

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 dState of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/11/99 S3/25/99

A Bill

Act 1267 of 1999
SENATE BILL 934

5 By: Senator Webb
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For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR THE DISPOSITION OF PROPERTY AND
10 CONTRABAND SEIZED BY A DRUG TASK FORCE WHICH HAS BEEN
11 DISBANDED; AND FOR OTHER PURPOSES. "

Subtitle

14 "TO PROVIDE FOR THE DISPOSITION OF
15 PROPERTY AND CONTRABAND SEIZED BY A DRUG
16 TASK FORCE WHICH HAS BEEN DISBANDED. "

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. (a) Any drug task force which has been disbanded or is
22 otherwise no longer in operation, as certified by the State Drug Director, is
23 authorized to utilize the following provisions regarding the disposition of
24 seized property in addition to any other currently authorized by law.

25 (b) Property seized, which is still being held after the conclusion of
26 criminal proceedings, may be disposed of by any participating agency in the
27 drug task force in compliance with this act.

28 (c) For purposes of this act, 'participating agency' shall be defined
29 to include any law enforcement or prosecutorial agency and their successors
30 which served on the board of directors of the drug task force.

31 (d) All seized property shall be returned to the rightful owner or
32 possessor thereof except abandoned property or contraband.

33 (1) Abandoned property, for the purposes of this section,
34 includes all property which has not been claimed by its rightful owner within
35 three (3) years of its seizure or within thirty (30) days of a published
36 notice to treat the property as abandoned.

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1 (A) Claimed property is that property which the rightful
2 owner has provided some proof of ownership which reasonably satisfies the
3 participating agency regarding ownership. Claimed property may be returned to
4 the rightful owner immediately.

5 (B) Published notice is notice which provides a description
6 of the unclaimed property, lists the agency seizing the property, lists the
7 time the seizing agency was in operation, and is published in a newspaper or
8 newspapers, with general circulation in the counties in which the drug task
9 force was in operation, no less than once a week for three (3) consecutive
10 weeks.

11 (2) Contraband includes all property defined in Arkansas Code 5-
12 5-101(b).

13 (e) The participating agency seeking disposition of property pursuant
14 to this act may commence a civil action with the circuit clerk in any county
15 in which the seized property is located. The petition shall set out the
16 property to be disposed, classify the property as abandoned or contraband,
17 list the efforts made by the petitioner to comply with the provisions of this
18 act, and directing all individuals claiming an interest in the property to
19 file a claim with the circuit clerk within twenty (20) days of publication of
20 the petition as set forth in subsection (f). The claim filed with the clerk
21 must list the property claimed, verify ownership of the property by a signed
22 affidavit, and the claimant's address and telephone number.

23 (f) The circuit court in the county where the petition is filed and the
24 property is located shall have jurisdiction over all the property.

25 (g) Service by a warning order shall constitute valid service under
26 this act.

27 (h) The circuit court may enter an order classifying all property that
28 has not been claimed as abandoned or as contraband.

29 (i) The circuit court shall consider evidence presented by any claimant
30 regarding ownership of any property which is seized. After hearing the
31 evidence presented, the court shall enter an order directing the return of the
32 property to any rightful owner, classifying the property as abandoned or
33 classifying the property as contraband.

34 (j) Contraband shall be destroyed, except any article of contraband
35 with a lawful use may in the discretion of the court be retained for use by a
36 participating law enforcement agency or sold at a public auction to the

1 highest bidder.

2 (k) Abandoned property may in the discretion of the court be retained
3 for use by a participating law enforcement agency or sold at a public auction
4 to the highest bidder.

5 (l) A public auction shall be held by the sheriff, without bond, in the
6 county where the seized property is located in the manner provided in Arkansas
7 Code 5-5-101(e) and (f).

8 (m) Proceeds from the sale shall be first distributed for payment of
9 all reasonable attorney's fees and other proper expenses incurred by the
10 participating agency in prosecuting any civil proceedings, complying with this
11 act, and the costs of the sale. Proceeds shall then be paid to satisfy bona
12 fide security interests or liens on the property sold. Remaining proceeds
13 shall be shared equally between the participating agencies and paid into their
14 respective drug control funds.

15 (n) Any participating agency or persons making a good faith effort to
16 follow the provisions of this act shall have absolute immunity from all civil
17 claims made against them.

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19 SECTION 2. The provisions of this act shall expire December 31, 2000.

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21 SECTION 3. All provisions of this act of a general and permanent nature
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 4. If any provision of this act or the application thereof to
26 any person or circumstance is held invalid, such invalidity shall not affect
27 other provisions or applications of the act which can be given effect without
28 the invalid provision or application, and to this end the provisions of this
29 act are declared to be severable.

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31 SECTION 5. All laws and parts of laws in conflict with this act are
32 hereby repealed.

33 /s/ Web

APPROVED: 4/8/1999b