reasonable search of public records to identify any person, other than the defendant, known to have an interest in the property; and

(b) Provide notice to the defendant and any person identified pursuant to paragraph (a) that the seized property is subject to forfeiture pursuant to section 20 or 21 of this act.

2. The notice described in subsection 1 must contain the unique identification number of the receipt described in section 14 of this act and state: "WARNING: You may lose the right to be heard in court if you do not file a motion pursuant to section 16 of this act. You do not have to pay a filing fee for the motion."

**Sec. 16.** 1. In addition to any petition filed pursuant to section 24 of this act, any person to whom the State issued notice pursuant to section 15 of this act has a right to a pretrial hearing to determine the validity of the seizure of the real property or personal property pursuant to section 12 or 13 of this act. The person may exercise the right by filing a motion with the court.

2. The court shall hear a motion filed pursuant to subsection 1 not later than 15 days after the filing. The motion must be heard:

(a) At the a pretrial hearing of the defendant; or

(b) In a hearing separate from any pretrial hearing of the defendant.

3. The State shall file an answer showing probable cause for the seizure of the real property or personal property pursuant to section 12 or 13 of this act, not less than 5 days before the hearing on the motion.

4. Upon a showing of good cause by any party, the court may postpone the hearing on the motion for not more than 10 days.

5. A court shall grant a motion filed pursuant to subsection 1 if the court finds that:

(a) The seizure violated section 12 or 13 of this act;



(b) *An information or indictment charging the defendant with an unlawful act relating to the possession, distribution or use of a controlled substance has not been filed by the State;*

(c) *The judgment concerning the forfeiture the property seized pursuant to section 12 or 13 of this act will likely be found in favor of:*

(1) *The defendant pursuant to section 20 or 21 of this act, if the defendant filed the motion pursuant to subsection 1; or*

(2) *A person with an interest in the property pursuant to section 27 or 28 of this act, if the interested person filed the motion pursuant to subsection 1; or*

(d) *Unless the State proves by a preponderance of the evidence that the property will likely be forfeited pursuant to section 20 or 21 of this act, and subject to the limitations set forth in subsection 6, the defendant filed the motion pursuant to subsection 1 and the property is the only reasonable means for the defendant to pay for legal representation in the criminal proceedings.*

6. *The court shall not order the return of more real property or personal property pursuant to paragraph (d) of subsection 5 than is reasonably necessary to cover the costs of the legal representation of the defendant.*

**Sec. 17.** 1. *A state or local law enforcement agency shall not request, require or induce a person to waive an interest in real property or personal property seized pursuant to section 12 or 13 of this act for the purposes of the forfeiture pursuant to section 20 and 21 of this act.*

2. *A document purporting to waive an interest in real property or personal property seized pursuant to section 12 or 13 of this act is void and inadmissible in court.*

**Sec. 18.** 1. *At the time property is seized pursuant to section 12 or 13 of this act, the State acquires provisional title to the seized property. Provisional title authorizes the State to hold and protect the property.*

2. *Title to real property or personal property seized pursuant to section 12 or 13 of this act vests with the State when the court renders a decision concerning the forfeiture of the seized property pursuant to section 20 and 21 of this act and relates back to the time when the State acquired provisional title to the property pursuant to subsection 1. Such title is subject to claims by third parties adjudicated pursuant to section 16, 27 or 28 of this act.*

3. *Title to contraband seized pursuant to section 11 of this act vests with the State at the time of the seizure by the state or local law enforcement agency.*

**Sec. 19.** *Real property or personal property seized pursuant to section 12 or 13 of this act may not be forfeited and must be*





1 *returned to the person from whom the property was seized if the*  
2 *State:*

3 1. *Does not file criminal charges against the defendant*  
4 *relating to the commission of an unlawful act relating to the*  
5 *possession, distribution or use of a controlled substance; or*

6 2. *Dismisses the charges filed against the defendant for an*  
7 *unlawful act relating to the possession, distribution or use of a*  
8 *controlled substance.*

9 **Sec. 20.** *Real property or personal property seized pursuant*  
10 *to section 12 or 13 of this act may be forfeited as part of a plea*  
11 *agreement or the stipulation of the parties if:*

12 1. *The State files a notice of forfeiture which contains a brief*  
13 *explanation of the plea agreement or stipulation; and*

14 2. *The court with jurisdiction over the criminal proceedings*  
15 *of the defendant approves the plea agreement or stipulation.*

16 **Sec. 21.** 1. *The State shall file a notice of proposed*  
17 *forfeiture with the information or indictment charging the*  
18 *defendant with a violation of state law relating to the possession,*  
19 *distribution or use of a controlled substance, or any time*  
20 *thereafter, but not later than the date of the commencement of the*  
21 *trial of the defendant. The State may amend the notice of proposed*  
22 *forfeiture at any time before the commencement of the trial.*

23 2. *The notice of proposed forfeiture must contain:*

24 (a) *A description of the real property or personal property*  
25 *seized pursuant to section 12 or 13 of this act;*

26 (b) *The time, date and place of the seizure of the property*  
27 *described in paragraph (a);*

28 (c) *The unique identification number of the receipt described*  
29 *in section 14 of this act;*

30 (d) *A brief description of how the property described in*  
31 *paragraph (a) was used in or derived from the unlawful act*  
32 *relating to the possession, distribution or use of any controlled*  
33 *substance for which the defendant was charged; and*

34 (e) *Whether the State seeks the forfeiture of the property*  
35 *described in paragraph (a):*

36 (1) *As a sanction relating to the unlawful act for which the*  
37 *defendant is charged; or*

38 (2) *As part of a sentencing consideration.*

39 3. *The notice of proposed forfeiture must not be read to the*  
40 *jury.*

41 4. *Except as otherwise provided in subsection 7, a*  
42 *determination relating to the forfeiture of real property or*  
43 *personal property pursuant to this section must be held in a single*  
44 *proceeding following the trial of the defendant. The court shall*



1 *make a determination relating to the forfeiture in accordance with*  
2 *subsections 5 and 6.*

3 5. *The court shall order the return of any property seized*  
4 *pursuant to section 12 or 13 of this act if the defendant is not*  
5 *convicted or the provisions of subsection 6 are otherwise not*  
6 *satisfied.*

7 6. *The court shall order the forfeiture of the property, if the*  
8 *defendant is convicted and the prosecuting attorney establishes by*  
9 *clear and convincing evidence that:*

10 (a) *The defendant committed an unlawful act relating to the*  
11 *possession, distribution or use of a controlled substance; and*

12 (b) *The property was used in or derived from an unlawful act*  
13 *relating to the possession, distribution or use of a controlled*  
14 *substance.*

15 7. *If the defendant dies, is deported or absconds before trial,*  
16 *the court shall order the return of the real property or personal*  
17 *property seized pursuant to section 12 or 13 of this act upon a*  
18 *finding by clear and convincing evidence that:*

19 (a) *The defendant was charged with a violation of state law*  
20 *relating to the possession, distribution or use of a controlled*  
21 *substance;*

22 (b) *The property was used in or derived from an unlawful act*  
23 *relating to the possession, distribution or use of a controlled*  
24 *substance; and*

25 (c) *The defendant would have been convicted of the violation*  
26 *described in paragraph (a) had the defendant not died, been*  
27 *deported or absconded before trial.*

28 8. *A decision of the court regarding forfeiture of property*  
29 *pursuant to this section may be appealed by any party to the*  
30 *decision.*

31 **Sec. 22.** *Upon a motion by the State following conviction, or*  
32 *upon a motion of the court, the court may order the forfeiture of*  
33 *substitute property owned by the defendant up to the value of*  
34 *property described in section 10 of this act if the State proves by a*  
35 *preponderance of the evidence that the defendant intentionally:*

36 1. *Dissipated the property;*

37 2. *Transferred, sold or deposited the property with a third*  
38 *party to avoid the jurisdiction of the court;*

39 3. *Substantially diminished the value of the property; or*

40 4. *Commingled the property with other property that cannot*  
41 *be divided without difficulty.*

42 **Sec. 23.** *A defendant is not jointly and severally liable for an*  
43 *award of forfeiture owed by other defendants. If ownership of the*  
44 *property is unclear, a court may order each defendant to forfeit*



1 *the property on a pro rata basis or by any other means the court*  
2 *finds equitable.*

3 **Sec. 24.** 1. *At any time after a court has ordered the*  
4 *forfeiture of property pursuant to section 21 of this act, the*  
5 *defendant may petition the court to determine whether forfeiture is*  
6 *unconstitutionally excessive under the Nevada Constitution or the*  
7 *United States Constitution.*

8 2. *The defendant must establish by a preponderance of the*  
9 *evidence that the forfeiture is unconstitutionally excessive at*  
10 *hearing by the court. The hearing must be without a jury.*

11 3. *In determining whether the forfeiture of property is*  
12 *unconstitutionally excessive, the court:*

13 (a) *May consider all relevant factors, including, without*  
14 *limitation:*

15 (1) *The seriousness of the related crime and the impact on*  
16 *the community, including, without limitation, the duration of the*  
17 *activity and the harm caused by the defendant;*

18 (2) *The extent to which the defendant participated in the*  
19 *related crime;*

20 (3) *The extent to which the property was used in*  
21 *committing the related crime;*

22 (4) *The sentence imposed for committing the related crime;*

23 (5) *Whether the related crime was completed or attempted;*

24 (6) *The hardship to the defendant if the forfeiture is*  
25 *realized;*

26 (7) *Whether the forfeiture would deprive the defendant of*  
27 *his or her livelihood; and*

28 (8) *The hardship from the loss of the property to the family*  
29 *of the defendant or other relevant persons if the property is*  
30 *forfeited; and*

31 (b) *May not consider the value of the property to the State.*

32 **Sec. 25.** 1. *If a court orders the forfeiture of real property*  
33 *or personal property pursuant to section 20 and 21 of this act and*  
34 *all appeals of the order have been exhausted by the defendant, the*  
35 *State and any other party with an interest in the property, the state*  
36 *or local law enforcement agency that seized the property pursuant*  
37 *to section 12 or 13 must sell the property.*

38 2. *Any proceeds of the sale pursuant to subsection 1 must be*  
39 *combined with any property forfeited pursuant to section 20 or 21*  
40 *of this act. The combined total must be distributed in the following*  
41 *order of priority:*

42 (a) *To meet an obligation of the offender for restitution to a*  
43 *victim of crime;*

44 (b) *To satisfy any outstanding liens on the forfeited property;*



(c) To reimburse the state or local law enforcement agency who seized the property for expenses related to the seizure, forfeiture and disposition of the property pursuant to sections 2 to 35, inclusive, of this act, except personnel costs; and

(d) To reimburse the office of the prosecutor, office of the public defender or other court appointed attorney for any expenses related to the criminal proceedings, except personnel costs.

3. Any amount remaining after distribution pursuant to subsection 2 must be divided and dispersed to:

(a) The Department of Public Safety to be used to purchase equipment for use by state or local law enforcement agencies; and

(b) The State Permanent School Fund.

**Sec. 26.** A state or local law enforcement agency shall not sell property pursuant to section 25 of this act directly or indirectly to:

1. An employee of the state or local law enforcement agency;

2. A person related to an employee of the state or local law enforcement agency by blood or marriage; or

3. Another state or local law enforcement agency.

**Sec. 27. 1.** Except as otherwise provided in subsection 4, a bona fide security interest in real property or personal property seized pursuant to section 12 or 13 of this act is not subject to forfeiture.

2. At any time before real property or personal property seized pursuant to section 12 or 13 of this act is forfeited pursuant to section 20 or 21 of this act, the State may summarily return the property to a person who holds a bona fide security interest in the property.

3. If the State does not summarily return real property or personal property pursuant to subsection 2, the holder of a bona fide security interest in the property may, at any time before the forfeiture of the property pursuant to section 20 or 21 of this act, petition the court for the return of the property.

4. A court shall hear a petition filed pursuant to subsection 3 not later than 30 days after the filing or at another time within the discretion of the court. The hearing shall be held before the court alone and the court may consolidate the hearing on the petition with any other hearing before the court in the case of the defendant.

5. If the court determines that the petitioner established by clear and convincing evidence that the petitioner has a bona fide security interest in the real property or personal property seized pursuant to section 12 or 13 of this act, the court shall order the return of the seized property to the petitioner, unless the State proves by a preponderance of the evidence that the petitioner had



1 *actual knowledge that the property was used in or derived from an*  
2 *unlawful act for which the property was seized pursuant to section*  
3 *12 or 13 of this act.*

4 *6. The determination of the court pursuant to subsection 5*  
5 *may be appealed by any party to the decision.*

6 **Sec. 28.** *1. Real property or personal property of an*  
7 *innocent owner seized pursuant to section 12 or 13 of this act is*  
8 *not subject to forfeiture.*

9 *2. At any time before real property or personal property*  
10 *seized pursuant to section 12 or 13 of this act is forfeited pursuant*  
11 *to section 20 or 21 of this act, the State may summarily return the*  
12 *property to an innocent owner.*

13 *3. If State does not summarily return real property or*  
14 *personal property to an innocent owner pursuant to subsection 2,*  
15 *the innocent owner may, at any time before the property is*  
16 *forfeited pursuant to section 20 or 21 of this act, file a petition*  
17 *with the court, free of charge.*

18 *4. The petition described in subsection 3 must state:*

19 *(a) The right, title or interest of the innocent owner to the real*  
20 *property or personal property seized pursuant to section 12 or 13*  
21 *of this act;*

22 *(b) The time and circumstances of the acquisition of the right,*  
23 *title or interest in the property described in paragraph (a);*

24 *(c) Any other facts that support the claim of the innocent*  
25 *owner; and*

26 *(d) The relief sought by the innocent owner.*

27 *5. A court shall hear a petition filed pursuant to subsection 3*  
28 *not later than 30 days after the filing or at another time within the*  
29 *discretion of the court. The hearing shall be held before the court*  
30 *alone and the court may consolidate the hearing on the petition*  
31 *with any other hearing before the court in the case of the*  
32 *defendant.*

33 *6. If the court determines that the petitioner has established*  
34 *by clear and convincing evidence that the petitioner is an innocent*  
35 *owner, the court shall order the State to return the property to the*  
36 *petitioner, unless the State proves by a preponderance of the*  
37 *evidence that the petitioner had actual knowledge that the property*  
38 *was used in or derived from the unlawful act for which the*  
39 *property was seized pursuant to section 12 or 13 of this act.*

40 *7. The prosecuting attorney may not use information*  
41 *provided in the petition described in subsection 3 in the criminal*  
42 *proceedings against the defendant unless the innocent party*  
43 *independently testifies to the same facts contained in the petition*  
44 *at the trial of the defendant.*



8. A determination of the court pursuant to subsection 6 may be appealed by any party to the decision.

9. As used in this section, “innocent owner” means a person who:

(a) Has any interest, including, without limitation, joint tenancy, tenancy in common or tenancy be the entirety, in real property or personal property seized pursuant to section 12 or 13 of this act; or

(b) Is the heir of the defendant from whom real property or personal property was seized pursuant to section 12 or 13 of this act.

**Sec. 29.** In any proceeding pursuant to section 27 or 28 of this act where a court orders the return of real property or personal property seized pursuant to section 12 or 13 of this act to a petitioner, the state or local law enforcement agency which seized the property shall be liable for:

1. Reasonable attorney’s fees and other litigation costs incurred by the petitioner;

2. Post-judgment interest; and

3. In cases involving currency, other negotiable instruments or the proceeds of an interlocutory sale, any interest actually paid from the date of the seizure.

**Sec. 30.** The local rules of practice adopted in the judicial district where the action is pending, to the extent they are not inconsistent with state law, apply to:

1. Discovery pursuant to sections 2 to 35, inclusive, of this act;

2. The application, filing, issuance and execution of a petition, application or order pursuant to sections 2 to 35, inclusive, of this act; and

3. Any requirements relating to notice pursuant to sections 2 to 35, inclusive, of this act.

**Sec. 31.** The State may not seek personal money judgments or other remedies unless expressly provided by sections 2 to 35, inclusive, of this act.

**Sec. 32.** 1. If a court orders the return of real property or personal property pursuant to 2 to 35, inclusive, of this act, the state or local law enforcement agency which seized the property pursuant to section 12 or 13 of this act shall return the property to the person within a reasonable period of time not to exceed 5 days after the date of the issuance of the order.

2. The state or local law enforcement agency which seized the property pursuant to section 12 or 13 of this act is responsible for any damages, storage fees and costs relating to the property returned pursuant to subsection 1.



1     **Sec. 33.** *Every state or local law enforcement agency shall*  
2 *comply with the reporting requirements described in*  
3 *NRS 179.1205.*

4     **Sec. 34.** *1. A state or local law enforcement agency shall*  
5 *not refer or otherwise transfer contraband, real property or*  
6 *personal property seized pursuant to section 11, 12 or 13 of this*  
7 *act, as applicable, to a federal agency seeking the adoption of the*  
8 *seized property pursuant to the Controlled Substances Act,*  
9 *21 U.S.C. Chapter 13 §§ 801 et seq. unless the state or local law*  
10 *enforcement agency is working with the federal agency:*

11     *(a) In a joint investigation arising out of federal law; or*

12     *(b) As part of a joint task force comprised of federal, state and*  
13 *local agencies.*

14     *2. Any payment received by a state or local law enforcement*  
15 *agency in violation of subsection 1 must be distributed to the State*  
16 *Permanent School Fund.*

17     **Sec. 35.** *1. The Attorney General shall establish guidelines*  
18 *to be used by state or local law enforcement agencies who*  
19 *participate in joint task forces or otherwise collaborate with other*  
20 *jurisdictions concerning unlawful acts relating to the possession,*  
21 *distribution or use of a controlled substance.*

22     *2. The Department of Public Safety shall publish the*  
23 *guidelines established pursuant to subsection 1 on the Internet*  
24 *website of the Department.*

25     **Sec. 36.** NRS 179.1156 is hereby amended to read as follows:

26     179.1156 Except as otherwise provided in NRS 179.1211 to  
27 179.1235, inclusive, and 207.350 to 207.520, inclusive, *and*  
28 *sections 2 to 35, inclusive, of this act*, the provisions of NRS  
29 179.1156 to 179.121, inclusive, govern the seizure, forfeiture and  
30 disposition of all property and proceeds subject to forfeiture.

31     **Sec. 37.** NRS 179.1164 is hereby amended to read as follows:

32     179.1164 1. Except as otherwise provided in subsection 2,  
33 the following property is subject to seizure and forfeiture in a  
34 proceeding for forfeiture:

35     (a) Any proceeds attributable to the commission or attempted  
36 commission of any felony.

37     (b) Any property or proceeds otherwise subject to forfeiture  
38 pursuant to NRS 179.121, 200.760, 202.257, 370.419 ~~[, 453.304]~~  
39 or 501.3857.

40     2. Property may not, to the extent of the interest of any  
41 claimant, be declared forfeited by reason of an act or omission  
42 shown to have been committed or omitted without the knowledge,  
43 consent or willful blindness of the claimant.

44     ~~[3.—Unless the owner of real property or a mobile home:~~





~~—(a) Has given the tenant notice to surrender the premises pursuant to NRS 40.254 within 90 days after the owner receives notice of a conviction pursuant to subsection 2 of NRS 453.305; or~~

~~—(b) Shows the court that the owner had good cause not to evict the tenant summarily pursuant to NRS 40.254,~~

~~→ the owner of real property or a mobile home used or intended for use by a tenant to facilitate any violation of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, is disputably presumed to have known of and consented to that use if the notices required by NRS 453.305 have been given in connection with another such violation relating to the property or mobile home. The holder of a lien or encumbrance on the property or mobile home is disputably presumed to have acquired an interest in the property for fair value and without knowledge or consent to such use, regardless of when the act giving rise to the forfeiture occurred.]~~

**Sec. 38.** NRS 179.1187 is hereby amended to read as follows:

179.1187 1. The governing body controlling each law enforcement agency that receives proceeds from the sale of forfeited property shall establish with the State Treasurer, county treasurer, city treasurer or town treasurer, as custodian, a special account, known as the “..... Forfeiture Account.” The account is a separate and continuing account and no money in it reverts to the State General Fund or the general fund of the county, city or town at any time. For the purposes of this section, the governing body controlling a metropolitan police department is the Metropolitan Police Committee on Fiscal Affairs.

2. The money in the account may be used for any lawful purpose deemed appropriate by the chief administrative officer of the law enforcement agency, except that:

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

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

~~—(c)]~~ Money derived from the forfeiture of any property described in NRS 501.3857 must be used to enforce the provisions of title 45 of NRS.

~~[(d)]~~ (c) Seventy percent of the amount of money in excess of \$100,000 remaining in the account at the end of each fiscal year, as determined based upon the accounting standards of the governing body controlling the law enforcement agency that are in place on March 1, 2001, must be distributed to the State Education Fund.

~~[3.—Notwithstanding the provisions of paragraphs (a) and (b) of subsection 2, money in the account derived from the forfeiture of any property described in NRS 453.301 may be used to pay for the~~





~~operating expenses of a joint task force on narcotics otherwise funded by a federal, state or private grant or donation. As used in this subsection, "joint task force on narcotics" means a task force on narcotics operated by the Department of Public Safety in conjunction with other local or federal law enforcement agencies.]~~

**Sec. 39.** NRS 179.1205 is hereby amended to read as follows:

179.1205 1. On an annual basis, each law enforcement agency shall report the following information about each individual seizure and forfeiture completed by the law enforcement agency under state forfeiture law:

(a) Data on seizures and forfeitures, including, without limitation, the:

(1) Date that currency, vehicles, houses or other types of property were seized;

(2) Type of property seized, including, the year, make and model, as applicable;

(3) Type of crime associated with the seizure of the property;

(4) Market value of the property seized;

(5) Disposition of the property following the seizure; and

(6) Date of the disposition of the property.

(b) Data on the use of proceeds, including, without limitation, the:

(1) Payment of all outstanding liens on the forfeited property;

(2) Payment of reasonable expenses, except personnel costs, of the seizure, storage and maintenance of custody of any forfeited property; and

(3) Distribution of proceeds pursuant to NRS 179.118, 179.1187, 179.1233 and 207.500 ~~§~~, *and section 25 of this act.*

(c) Any other information required by the Office of the Attorney General.

2. The Office of the Attorney General shall develop standard forms, processes and deadlines for the entry of electronic data for the annual submission of the report required by subsection 1.

3. Each law enforcement agency shall file with the Office of the Attorney General the report required by subsection 1. A null report must be filed by a law enforcement agency that did not engage in a seizure or forfeiture during the reporting period. The Office of the Attorney General shall compile the submissions and issue an aggregate report of all forfeitures in this State.

4. On or before April 1 of each year, the Office of the Attorney General shall make available:

(a) On its Internet website, the reports submitted by law enforcement agencies and the aggregate report.

(b) Upon request, printed copies of the reports submitted by law enforcement agencies and the aggregate report.



5. The Office of the Attorney General shall include in the aggregate report information on any law enforcement agencies not in compliance with this section.

**Sec. 40.** NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny or theft if it is punishable as a felony;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.463 to 200.468, inclusive, 201.300, 201.320, 201.395, 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395, 370.405, 465.070 to 465.086, inclusive, 630.400, 630A.600, 631.400, 632.285, 632.291, 632.315, 633.741, 634.227, 634A.230, 635.167, 636.145, 637.090, 637B.290, 639.100, 639.2813, 640.169, 640A.230, 644A.900 or 654.200.

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS ~~453.301 or~~ 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.086, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the felony.



1 If a conveyance is forfeited, the appropriate law enforcement agency  
2 may pay the existing balance and retain the conveyance for official  
3 use.

4 3. For the purposes of this section, a firearm is loaded if:

5 (a) There is a cartridge in the chamber of the firearm;

6 (b) There is a cartridge in the cylinder of the firearm, if the  
7 firearm is a revolver; or

8 (c) There is a cartridge in the magazine and the magazine is in  
9 the firearm or there is a cartridge in the chamber, if the firearm is a  
10 semiautomatic firearm.

11 4. As used in this section, “act of terrorism” has the meaning  
12 ascribed to it in NRS 202.4415.

13 **Sec. 41.** NRS 115.010 is hereby amended to read as follows:

14 115.010 1. The homestead is not subject to forced sale on  
15 execution or any final process from any court, except as otherwise  
16 provided by subsections 2, 3 and 5, and NRS 115.090 and except as  
17 otherwise required by federal law.

18 2. The exemption provided in subsection 1 extends only to that  
19 amount of equity in the property held by the claimant which does  
20 not exceed \$605,000 in value, unless allodial title has been  
21 established and not relinquished, in which case the exemption  
22 provided in subsection 1 extends to all equity in the dwelling, its  
23 appurtenances and the land on which it is located.

24 3. Except as otherwise provided in subsection 4, the exemption  
25 provided in subsection 1 does not extend to process to enforce the  
26 payment of obligations contracted for the purchase of the property,  
27 or for improvements made thereon, including any mechanic’s lien  
28 lawfully obtained, or for legal taxes, or for:

29 (a) Any mortgage or deed of trust thereon executed and given,  
30 including, without limitation, any second or subsequent mortgage,  
31 mortgage obtained through refinancing, line of credit taken against  
32 the property and a home equity loan; or

33 (b) Any lien to which prior consent has been given through the  
34 acceptance of property subject to any recorded declaration of  
35 restrictions, deed restriction, restrictive covenant or equitable  
36 servitude, specifically including any lien in favor of an association  
37 pursuant to NRS 116.3116 or 117.070,

38 ↪ by both spouses, when that relation exists.

39 4. If allodial title has been established and not relinquished, the  
40 exemption provided in subsection 1 extends to process to enforce  
41 the payment of obligations contracted for the purchase of the  
42 property, and for improvements made thereon, including any  
43 mechanic’s lien lawfully obtained, and for legal taxes levied by a  
44 state or local government, and for:

45 (a) Any mortgage or deed of trust thereon; and



(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

↳ unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.

5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.121, inclusive, 179.1211 to 179.1235, inclusive, or 207.350 to 207.520, inclusive ~~[-], or sections 2 to 35, inclusive, of this act.~~

6. Any declaration of homestead which has been filed before July 1, 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, 2007.

**Sec. 42.** NRS 202.340 is hereby amended to read as follows:

202.340 1. ~~[Except as otherwise provided for firearms forfeitable pursuant to NRS 453.301, when]~~ **When** any instrument or weapon described in NRS 202.350 is taken from the possession of any person charged with the commission of any public offense or crime or any child charged with committing a delinquent act, the instrument or weapon must be surrendered to:

(a) The head of the police force or department of an incorporated city if the possession thereof was detected by any member of the police force of the city; or

(b) The chief administrator of a state law enforcement agency, for disposal pursuant to NRS 333.220, if the possession thereof was detected by any member of the agency.

↳ In all other cases, the instrument or weapon must be surrendered to the sheriff of the county or the sheriff of the metropolitan police department for the county in which the instrument or weapon was taken.

2. Except as otherwise provided in subsection 5, the governing body of the county or city or the metropolitan police committee on fiscal affairs shall at least once a year order the local law enforcement officer to whom any instrument or weapon is surrendered pursuant to subsection 1 to:

(a) Retain the confiscated instrument or weapon for use by the law enforcement agency headed by the officer;

(b) Sell the confiscated instrument or weapon to another law enforcement agency;



(c) Destroy or direct the destruction of the confiscated instrument or weapon if it is not otherwise required to be destroyed pursuant to subsection 5;

(d) Trade the confiscated instrument or weapon to a properly licensed retailer or wholesaler in exchange for equipment necessary for the performance of the agency's duties; or

(e) Donate the confiscated instrument or weapon to a museum, the Nevada National Guard or, if appropriate, to another person for use which furthers a charitable or public interest.

3. All proceeds of a sale ordered pursuant to subsection 2 by:

(a) The governing body of a county or city must be deposited with the county treasurer or the city treasurer and the county treasurer or the city treasurer shall credit the proceeds to the general fund of the county or city.

(b) A metropolitan police committee on fiscal affairs must be deposited in a fund which was created pursuant to NRS 280.220.

4. Any officer receiving an order pursuant to subsection 2 shall comply with the order as soon as practicable.

5. Except as otherwise provided in subsection 6, the officer to whom a confiscated instrument or weapon is surrendered pursuant to subsection 1 shall:

(a) Except as otherwise provided in paragraph (c), destroy or direct to be destroyed any instrument or weapon which is determined to be dangerous to the safety of the public.

(b) Except as otherwise provided in paragraph (c), return any instrument or weapon, which has not been destroyed pursuant to paragraph (a):

(1) Upon demand, to the person from whom the instrument or weapon was confiscated if the person is acquitted of the public offense or crime of which the person was charged; or

(2) To the legal owner of the instrument or weapon if the Attorney General or the district attorney determines that the instrument or weapon was unlawfully acquired from the legal owner. If retention of the instrument or weapon is ordered or directed pursuant to paragraph (c), except as otherwise provided in paragraph (a), the instrument or weapon must be returned to the legal owner as soon as practicable after the order or direction is rescinded.

(c) Retain the confiscated instrument or weapon held by the officer pursuant to an order of a judge of a court of record or by direction of the Attorney General or district attorney that the retention is necessary for purposes of evidence, until the order or direction is rescinded.

(d) Return any instrument or weapon which was stolen to its rightful owner, unless the return is otherwise prohibited by law.



6. Before any disposition pursuant to subsection 5, the officer who is in possession of the confiscated instrument or weapon shall submit a full description of the instrument or weapon to a laboratory which provides forensic services in this State. The director of the laboratory shall determine whether the instrument or weapon:

(a) Must be sent to the laboratory for examination as part of a criminal investigation; or

(b) Is a necessary addition to a referential collection maintained by the laboratory for purposes relating to law enforcement.

**Sec. 43.** Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Peace Officers' Standards and Training Commission may require, as a condition of the certification of each peace officer, the completion of training concerning the procedures set forth in sections 2 to 35, inclusive, of this act.*

**Sec. 44.** NRS 289.450 is hereby amended to read as follows:

289.450 As used in NRS 289.450 to 289.680, inclusive, *and section 43 of this act*, unless the context otherwise requires, the words and terms defined in NRS 289.460 to 289.490, inclusive, have the meanings ascribed to them in those sections.

**Sec. 45.** NRS 372A.070 is hereby amended to read as follows:

372A.070 1. A person shall not sell, offer to sell or possess with the intent to sell a controlled substance unless he or she first:

(a) Registers with the Department as a dealer in controlled substances and pays an annual fee of \$250; and

(b) Pays a tax on:

(1) Each gram of a controlled substance, or portion thereof, of \$1,000; and

(2) Each 50 dosage units of a controlled substance that is not sold by weight, or portion thereof, of \$2,000.

2. For the purpose of calculating the tax imposed by subparagraph (1) of paragraph (b) of subsection 1, the controlled substance must be measured by the weight of the substance in the dealer's possession, including the weight of any material, compound, mixture or preparation that is added to the controlled substance.

3. The Department shall not require a registered dealer to give his or her name, address, social security number or other identifying information on any return submitted with the tax.

4. Any person who violates subsection 1 is subject to a civil penalty of 100 percent of the tax in addition to the tax imposed by subsection 1. Any civil penalty imposed pursuant to this subsection must be collected as part of the tax.



5. The district attorney of any county in which a dealer resides may institute and conduct the prosecution of any action for violation of subsection 1.

6. Property forfeited ~~[for subject to forfeiture]~~ pursuant to ~~[NRS 453.301]~~ *sections 2 to 35, inclusive, of this act* must not be used to satisfy a fee, tax or penalty imposed by this section.

7. As used in this section:

(a) “Cannabis product” has the meaning ascribed to it in NRS 678A.120.

(b) “Controlled substance” does not include cannabis or cannabis products.

**Sec. 46.** NRS 387.1212 is hereby amended to read as follows:

387.1212 1. The State Education Fund is hereby created as a special revenue fund to be administered by the Superintendent of Public Instruction for the purpose of supporting the operation of the public schools in this State. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

2. Money which must be deposited for credit to the State Education Fund includes, without limitation:

(a) All money derived from interest on the State Permanent School Fund, as provided in NRS 387.030;

(b) The proceeds of the tax imposed pursuant to NRS 244.33561 and any applicable penalty or interest, less any amount retained by the county treasurer for the actual cost of collecting and administering the tax;

(c) The proceeds of the tax imposed pursuant to subsection 1 of NRS 387.195;

(d) The portion of the money in each special account created pursuant to subsection 1 of NRS 179.1187 which is identified in paragraph ~~(d)~~ (c) of subsection 2 of NRS 179.1187;

(e) The money identified in subsection 1 of NRS 328.450;

(f) The money identified in subsection 1 of NRS 328.460;

(g) The money identified in paragraph (a) of subsection 2 of NRS 360.850;

(h) The money identified in paragraph (a) of subsection 2 of NRS 360.855;

(i) The money required to be paid over to the State Treasurer for deposit to the credit of the State Education Fund pursuant to subsection 4 of NRS 362.170;

(j) The portion of the proceeds of the tax imposed pursuant to subsection 1 of NRS 372A.290 identified in paragraph (b) of subsection 4 of NRS 372A.290;

(k) The proceeds of the tax imposed pursuant to subsection 3 of NRS 372A.290;



(l) The proceeds of the fees, taxes, interest and penalties imposed pursuant to chapter 374 of NRS, as transferred pursuant to subsection 3 of NRS 374.785;

(m) The money identified in paragraph (b) of subsection 3 of NRS 678B.390;

(n) The portion of the proceeds of the excise tax imposed pursuant to subsection 1 of NRS 463.385 identified in paragraph (c) of subsection 5 of NRS 463.385;

(o) The money required to be distributed to the State Education Fund pursuant to subsection 3 of NRS 482.181;

(p) The portion of the net profits of the grantee of a franchise, right or privilege identified in NRS 709.110;

(q) The portion of the net profits of the grantee of a franchise identified in NRS 709.230;

(r) The portion of the net profits of the grantee of a franchise identified in NRS 709.270; and

(s) The direct legislative appropriation from the State General Fund required by subsection 3.

3. In addition to money from any other source provided by law, support for the State Education Fund must be provided by direct legislative appropriation from the State General Fund in an amount determined by the Legislature to be sufficient to fund the operation of the public schools in this State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium. Money in the State Education Fund does not revert to the State General Fund at the end of a fiscal year, and the balance in the State Education Fund must be carried forward to the next fiscal year.

4. Money in the Fund must be paid out on claims as other claims against the State are paid.

5. The Superintendent of Public Instruction may create one or more accounts in the State Education Fund for the purpose of administering any money received from the Federal Government for the support of education and any State money required to be administered separately to satisfy any requirement imposed by the Federal Government. The money in any such account must not be considered when calculating the statewide base per pupil funding amount or appropriating money from the State Education Fund pursuant to NRS 387.1214. The interest and income earned on the money in any such account, after deducting any applicable charges, must be credited to the account.

**Sec. 47.** NRS 453.305 is hereby amended to read as follows:

453.305 1. Whenever a person is arrested for violating any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, and real property or a mobile home occupied by the person





1 as a tenant has been used to facilitate the violation, the prosecuting  
2 attorney responsible for the case shall cause to be delivered to the  
3 owner of the property or mobile home a written notice of the arrest.

4 2. Whenever a person is convicted of violating any of the  
5 provisions of NRS 453.011 to 453.552, inclusive, except NRS  
6 453.336, and real property or a mobile home occupied by the person  
7 as a tenant has been used to facilitate the violation, the prosecuting  
8 attorney responsible for the case shall cause to be delivered to the  
9 owner of the property or mobile home a written notice of the  
10 conviction.

11 3. The notices required by this section must:

12 (a) Be written in language which is easily understood;

13 (b) Be sent by certified or registered mail, return receipt  
14 requested, to the owner at the owner's last known address;

15 (c) Be sent within 15 days after the arrest occurs or judgment of  
16 conviction is entered against the tenant, as the case may be; **and**

17 (d) Identify the tenant involved and the offense for which the  
18 tenant has been arrested or convicted . ~~}; and~~

19 ~~—(e) Advise the owner that:~~

20 ~~—(1) The property or mobile home is subject to forfeiture~~  
21 ~~pursuant to NRS 179.1156 to 179.1205, inclusive, and 453.301~~  
22 ~~unless the tenant, if convicted, is evicted;~~

23 ~~—(2) Any similar violation by the same tenant in the future~~  
24 ~~may also result in the forfeiture of the property unless the tenant has~~  
25 ~~been evicted;~~

26 ~~—(3) In any proceeding for forfeiture based upon such a~~  
27 ~~violation the owner will, by reason of the notice, be deemed to have~~  
28 ~~known of and consented to the unlawful use of the property or~~  
29 ~~mobile home; and~~

30 ~~—(4) The provisions of NRS 40.2514 and 40.254 authorize the~~  
31 ~~supplemental remedy of summary eviction to facilitate the owner's~~  
32 ~~recovery of the property or mobile home upon such a violation and~~  
33 ~~provide for the recovery of any reasonable attorney's fees the owner~~  
34 ~~incurs in doing so.]~~

35 4. ~~[Nothing in this section shall be deemed to preclude the~~  
36 ~~commencement of a proceeding for forfeiture or the forfeiture of the~~  
37 ~~property or mobile home, whether or not the notices required by this~~  
38 ~~section are given as required, if the proceeding and forfeiture are~~  
39 ~~otherwise authorized pursuant to NRS 179.1156 to 179.1205,~~  
40 ~~inclusive, and 453.301.~~

41 ~~—5.]~~ As used in this section, “tenant” means any person entitled  
42 under a written or oral rental agreement to occupy real property or a  
43 mobile home to the exclusion of others.

44 **Sec. 48.** Notwithstanding the provisions of NRS 218D.430 and  
45 218D.435, a committee, other than the Assembly Standing



- 1 Committee on Ways and Means and the Senate Standing Committee
- 2 on Finance, may vote on this act before the expiration of the period
- 3 prescribed for the return of a fiscal note in NRS 218D.475. This
- 4 section applies retroactively from and after March 22, 2021.

5 **Sec. 49.** NRS 453.301 is hereby repealed.

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## TEXT OF REPEALED SECTION

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**453.301 Property subject to forfeiture.** The following are subject to forfeiture pursuant to NRS 179.1156 to 179.1205, inclusive:

1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

3. All property which is used, or intended for use, as a container for property described in subsections 1 and 2.

4. All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used, or intended for use, in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

5. All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, concealment, manufacture or protection, for the purpose of sale, possession for sale or receipt of property described in subsection 1 or 2.

6. All drug paraphernalia as defined by NRS 453.554 which are used in violation of NRS 453.560, 453.562 or 453.566 or a law of any other jurisdiction which prohibits the same or similar conduct, or of an injunction issued pursuant to NRS 453.558.

7. All imitation controlled substances which have been manufactured, distributed or dispensed in violation of the provisions of NRS 453.332 or 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.



8. All real property and mobile homes used or intended to be used by any owner or tenant of the property or mobile home to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, except NRS 453.336. As used in this subsection, "tenant" means any person entitled, under a written or oral rental agreement, to occupy real property or a mobile home to the exclusion of others.

9. Everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct, all proceeds traceable to such an exchange, and all other property used or intended to be used to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, except NRS 453.336. If an amount of cash which exceeds \$300 is found in the possession of a person who is arrested for a violation of NRS 453.337 or 453.338, then there is a rebuttable presumption that the cash is traceable to an exchange for a controlled substance and is subject to forfeiture pursuant to this subsection.

10. All firearms, as defined by NRS 202.253, which are in the actual or constructive possession of a person who possesses or is consuming, manufacturing, transporting, selling or under the influence of any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

11. All computer hardware, equipment, accessories, software and programs that are in the actual or constructive possession of a person who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy and who violates the provisions of NRS 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

