

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1027

Introduced by Karpisek, 32.

Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to seized property; to amend section 29-820,
2 Revised Statutes Cumulative Supplement, 2012; to change
3 provisions relating to restoration of seized firearms as
4 prescribed; and to 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
2 Supplement, 2012, is amended to read:

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

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

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

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

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

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

1 (f) Firearms which have come into the law enforcement
2 agency's possession through a seizure or otherwise and (i) have not
3 been used in the commission of crime, (ii) have not been defaced or
4 altered in any manner that violates any state or federal law, (iii)
5 may have a lawful use and be lawfully possessed, and (iv) are not
6 subject to section 29-440 shall be restored to the owner. If an
7 owner, at the time of or subsequent to the law enforcement agency
8 seizing or taking possession of his or her firearm or firearms, is in
9 emergency protective custody or voluntary treatment or involuntary
10 custody and treatment under the Nebraska Mental Health Commitment
11 Act, the firearm or firearms will not be restored to the owner. Upon
12 release from such treatment, the firearm or firearms shall be
13 restored to the owner only after a hearing and upon order of the
14 district court.

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

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

21 (3) When any animal as defined by section 28-1008 is
22 seized or held and is no longer required as evidence, such animal may
23 be disposed of in such manner as the court may direct. The court may
24 consider adoption alternatives through humane societies or comparable
25 institutions and the protection of such animal's welfare. For a

1 humane society or comparable institution to be considered as an
2 adoption alternative under this subsection, it must first be licensed
3 by the Department of Agriculture as having passed the inspection
4 requirements in the Commercial Dog and Cat Operator Inspection Act
5 and paid the fee for inspection under the act. The court may prohibit
6 an adopting or purchasing party from selling such animal for a period
7 not to exceed one year.

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

11 Sec. 2. Original section 29-820, Revised Statutes
12 Cumulative Supplement, 2012, is repealed.