

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/21/11

A Bill

SENATE BILL 637

5 By: Senator Files
6

For An Act To Be Entitled

8 AN ACT REGARDING THE FORFEITURE OF CONVEYANCES AND
9 THE RESTITUTION TO VICTIMS OF CERTAIN CRIMES; AND FOR
10 OTHER PURPOSES.

Subtitle

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13 REGARDING THE FORFEITURE OF CONVEYANCES
14 AND THE RESTITUTION TO VICTIMS OF CERTAIN
15 CRIMES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 5-5-204 is amended to read as follows:

22 5-5-204. Use or sale of conveyances – Disposition of sale proceeds.

23 (a)(1) Upon conviction, when the circuit court having jurisdiction
24 over the conveyance seized finds upon a hearing by a preponderance of the
25 evidence that a ground for a forfeiture exists under this subchapter, the
26 circuit court shall ~~shall~~ may enter an order ~~to~~ to sell the conveyance with
27 the proceeds, after allowance for reasonable expenses of seizure and
28 maintenance of custody, going to satisfy any outstanding restitution under §
29 5-4-205 owed to a victim of an offense for which the conveyance was used, if
30 the victim files a petition with the court or makes a request to the circuit
31 court within thirty (30) days of the filing of the judgment and commitment
32 order of the convicted defendant.

33 (2) If there is not a victim of an offense owed restitution
34 under § 5-4-205, the court shall enter an order to:

35 (1)(A) Permit the law enforcement agency or the
36 prosecuting attorney for the judicial district in which the conveyance was



1 seized to retain the conveyance for official use; or

2 ~~(2)(A)(B)(i)~~ Permit the law enforcement agency to sell the
3 conveyance at a public or private sale.

4 ~~(B)(ii)~~ In the event of a sale, the circuit court
5 shall provide by order that the proceeds be used for payment of any proper
6 expense of the proceeding for forfeiture and sale, including expenses of:

7 ~~(i)(a)~~ Investigation;

8 ~~(ii)(b)~~ Seizure;

9 ~~(iii)(c)~~ Maintenance of custody;

10 ~~(iv)(d)~~ Advertising; and

11 ~~(v)(e)~~ Court costs.

12 (b) Any proceeds from the sale of a forfeited conveyance under ~~this~~
13 ~~subchapter~~ subdivision (a)(2)(B) of this section, or if there was a victim of
14 an offense owed restitution under § 5-4-205, the proceeds remaining after the
15 satisfaction of the victim's restitution under § 5-4-205 in excess of a
16 proper expense shall be distributed as follows:

17 (1) Forty percent (40%) to be deposited into the State Treasury
18 as special revenues to the credit of the Department of Arkansas State Police
19 Fund;

20 (2)(A) Forty percent (40%) to the law enforcement agency that
21 perfected the arrest.

22 (B) However, if a federal agency perfected the arrest, the
23 forty percent (40%) under subdivision (b)(2)(A) of this section shall be
24 distributed to the county sheriff's office of the county responsible for the
25 prosecution; and

26 (3) Twenty percent (20%) to the county sheriff's office of the
27 county responsible for the prosecution.

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29 /s/Files

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32 **APPROVED: 03/31/2011**