

ASSEMBLY BILL NO. 425—COMMITTEE ON JUDICIARY

MARCH 26, 2021

Referred to Committee on Judiciary

SUMMARY—Establishes provisions relating to the criminal forfeiture of certain currency used in or derived from unlawful acts relating to the transportation, sale or trafficking 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 of Minor Currency Act; revising provisions relating to the civil forfeiture of certain currency attributable to certain crimes; authorizing the Peace Officers’ Standards and Training Commission to require training of peace officers regarding the Act; 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 of Minor Currency Act governing the seizure, forfeiture and disposition of minor currency used in or derived from certain crimes relating to controlled substances. **Sections 4 and 5.5** of this bill define certain terms for the purpose of the Act, including the term “minor currency,” which means United States currency totaling \$5,000 or less. **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: (1) governs the seizure, forfeiture and disposition of minor currency used in or derived from crimes relating to the transportation, sale or trafficking of controlled substances; and (2) prohibits the forfeiture of minor currency used in or derived from the possession or purchase of a controlled substance. **Sections 36, 45 and 46.5** 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 minor currency 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 minor currency under the Act.

Section 10 of this bill authorizes minor currency to be seized if the minor currency was used in or derived from an unlawful act relating to the transportation, sale or trafficking of a controlled substance.

Section 12 of this bill authorizes the State to file a verified application with the court for the seizure of minor currency by a state or local law enforcement agency.

Section 12 authorizes the court to issue a preliminary order for the seizure of the minor currency if the State proves by clear and convincing evidence that the minor currency 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 minor currency; and (2) expires not later than 90 days after its 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 minor currency and a hearing on the application.

Section 13 of this bill authorizes a state or local law enforcement agency to seize minor currency without a court order if: (1) the seizure is incident to a lawful arrest or search; (2) the minor currency is subject to a previous judgment of forfeiture in this State; or (3) the State has probable cause to believe that the minor currency will be 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 minor currency to give an itemized receipt to the person whose minor currency was seized or to leave the itemized receipt at the place where the minor currency was seized.

After minor currency is seized by a state or local law enforcement agency, **section 15** of this bill requires the State to perform a reasonable search and notify the defendant and other persons with an interest in the minor currency that the minor currency 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 minor currency 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 order the return of seized minor currency to the defendant or another person with an interest in the minor currency.

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 minor currency seized by the state or local law enforcement agency.

Section 18 of this bill provides that the State gains provisional title to seized minor currency until the minor currency is forfeited, at which time the State gains real title to the minor currency.

Section 19 of this bill prohibits minor currency 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 transportation, sale or trafficking of controlled substances; (2) the State dismisses any such charge against the defendant; or (3) the defendant is not convicted of an unlawful act relating to the transportation, sale or trafficking of a controlled substance.

Section 20 of this bill: (1) authorizes minor currency 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



75 court alone to make a determination regarding the forfeiture of the seized minor
76 currency after the conviction of the defendant and sets forth the standards for
77 making such a determination. **Section 21** authorizes the forfeiture of seized minor
78 currency before the conviction of the defendant if the defendant dies, gets deported
79 or absconds. Finally, **section 21** establishes appellate rights concerning the parties
80 to the forfeiture decision.

81 **Section 23** of this bill provides that a defendant is not jointly and severally
82 liable for an award of forfeiture owed by other defendants.

83 **Section 24** of this bill: (1) authorizes a defendant to petition the court to
84 determine whether the forfeiture of minor currency is unconstitutionally excessive;
85 and (2) establishes procedures concerning a hearing on such a petition.

86 **Section 25** of this bill requires minor currency that is forfeited to be distributed
87 in accordance with a specific order of priority. **Section 28** of this bill: (1) provides
88 that minor currency of an innocent owner is not subject to forfeiture; (2) authorizes
89 the State to summarily return minor currency to an innocent owner; (3) authorizes
90 an innocent owner to file a petition for the return of the minor currency; (4) affords
91 the parties appellate rights regarding a decision on the petition; and (5) prohibits the
92 appointment of an attorney to represent an innocent owner. **Section 29** of this bill
93 awards certain fees and costs to innocent owners who succeed on a petition for the
94 return of seized minor currency.

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

100 Existing law requires law enforcement agencies to make annual reports to the
101 Attorney General concerning the forfeiture of property. (NRS 179.1205) **Section 33**
102 of this bill requires state or local law enforcement agencies acting under the
103 provisions of the Act to comply with such annual reporting requirements. **Section**
104 **39** of this bill makes a conforming change relating to the report.

105 **Section 34** of this bill prohibits a state or local law enforcement agency from
106 transferring seized minor currency to a federal agency seeking the adoption of the
107 minor currency.

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

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

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

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

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



1 **Sec. 3.** *As used in sections 2 to 35, inclusive, of this act,*
2 *unless the context otherwise requires, the words and terms defined*
3 *in sections 4 and 5.5 of this act have the meanings ascribed to*
4 *them in those sections.*

5 **Sec. 4.** *“Actual knowledge” means direct and clear*
6 *awareness of information, a fact or a condition.*

7 **Sec. 5.** (Deleted by amendment.)

8 **Sec. 5.5.** *“Minor currency” means United States currency*
9 *totaling \$5,000 or less.*

10 **Sec. 6.** (Deleted by amendment.)

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

14 *1. Deter criminal activity by reducing the economic*
15 *incentives;*

16 *2. Confiscate minor currency used in violation of the law;*

17 *3. Disgorge minor currency that is the fruit of illegal*
18 *conduct; and*

19 *4. Protect against the wrongful forfeiture of minor currency.*

20 **Sec. 8.** *Notwithstanding any other provision of law, sections*
21 *2 to 35, inclusive, of this act:*

22 *1. Govern the seizure, forfeiture and disposition of minor*
23 *currency used in or derived from an unlawful act relating to the*
24 *transportation, sale or trafficking of a controlled substance.*

25 *2. Prohibit the forfeiture of minor currency used in or*
26 *derived from the possession or purchase of a controlled substance.*

27 **Sec. 9.** *1. A court with jurisdiction over any underlying*
28 *criminal proceedings shall have jurisdiction over any proceedings*
29 *relating to the seizure, forfeiture and disposition of minor*
30 *currency pursuant to sections 2 to 35, inclusive, of this act.*

31 *2. If an attorney is appointed by the court to represent a*
32 *defendant in the criminal proceedings, the attorney shall represent*
33 *the defendant in the proceedings relating to the seizure, forfeiture*
34 *and disposition of minor currency pursuant to sections 2 to 35,*
35 *inclusive, of this act.*

36 **Sec. 10.** *Minor currency is subject to seizure pursuant to*
37 *sections 11, 12 and 13 of this act, as applicable, if the minor*
38 *currency was used in or derived from an unlawful act relating to*
39 *the transportation, sale or trafficking of a controlled substance.*

40 **Sec. 11.** (Deleted by amendment.)

41 **Sec. 12.** *1. The State may file a verified application*
42 *requesting that minor currency be seized by a state or local law*
43 *enforcement agency.*

44 *2. If it appears by clear and convincing evidence from the*
45 *specific facts shown by the verified application that the minor*



1 *currency is subject to seizure pursuant to section 10 of this act, the*
2 *court may grant a preliminary order for the seizure of the minor*
3 *currency.*

4 *3. A preliminary order may be granted without notice to the*
5 *defendant and any other party with an interest in the minor*
6 *currency.*

7 *4. Except as otherwise provided in subsection 5, a*
8 *preliminary order expires within such time, not to exceed 90 days,*
9 *as the court fixes. At the time of such expiration, the minor*
10 *currency seized pursuant to this section must be returned to the*
11 *owner.*

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

14 *6. If good cause is shown for the extension, the court may*
15 *grant the extension after notice is provided to the defendant and*
16 *any person with an interest in the minor currency and a hearing*
17 *on the application. An extension granted pursuant to this*
18 *subsection expires upon a determination of forfeiture pursuant to*
19 *section 20 or 21 of this act.*

20 **Sec. 13.** *1. In addition to the seizure of minor currency by*
21 *court order pursuant to section 12 of this act, minor currency may*
22 *be seized by a state or local law enforcement agency if:*

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

24 *(b) The minor currency subject to seizure has been the subject*
25 *of a prior judgment in favor of the State; or*

26 *(c) The State has probable cause to believe that the delay*
27 *occasioned by the necessity to obtain a court order would result in*
28 *the removal of the minor currency that is forfeitable pursuant to*
29 *section 20 or 21 of this act.*

30 **Sec. 14.** *1. When minor currency is seized pursuant to*
31 *section 12 or 13 of this act, as applicable, the state or local law*
32 *enforcement agency that seized the minor currency shall:*

33 *(a) Give an itemized receipt to the person possessing the minor*
34 *currency; or*

35 *(b) In the absence of a person possessing the minor currency,*
36 *leave an itemized receipt at the place where the minor currency*
37 *was found, if reasonably practicable.*

38 *2. The receipt must contain a unique identification number.*

39 *3. Upon providing the receipt to a person or leaving the*
40 *receipt at the place where the minor currency was found pursuant*
41 *to this section, notice of the seizure of the minor currency shall be*
42 *deemed complete.*

43 **Sec. 15.** *1. Not later than 30 days after the seizure of minor*
44 *currency pursuant to section 12 or 13 of this act, the State shall:*



1 (a) Perform a reasonable search to identify any person, other
2 than the defendant, known to have an interest in the minor
3 currency; and

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

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

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

18 2. The court shall hear a motion filed pursuant to subsection
19 1 not later than 15 days after the filing. The motion must be
20 heard:

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

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

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

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

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

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

32 (b) An information or indictment charging the defendant with
33 an unlawful act relating to the transportation, sale or trafficking
34 of a controlled substance has not been filed by the State;

35 (c) The judgment concerning the forfeiture of the minor
36 currency seized pursuant to section 12 or 13 of this act will likely
37 be found in favor of:

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

40 (2) A person with an interest in the minor currency
41 pursuant to section 28 of this act, if the interested person filed the
42 motion pursuant to subsection 1; or

43 (d) Unless the State proves by clear and convincing evidence
44 that the minor currency will likely be forfeited pursuant to section
45 20 or 21 of this act, and subject to the limitations set forth in



1 subsection 6, the defendant filed the motion pursuant to
2 subsection 1 and the minor currency is the only reasonable means
3 for the defendant to pay for legal representation in the criminal
4 proceedings.

5 6. The court shall not order the return of more minor
6 currency pursuant to paragraph (d) of subsection 5 than is
7 reasonably necessary to cover the costs of the legal representation
8 of the defendant.

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

14 2. A document purporting to waive an interest in minor
15 currency seized pursuant to section 12 or 13 of this act is void and
16 inadmissible in court.

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

21 2. Title to minor currency seized pursuant to section 12 or 13
22 of this act vests with the State when the court renders a decision
23 concerning the forfeiture of the seized minor currency pursuant to
24 section 20 or 21 of this act and relates back to the time when the
25 State acquired provisional title to the minor currency pursuant to
26 subsection 1. Such title is subject to claims by third parties
27 adjudicated pursuant to section 16 or 28 of this act.

28 **Sec. 19.** Minor currency seized pursuant to section 12 or 13
29 of this act may not be forfeited and must be returned to the person
30 from whom the minor currency was seized if:

31 1. The State:

32 (a) Does not file criminal charges against the defendant
33 relating to the commission of an unlawful act relating to the
34 transportation, sale or trafficking of a controlled substance; or

35 (b) Dismisses the charges filed against the defendant for an
36 unlawful act relating to the transportation, sale or trafficking of a
37 controlled substance; or

38 2. The defendant is not convicted of an unlawful act relating
39 to the transportation, sale or trafficking of a controlled substance.

40 **Sec. 20.** Minor currency seized pursuant to section 12 or 13
41 of this act may be forfeited as part of a plea agreement or the
42 stipulation of the parties if:

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



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

3 **Sec. 21.** *1. The State shall file a notice of proposed*
4 *forfeiture with the information or indictment charging the*
5 *defendant with a violation of state law relating to the*
6 *transportation, sale or trafficking of a controlled substance, or any*
7 *time thereafter, but not later than the date of the commencement*
8 *of the trial of the defendant. The State may amend the notice of*
9 *proposed forfeiture at any time before the commencement of the*
10 *trial.*

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

12 (a) *A description of the minor currency seized pursuant to*
13 *section 12 or 13 of this act;*

14 (b) *The time, date and place of the seizure of the minor*
15 *currency described in paragraph (a);*

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

18 (d) *A brief description of how the minor currency described in*
19 *paragraph (a) was used in or derived from the unlawful act*
20 *relating to the transportation, sale or trafficking of any controlled*
21 *substance for which the defendant was charged; and*

22 (e) *Whether the State seeks the forfeiture of the minor*
23 *currency described in paragraph (a):*

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

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

27 3. *The notice of proposed forfeiture must not be read to the*
28 *jury.*

29 4. *Except as otherwise provided in subsection 7, a*
30 *determination relating to the forfeiture of minor currency*
31 *pursuant to this section must be held in a single proceeding*
32 *following the trial of the defendant. The court shall make a*
33 *determination relating to the forfeiture in accordance with*
34 *subsections 5 and 6.*

35 5. *The court shall order the return of any minor currency*
36 *seized pursuant to section 12 or 13 of this act if the defendant is*
37 *not convicted or the provisions of subsection 6 are otherwise not*
38 *satisfied.*

39 6. *The court shall order the forfeiture of the minor currency,*
40 *if the defendant is convicted and the prosecuting attorney*
41 *establishes by clear and convincing evidence that:*

42 (a) *The defendant committed an unlawful act relating to the*
43 *transportation, sale or trafficking of a controlled substance; and*



1 (b) *The minor currency was used in or derived from an*
2 *unlawful act relating to the transportation, sale or trafficking of a*
3 *controlled substance.*

4 7. *If the defendant dies, is deported or absconds before trial,*
5 *the court shall order the forfeiture of the minor currency seized*
6 *pursuant to section 12 or 13 of this act upon a finding by clear and*
7 *convincing evidence that:*

8 (a) *The defendant was charged with a violation of state law*
9 *relating to the transportation, sale or trafficking of a controlled*
10 *substance;*

11 (b) *The minor currency was used in or derived from an*
12 *unlawful act relating to the transportation, sale or trafficking of a*
13 *controlled substance; and*

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

17 8. *A decision of the court regarding forfeiture of minor*
18 *currency pursuant to this section may be appealed by any party to*
19 *the decision.*

20 **Sec. 22.** (Deleted by amendment.)

21 **Sec. 23.** *A defendant is not jointly and severally liable for an*
22 *award of forfeiture owed by other defendants. If ownership of the*
23 *minor currency is unclear, a court may order each defendant to*
24 *forfeit the minor currency on a pro rata basis or by any other*
25 *means the court finds equitable.*

26 **Sec. 24.** 1. *At any time after a court has ordered the*
27 *forfeiture of minor currency pursuant to section 21 of this act,*
28 *the defendant may petition the court to determine whether the*
29 *forfeiture is unconstitutionally excessive under the Nevada*
30 *Constitution or the United States Constitution.*

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

34 3. *In determining whether the forfeiture is unconstitutionally*
35 *excessive, the court:*

36 (a) *May consider all relevant factors, including, without*
37 *limitation:*

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

41 (2) *The extent to which the defendant participated in the*
42 *related crime;*

43 (3) *The extent to which the minor currency was used in*
44 *committing the related crime;*

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



- 1 (5) *Whether the related crime was completed or attempted;*
2 (6) *The hardship to the defendant if the forfeiture is*
3 *realized;*
4 (7) *Whether the forfeiture would deprive the defendant of*
5 *his or her livelihood; and*
6 (8) *The hardship from the loss of the minor currency to the*
7 *family of the defendant or other relevant persons if the minor*
8 *currency is forfeited; and*
9 (b) *May not consider the value of the minor currency to the*
10 *State.*

11 **Sec. 25.** *1. If a court orders the forfeiture of minor*
12 *currency pursuant to section 20 or 21 of this act and all appeals of*
13 *the order have been exhausted by the defendant, the State and any*
14 *other party with an interest in the minor currency, the minor*
15 *currency must be distributed in the following order of priority:*

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

18 (b) *To reimburse the state or local law enforcement agency*
19 *who seized the minor currency for expenses related to the seizure,*
20 *forfeiture and disposition of the minor currency pursuant to*
21 *sections 2 to 35, inclusive, of this act, except personnel costs; and*

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

25 **2.** *Any amount remaining after distribution pursuant to*
26 *subsection 2 must be divided and disbursed to:*

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

29 (b) *The State Permanent School Fund.*

30 **Sec. 26.** (Deleted by amendment.)

31 **Sec. 27.** (Deleted by amendment.)

32 **Sec. 28.** *1. Minor currency of an innocent owner seized*
33 *pursuant to section 12 or 13 of this act is not subject to forfeiture.*

34 **2.** *At any time before minor currency seized pursuant to*
35 *section 12 or 13 of this act is forfeited pursuant to section 20 or 21*
36 *of this act, the State may summarily return the minor currency to*
37 *an innocent owner.*

38 **3.** *If the State does not summarily return the minor currency*
39 *to an innocent owner pursuant to subsection 2, the innocent*
40 *owner may, at any time before the minor currency is forfeited*
41 *pursuant to section 20 or 21 of this act, file a petition with the*
42 *court, free of charge.*

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

44 (a) *The right, title or interest of the innocent owner to the*
45 *minor currency seized pursuant to section 12 or 13 of this act;*



1 (b) *The time and circumstances of the acquisition of the right,*
2 *title or interest in the minor currency described in paragraph (a);*

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

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

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

12 6. *If the court determines that the petitioner has established*
13 *by a preponderance of the evidence that the petitioner is an*
14 *innocent owner, the court shall order the State to return the minor*
15 *currency to the petitioner, unless the State proves by clear and*
16 *convincing evidence that the petitioner had actual knowledge that*
17 *the minor currency was used in or derived from the unlawful act*
18 *for which the minor currency was seized pursuant to section 12 or*
19 *13 of this act.*

20 7. *The prosecuting attorney may not use information*
21 *provided in the petition described in subsection 3 in the criminal*
22 *proceedings against the defendant.*

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

25 9. *An attorney must not be appointed to represent an*
26 *innocent owner.*

27 10. *As used in this section, “innocent owner” means a person*
28 *who:*

29 (a) *Has any interest in minor currency seized pursuant to*
30 *section 12 or 13 of this act; or*

31 (b) *Is the heir of the defendant from whom minor currency*
32 *was seized pursuant to section 12 or 13 of this act.*

33 **Sec. 29.** *In any proceeding pursuant to section 28 of this act*
34 *where a court orders the return of minor currency seized pursuant*
35 *to section 12 or 13 of this act to a petitioner, the state or local law*
36 *enforcement agency which seized the minor currency shall be*
37 *liable for:*

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

40 2. *Post-judgment interest; and*

41 3. *Any interest actually paid from the date of the seizure.*

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



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

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

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

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

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

17 *2. The state or local law enforcement agency which seized the*
18 *minor currency pursuant to section 12 or 13 of this act is*
19 *responsible for any costs relating to the minor currency returned*
20 *pursuant to subsection 1.*

21 **Sec. 33.** *Every state or local law enforcement agency shall*
22 *comply with the reporting requirements described in*
23 *NRS 179.1205.*

24 **Sec. 34.** *1. A state or local law enforcement agency shall*
25 *not refer or otherwise transfer minor currency seized pursuant to*
26 *section 12 or 13 of this act, as applicable, to a federal agency*
27 *seeking the adoption of the seized minor currency pursuant to the*
28 *Controlled Substances Act, 21 U.S.C. Chapter 13 §§ 801 et seq.*
29 *unless the state or local law enforcement agency is working with*
30 *the federal agency:*

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

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

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

37 **Sec. 35.** *1. The Attorney General shall establish guidelines*
38 *to be used by state or local law enforcement agencies who*
39 *participate in joint task forces or otherwise collaborate with other*
40 *jurisdictions concerning unlawful acts relating to the*
41 *transportation, sale or trafficking of a controlled substance.*

42 *2. The Department of Public Safety shall publish the*
43 *guidelines established pursuant to subsection 1 on the Internet*
44 *website of the Department.*



1 **Sec. 36.** NRS 179.1156 is hereby amended to read as follows:
2 179.1156 Except as otherwise provided in NRS 179.1211 to
3 179.1235, inclusive, and 207.350 to 207.520, inclusive, *and*
4 *sections 2 to 35, inclusive, of this act*, the provisions of NRS
5 179.1156 to 179.121, inclusive, govern the seizure, forfeiture and
6 disposition of all property and proceeds subject to forfeiture.

7 **Sec. 37.** (Deleted by amendment.)

8 **Sec. 38.** (Deleted by amendment.)

9 **Sec. 39.** NRS 179.1205 is hereby amended to read as follows:
10 179.1205 1. On an annual basis, each law enforcement
11 agency shall report the following information about each individual
12 seizure and forfeiture completed by the law enforcement agency
13 under state forfeiture law:

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

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

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

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

21 (4) Market value of the property seized;

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

23 (6) Date of the disposition of the property.

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

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

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

30 (3) Distribution of proceeds pursuant to NRS 179.118,
31 179.1187, 179.1233 and 207.500 ~~H~~, *and section 25 of this act*.

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

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

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

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



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

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

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

8 **Sec. 40.** (Deleted by amendment.)

9 **Sec. 41.** (Deleted by amendment.)

10 **Sec. 42.** (Deleted by amendment.)

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

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

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

18 289.450 As used in NRS 289.450 to 289.680, inclusive, *and*
19 *section 43 of this act*, unless the context otherwise requires, the
20 words and terms defined in NRS 289.460 to 289.490, inclusive,
21 have the meanings ascribed to them in those sections.

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

23 372A.070 1. A person shall not sell, offer to sell or possess
24 with the intent to sell a controlled substance unless he or she first:

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

27 (b) Pays a tax on:

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

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

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

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

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



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

4 6. Property *or minor currency* forfeited or subject to forfeiture
5 pursuant to NRS 453.301 *or sections 2 to 35, inclusive, of this act*
6 must not be used to satisfy a fee, tax or penalty imposed by this
7 section.

8 7. As used in this section:

9 (a) "Cannabis product" has the meaning ascribed to it in
10 NRS 678A.120.

11 (b) "Controlled substance" does not include cannabis or
12 cannabis products.

13 (c) *"Minor currency" has the meaning ascribed to it in section*
14 *5.5 of this act.*

15 **Sec. 46.** (Deleted by amendment.)

16 **Sec. 46.5.** NRS 453.301 is hereby amended to read as follows:
17 453.301 ~~[The]~~ *Except as otherwise provided in sections 2 to*
18 *35, inclusive, of this act, the* following are subject to forfeiture
19 pursuant to NRS 179.1156 to 179.1205, inclusive:

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

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

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

32 4. All books, records and research products and materials,
33 including formulas, microfilm, tapes and data, which are used, or
34 intended for use, in violation of the provisions of NRS 453.011 to
35 453.552, inclusive, or a law of any other jurisdiction which prohibits
36 the same or similar conduct.

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

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



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

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

15 9. Everything of value furnished or intended to be furnished in
16 exchange for a controlled substance in violation of the provisions of
17 NRS 453.011 to 453.552, inclusive, or a law of any other
18 jurisdiction which prohibits the same or similar conduct, all
19 proceeds traceable to such an exchange, and all other property used
20 or intended to be used to facilitate a violation of the provisions of
21 NRS 453.011 to 453.552, inclusive, except NRS 453.336, or used or
22 intended to be used to facilitate a violation of a law of any other
23 jurisdiction which prohibits the same or similar conduct as
24 prohibited in NRS 453.011 to 453.552, inclusive, except NRS
25 453.336. If an amount of cash which exceeds \$300 is found in the
26 possession of a person who is arrested for a violation of NRS
27 453.337 or 453.338, then there is a rebuttable presumption that the
28 cash is traceable to an exchange for a controlled substance and is
29 subject to forfeiture pursuant to this subsection.

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

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

42 **Sec. 47.** (Deleted by amendment.)

43 **Sec. 48.** Notwithstanding the provisions of NRS 218D.430 and
44 218D.435, a committee, other than the Assembly Standing
45 Committee on Ways and Means and the Senate Standing Committee



1 on Finance, may vote on this act before the expiration of the period
2 prescribed for the return of a fiscal note in NRS 218D.475. This
3 section applies retroactively from and after March 22, 2021.
4 **Sec. 49.** (Deleted by amendment.)



