

SENATE BILL NO. 25—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to technological crimes. (BDR 18-220)

FISCAL NOTE: Effect on Local Government: No.
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 technological crimes; authorizing the Attorney General to take certain actions to prevent technological crimes; revising the provisions governing actions which constitute theft to include the theft of audio or visual services; revising the provisions governing the appointment of an Executive Director of Technological Crime within the Office of the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill authorizes the Attorney General to investigate and
2 prosecute any alleged technological crime, pursue the forfeiture of property relating
3 to a technological crime and bring an action to enjoin or obtain any equitable relief
4 to prevent the occurrence or continuation of any technological crime.

5 Existing law authorizes a district attorney to institute a civil proceeding for the
6 forfeiture of property used in the course of, intended for use in the course of,
7 derived from or gained through a technological crime. Currently, the Attorney
8 General may institute such a proceeding only if the property at issue is seized by a
9 state agency. (NRS 179.1229, 179.1231) **Section 1.5** of this bill removes this
10 limitation on the authority of the Attorney General and authorizes the institution of
11 a forfeiture proceeding by a district attorney or the Attorney General, as determined
12 in each case by an agreement between the district attorney and the Attorney
13 General.

14 Existing law describes certain actions which constitute theft. (NRS 205.0832)
15 **Section 2** of this bill revises those provisions to include the theft of audio or visual
16 services.

17 Existing law creates the Technological Crime Advisory Board. (NRS
18 205A.040) Existing law also requires the appointment of an Executive Director of



19 Technological Crime within the Office of the Attorney General upon approval by
20 two-thirds of the members of the Board. (NRS 205A.070) **Section 3** of this bill
21 requires the appointment to be made upon approval by a majority of the members
22 of the Board.

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

1 **Section 1.** Chapter 228 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. The Attorney General may:**

4 **(a) Investigate and prosecute any alleged technological crime.**

5 **(b) Pursue the forfeiture of property relating to a technological**
6 **crime in accordance with the provisions of NRS 179.1211 to**
7 **179.1235, inclusive.**

8 **(c) Bring an action to enjoin or obtain any other equitable**
9 **relief to prevent the occurrence or continuation of a technological**
10 **crime.**

11 **2. As used in this section, "technological crime" has the**
12 **meaning ascribed to it in NRS 205A.030.**

13 **Sec. 1.5.** NRS 179.1231 is hereby amended to read as follows:

14 179.1231 1. Property subject to forfeiture under NRS
15 179.1219 or 179.1229 may be seized by a law enforcement agency
16 upon process issued by a court. Before an order of civil forfeiture is
17 issued without legal process, notice of the claim for forfeiture of real
18 property may be given in the manner provided in NRS 14.010 and
19 14.015. A seizure of personal property may be made without legal
20 process if the seizure is incident to:

21 (a) A lawful arrest or search; or

22 (b) An inspection under an administrative warrant.

23 2. Property seized or made the subject of notice under this
24 section is deemed to be in the custody of the agency, subject only to
25 orders of the court which has jurisdiction over the proceedings for
26 forfeiture. An agency which has seized such property without
27 process shall begin proceedings for forfeiture promptly. Such an
28 action takes precedence over other civil proceedings. The seized
29 property is subject to an action to claim the delivery of the property
30 if the agency does not file the complaint for forfeiture within 60
31 days after the property is seized. If a complaint for forfeiture is filed
32 after an affidavit claiming delivery, the complaint must be treated as
33 a counterclaim.

34 3. When property is seized pursuant to this section, pending
35 forfeiture and final disposition, the law enforcement agency may:

36 (a) Place the property under seal.

37 (b) Remove the property to a place designated by the court.



1 (c) Require another agency authorized by law to take custody of
2 the property and remove it to an appropriate location.

3 4. The district attorney *or the Attorney General* may institute
4 civil proceedings under this section for the forfeiture of property
5 subject to forfeiture pursuant to NRS 179.1229. The *district*
6 *attorney and the Attorney General* ~~may institute such proceedings~~
7 ~~when the property is seized by a state agency.~~ *shall determine by*
8 *agreement between themselves which of them will institute such a*
9 *proceeding in a particular case.* If a district attorney *or the*
10 *Attorney General* has not instituted such a proceeding or has not
11 pursued one which was instituted ~~+~~ *in accordance with the*
12 *agreement,* the ~~Attorney General~~ *other* may intercede after giving
13 *the prosecutor designated in the agreement* 30 days' written notice
14 of the intention to do so . ~~to the district attorney.~~ In any action so
15 brought, the district court shall proceed as soon as practicable to the
16 hearing and determination. Pending final determination in an action
17 brought pursuant to this section, the district court may at any time
18 enter such injunctions, prohibitions or restraining orders, or take
19 such actions, including, without limitation, the acceptance of
20 satisfactory performance bonds, as the court deems proper in
21 connection with any property or interest subject to forfeiture.

22 5. Upon a finding of civil liability under this section, the court
23 may order the forfeiture of the appropriate property.

24 **Sec. 2.** NRS 205.0832 is hereby amended to read as follows:

25 205.0832 1. Except as otherwise provided in subsection 2, a
26 person commits theft if, without lawful authority, the person
27 knowingly:

28 (a) Controls any property of another person with the intent to
29 deprive that person of the property.

30 (b) Converts, makes an unauthorized transfer of an interest in, or
31 without authorization controls any property of another person, or
32 uses the services or property of another person entrusted to him
33 or her or placed in his or her possession for a limited, authorized
34 period of determined or prescribed duration or for a limited use.

35 (c) Obtains real, personal or intangible property or the services
36 of another person by a material misrepresentation with intent to
37 deprive that person of the property or services. As used in this
38 paragraph, "material misrepresentation" means the use of any
39 pretense, or the making of any promise, representation or statement
40 of present, past or future fact which is fraudulent and which, when
41 used or made, is instrumental in causing the wrongful control or
42 transfer of property or services. The pretense may be verbal or it
43 may be a physical act.

44 (d) Comes into control of lost, mislaid or misdelivered property
45 of another person under circumstances providing means of inquiry



1 as to the true owner and appropriates that property to his or her own
2 use or that of another person without reasonable efforts to notify the
3 true owner.

4 (e) Controls property of another person knowing or having
5 reason to know that the property was stolen.

6 (f) Obtains services , *including, without limitation, audio or*
7 *visual services*, or parts, products or other items related to such
8 services which the person knows *or, in the case of audio or visual*
9 *services, should have known* are available only for compensation
10 without paying or agreeing to pay compensation or diverts the
11 services of another person to his or her own benefit or that of
12 another person without lawful authority to do so.

13 (g) Takes, destroys, conceals or disposes of property in which
14 another person has a security interest, with intent to defraud that
15 person.

16 (h) Commits any act that is declared to be theft by a specific
17 statute.

18 (i) Draws or passes a check, and in exchange obtains property or
19 services, if the person knows that the check will not be paid when
20 presented.

21 (j) Obtains gasoline or other fuel or automotive products which
22 are available only for compensation without paying or agreeing to
23 pay compensation.

24 2. A person who commits an act that is prohibited by
25 subsection 1 which involves the repair of a vehicle has not
26 committed theft unless, before the repair was made, the person
27 received a written estimate of the cost of the repair.

28 **Sec. 3.** NRS 205A.070 is hereby amended to read as follows:

29 205A.070 1. Upon approval by ~~two-thirds~~ *a majority* of the
30 members of the Board, the Board shall appoint an Executive
31 Director of Technological Crime within the Office of the Attorney
32 General.

33 2. The Executive Director is in the unclassified service of the
34 State and serves at the pleasure of the Board.

35 3. The Board shall establish the qualifications, powers and
36 duties of the Executive Director.

37 **Sec. 4.** This act becomes effective on July 1, 2013.

