



House of Representatives

General Assembly

File No. 134

February Session, 2000

Substitute House Bill No. 5616

House of Representatives, March 20, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Seized Currency.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Subsection (b) of section 54-36a of the general statutes, as amended
2 by section 5 of public act 99-247, is repealed and the following is
3 substituted in lieu thereof:

4 (b) (1) Whenever property is seized in connection with a criminal
5 arrest or seized pursuant to a search warrant without an arrest, the law
6 enforcement agency seizing such property shall file, on forms
7 provided for this purpose by the Office of the Chief Court
8 Administrator, an inventory of the property seized. The inventory,
9 together with the uniform arrest report, in the case of an arrest, shall be
10 filed with the clerk of the court for the geographical area in which the
11 criminal offense is alleged to have been committed; except, when the
12 property is stolen property and, in the opinion of the law enforcement
13 officer, does not exceed two hundred fifty dollars in value, or when an
14 attempt was made to steal the property but the property at all times

15 remained on the premises in a sealed container, the filing of an
16 inventory shall not be required and such property may be returned to
17 the owner. In the case of property seized in connection with a search
18 warrant without an arrest, the inventory shall be attached to the
19 warrant and shall be filed with the clerk of the court for the
20 geographical area in which the search warrant was issued. If any
21 criminal proceeding is transferred to another court location, then the
22 clerk with whom the inventory is filed shall transfer such inventory to
23 the clerk of the court location to which such action is transferred. (2) If
24 the seized property is stolen property, within ten days of the seizure,
25 the law enforcement agency seizing the property shall notify the
26 owner of the property if known, or, if the owner of the property is
27 unknown at the time of seizure, such agency shall within ten days of
28 any subsequent ascertainment of the owner notify such owner, and, on
29 a form prescribed by the Office of the Chief Court Administrator,
30 advise the owner of his rights concerning the property and the location
31 of the property. Such written notice shall include a request form for the
32 return of the property. The owner may request the return of the
33 property by filing such request form with such law enforcement
34 agency, and upon receipt of such request, the law enforcement agency
35 shall forward it to the clerk of the court for the geographical area in
36 which the criminal offense is alleged to have been committed. The
37 clerk of the court shall notify the defendant or defendants of the
38 request to return the property. The court shall order the return of the
39 property within thirty days of the date of filing such return request by
40 the owner, except that for good cause shown, the court may order
41 retention of the property for a period to be determined by the court.
42 Any secondary evidence of the identity, description or value of such
43 property shall be admissible in evidence against such defendant in the
44 trial of such case. The fact that the evidence is secondary in nature may
45 be shown to affect the weight of such evidence, but not to affect its
46 admissibility. (3) [If the seized property is currency, the law
47 enforcement agency seizing the property may deposit the currency in a

48 safe deposit box in a financial institution in this state. No funds may be
49 removed from such safe deposit box unless ordered by the court. The
50 financial institution at which the safe deposit box is located shall not be
51 responsible for monitoring activity in the safe deposit box or insuring
52 that the contents of the safe deposit box are removed in accordance
53 with the requirements of this subdivision.] If the seized property is
54 currency, the law enforcement agency seizing the property may, after
55 taking reasonable measures to preserve the evidentiary value of such
56 currency, deposit the currency into a deposit account in the name of
57 the law enforcement agency as custodian for evidentiary funds at a
58 financial institution in this state. The financial institution at which such
59 deposit account is established shall not be required to segregate the
60 currency deposited in such deposit account. No funds may be
61 withdrawn from such deposit account except pursuant to a court order
62 directed to the financial institution. Any withdrawal of funds from
63 such deposit account shall be in the form of a check issued by the
64 financial institution to the law enforcement agency or to such other
65 payee as may be provided in the court order. Nothing in this section
66 shall prohibit a financial institution from charging a fee for the
67 maintenance and administration of such deposit account and for the
68 review of the court order. Any secondary evidence of the identity,
69 description or value of such currency shall be admissible in evidence
70 against a defendant in the trial of a criminal offense. The fact that the
71 evidence is secondary in nature may be shown to affect the weight of
72 such evidence, but not to affect its admissibility.

JUD Committee Vote: Yea 39 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Significant Cost Avoidance

Affected Agencies: Department of Public Safety

Municipal Impact: Potential Significant Cost Avoidance

Explanation

State and Municipal Impact:

The passage of this bill could result in potential significant cost avoidance to the Department of Public Safety and to local law enforcement agencies. The bill allows law enforcement agencies to deposit seized currency into special bank accounts specifically established for that purpose. Such funds may not be removed without a court order. This could protect the state and municipalities from the liability resulting from the theft of seized moneys from police evidence rooms. At least two such thefts have occurred in the state in the last two years. The potential cost avoidance is significant.

OLR Bill Analysis

sHB 5616

AN ACT CONCERNING SEIZED CURRENCY

SUMMARY:

This bill eliminates law enforcement agencies' authority to deposit seized cash into a safe deposit box in a state bank. Instead, the bill allows them to deposit it into a bank account in the state after taking reasonable steps to preserve its evidentiary value. The account must be established in their names specifically for that purpose. Banks are not required to separate the cash deposited in the account.

The bill prohibits anyone from removing funds from the special account without a court order directed to the bank. Any withdrawal must be in the form of a check to the law enforcement agency or to a payee named in the court order. Banks may charge a fee for maintaining and administering the account and reviewing court orders.

The bill applies the same trial rules to the cash that currently apply to seized stolen property returned to its proper owner and seized fireworks that were forfeited or destroyed. Under these rules, (1) courts must admit the identity, description, or value of the cash as secondary evidence (i.e., in lieu of the actual cash) in criminal trials and (2) defendants may attack the weight of the evidence, but not its admissibility, by showing that it is secondary.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Seized Property

Law enforcement agents may seize property, including cash, in connection with criminal arrests or pursuant to a search warrant

without an arrest.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0