



House of Representatives

General Assembly

File No. 613

February Session, 2000

Substitute House Bill No. 5616

House of Representatives, April 13, 2000

The Committee on Public Safety reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Seized Currency And Seized Motor Vehicles.

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2 by section 5 of public act 99-247, is repealed and the following is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] such owner's rights concerning the property
31 and the location of the property. Such written notice shall include a
32 request form for the return of the property. The owner may request the
33 return of the property by filing such request form with such law
34 enforcement agency, and upon receipt of such request, the law
35 enforcement agency shall forward it to the clerk of the court for the
36 geographical area in which the criminal offense is alleged to have been
37 committed. The clerk of the court shall notify the defendant or
38 defendants of the request to return the property. The court shall order
39 the return of the property within thirty days of the date of filing such
40 return request by the owner, except that for good cause shown, the
41 court may order retention of the property for a period to be
42 determined by the court. Any secondary evidence of the identity,
43 description or value of such property shall be admissible in evidence
44 against such defendant in the trial of such case. The fact that the
45 evidence is secondary in nature may be shown to affect the weight of
46 such evidence, but not to affect its admissibility. (3) [If the seized

47 property is currency, the law enforcement agency seizing the property
48 may deposit the currency in a safe deposit box in a financial institution
49 in this state. No funds may be removed from such safe deposit box
50 unless ordered by the court. The financial institution at which the safe
51 deposit box is located shall not be responsible for monitoring activity
52 in the safe deposit box or insuring that the contents of the safe deposit
53 box are removed in accordance with the requirements of this
54 subdivision.] If the seized property is currency, the law enforcement
55 agency seizing the property may, after taking reasonable measures to
56 preserve the evidentiary value of such currency, deposit the currency
57 into a deposit account in the name of the law enforcement agency as
58 custodian for evidentiary funds at a financial institution in this state.
59 The financial institution at which such deposit account is established
60 shall not be required to segregate the currency deposited in such
61 deposit account. No funds may be withdrawn from such deposit
62 account except pursuant to a court order directed to the financial
63 institution. Any withdrawal of funds from such deposit account shall
64 be in the form of a check issued by the financial institution to the law
65 enforcement agency or to such other payee as may be provided in the
66 court order. Nothing in this section shall prohibit a financial institution
67 from charging a fee for the maintenance and administration of such
68 deposit account and for the review of the court order. Any secondary
69 evidence of the identity, description or value of such currency shall be
70 admissible in evidence against a defendant in the trial of a criminal
71 offense. The fact that the evidence is secondary in nature may be
72 shown to affect the weight of such evidence, but not to affect its
73 admissibility. (4) Notwithstanding the provisions of this subsection, in
74 any prosecution for theft of a motor vehicle, the vehicle shall be
75 returned to the owner within thirty days of the date such owner files a
76 return request, and a photograph of the vehicle and sworn affidavit
77 attesting to the vehicle identification number shall be admissible as
78 evidence of the identity of the motor vehicle.

PS **Committee Vote:** Yea 22 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, Criminal Justice Agencies

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.

The bill also requires police departments to return stolen motor vehicles to the owner within 30 days of the owner’s request to return the vehicle. A photo of the vehicle and a sworn affidavit attesting to the vehicle identification number shall be admissible in court. This would also result in significant savings to the state and local police from reducing the number of vehicles that must be kept in storage.

OLR Bill Analysis

sHB 5616

AN ACT CONCERNING SEIZED CURRENCY AND SEIZED MOTOR VEHICLES

SUMMARY:

This bill requires recovered stolen vehicles to be returned to the owner within 30 days of the date the owner files a request for its return. It requires courts to admit a picture of the vehicle and a sworn affidavit attesting to its identification number as evidence of its identity.

The 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.

Legislative History

On March 23, 2000, the House referred the bill to the Public Safety Committee, which added the requirement for the return of motor vehicles and the admissibility of the picture as evidence.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0

Public Safety Committee

Joint Favorable Substitute
Yea 22 Nay 0