

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 971

Introduced by Gloor, 35.

Read first time January 14, 2016

Committee:

- 1 A BILL FOR AN ACT relating to seized property; to amend section 29-820,
- 2 Revised Statutes Cumulative Supplement, 2014; to change provisions
- 3 relating to restoration of seized firearms as prescribed; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-820, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 29-820 (1) Unless other disposition is specifically provided by law,
4 when property seized or held is no longer required as evidence, it shall
5 be disposed of by the law enforcement agency on such showing as the law
6 enforcement agency may deem adequate, as follows:

7 (a) Property stolen, embezzled, obtained by false pretenses, or
8 otherwise obtained unlawfully from the rightful owner thereof shall be
9 restored to the owner;

10 (b) Money shall be restored to the owner unless it was used in
11 unlawful gambling or lotteries or it was used or intended to be used to
12 facilitate a violation of Chapter 28, article 4, in which case the money
13 shall be forfeited and disposed of as required by Article VII, section 7,
14 of the Constitution of Nebraska;

15 (c) Property which is unclaimed or the ownership of which is unknown
16 shall be sold at a public auction held by the officer having custody
17 thereof and the net proceeds disposed of as provided in subdivision (b)
18 of this subsection, as shall any money which is unclaimed or the
19 ownership of which is unknown;

20 (d) Except as provided in subsection (2) of this section, articles
21 of contraband shall be destroyed;

22 (e) Firearms, ammunition, explosives, bombs, and like devices which
23 have been used in the commission of crime shall be destroyed; and

24 (f) Firearms which have come into the law enforcement agency's
25 possession through a seizure or otherwise and (i) have not been used in
26 the commission of crime, (ii) have not been defaced or altered in any
27 manner that violates any state or federal law, (iii) may have a lawful
28 use and be lawfully possessed, and (iv) are not subject to section 29-440
29 shall be restored to the owner. If an owner, at the time of or subsequent
30 to the law enforcement agency seizing or taking possession of his or her
31 firearm or firearms, is in emergency protective custody or involuntary

1 custody and treatment under the Nebraska Mental Health Commitment Act,
2 the firearm or firearms will not be restored to the owner. Upon release
3 from such treatment, the firearm or firearms shall be restored to the
4 owner only after a hearing to determine if the owner is prohibited under
5 state or federal law from receiving the firearm or firearms and upon
6 order of the district court.

7 (2) When the following property is seized or held and is no longer
8 required as evidence, such property shall be disposed of on order of the
9 court as the court may deem adequate:

10 Goods which are declared to be contraband but may reasonably be
11 returned to a condition or state in which such goods may be lawfully
12 used, possessed, or distributed by the public.

13 (3) When any animal as defined by section 28-1008 is seized or held
14 and is no longer required as evidence, such animal may be disposed of in
15 such manner as the court may direct. The court may consider adoption
16 alternatives through humane societies or comparable institutions and the
17 protection of such animal's welfare. For a humane society or comparable
18 institution to be considered as an adoption alternative under this
19 subsection, it must first be licensed by the Department of Agriculture as
20 having passed the inspection requirements in the Commercial Dog and Cat
21 Operator Inspection Act and paid the fee for inspection under the act.
22 The court may prohibit an adopting or purchasing party from selling such
23 animal for a period not to exceed one year.

24 (4) Unless otherwise provided by law, all other property shall be
25 disposed of in such manner as the court in its sound discretion shall
26 direct.

27 Sec. 2. Original section 29-820, Revised Statutes Cumulative
28 Supplement, 2014, is repealed.