

AMENDED IN SENATE MAY 19, 1997
AMENDED IN ASSEMBLY APRIL 28, 1997
AMENDED IN ASSEMBLY MARCH 12, 1997

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

ASSEMBLY BILL

No. 79

Introduced by Assembly Member Granlund

December 18, 1996

An act to amend Section 1417.5 of, and to add Section 11108.5 to, the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 79, as amended, Granlund. Criminal procedure: return of property.

(1) Existing law provides that 60 days after the final determination of a criminal action or proceeding, the clerk of the court shall dispose of all exhibits introduced and filed in the case and remaining in the clerk's possession. Existing law provides that, on application of the owner or any person entitled to possession of exhibits or an agent designated in writing by the owner, the court shall order the release of any exhibits that will not prejudice the state.

This bill would provide instead that the clerk shall notify any party claiming entitlement to the exhibits that he or she may make application to the court for release of the exhibits within 15 days of receipt of the notification, and the court shall order the release of exhibits free of charge, without prejudice to the state, upon application, first, to the person from whom

the exhibits were taken into custody, provided that the person was in lawful possession of the exhibits, and 2nd, to a person establishing title to, or a right to possession of, the exhibits. By imposing additional duties on court employees with respect to case exhibits, this bill would impose a state-mandated local program.

(2) Existing law provides that each sheriff or police chief shall submit descriptions of serialized property which has been reported stolen, lost, found, recovered, or under observation, directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property.

This bill would generally provide, in addition, that if a law enforcement agency identifies serialized property that has been reported lost or stolen by the owner or a person entitled to possession of the property and the property has been entered into the appropriate Department of Justice automated property system pursuant to the above provision, the agency shall notify the owner or person entitled to possession of the property of the location of the property within ~~5~~ 15 days of making the identification. This bill would create a state-mandated local program by imposing additional duties on local law enforcement with respect to serialized property.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1417.5 of the Penal Code is
2 amended to read:

3 1417.5. Except as provided in Section 1417.6, 60 days
4 after the final determination of a criminal action or
5 proceeding, the clerk of the court shall dispose of all
6 exhibits introduced or filed in the case and remaining in
7 the clerk's possession, as follows:

8 (a) The clerk shall notify any party claiming
9 entitlement to the exhibits that he or she may make
10 application to the court for release of the exhibits within
11 15 days of receipt of the notification.

12 (b) The court shall order the release of exhibits free of
13 charge, without prejudice to the state, upon application,
14 to the following:

15 (1) First, the person from whom the exhibits were
16 taken into custody, provided that the person was in lawful
17 possession of the exhibits.

18 (2) Second, a person establishing title to, or a right to
19 possession of, the exhibits.

20 (c) If the party entitled to an exhibit fails to apply for
21 the return of the exhibit prior to the date for disposition
22 under this section, the following procedures shall apply:

23 (1) Exhibits of stolen or embezzled property other
24 than money shall be disposed of pursuant to court order
25 as provided in Section 1417.6.

26 (2) Exhibits of property other than property which is
27 stolen or embezzled or property which consists of money
28 or currency shall, except as otherwise provided in this
29 paragraph and in paragraph (3), be transferred to the
30 appropriate county agency for sale to the public in the
31 same manner provided by Article 7 (commencing with
32 Section 25500) of Chapter 5 of Part 2 of Division 2 of Title
33 3 of the Government Code for the sale of surplus personal
34 property. If the county determines that any property is



1 needed for a public use, the property may be retained by
2 the county and need not be sold.

3 (3) Exhibits of property, other than money, currency,
4 or stolen or embezzled property, that are determined by
5 the court to have no value at public sale shall be destroyed
6 or otherwise disposed of pursuant to court order.

7 (4) Exhibits of money or currency shall be disposed of
8 pursuant to Section 1420.

9 SEC. 2. Section 11108.5 is added to the Penal Code, to
10 read:

11 11108.5. (a) If a law enforcement agency identifies
12 serialized property that has been reported lost or stolen
13 by the owner or a person entitled to possession of the
14 property and the property has been entered into the
15 appropriate Department of Justice automated property
16 system pursuant to Section 11108, the agency shall notify
17 the owner or person entitled to possession of the property
18 of the location of the property within ~~five~~ 15 days of
19 making the identification. If the location of the property
20 was reported by a licensed pawnbroker or secondhand
21 dealer pursuant to Section 21630 of the Business and
22 Professions Code, notice shall be given to the party who
23 reported the property lost or stolen pursuant to Section
24 21647 of the Business and Professions Code.

25 (b) If the property is in the custody of the law
26 enforcement agency and it is determined that the
27 property is no longer required for use as evidence in a
28 criminal case, the property shall be made available to the
29 person entitled to possession pursuant to Section 1417.5.

30 (c) Subdivision (a) shall not apply to the return to an
31 owner of a lost or stolen vehicle, as defined in Section 670
32 of the Vehicle Code.

33 SEC. 3. No reimbursement is required by this act
34 pursuant to Section 6 of Article XIII B of the California
35 Constitution for certain costs that may be incurred by a
36 local agency or school district pursuant to this act because
37 counties will receive funding under the Brown-Presley
38 Trial Court Funding Act (Chapter 13 (commencing with
39 Section 77000) of Title 8 of the Government Code) in lieu
40 of that requirement.



1 However, notwithstanding Section 17610 of the
2 Government Code, if the Commission on State Mandates
3 determines that this act contains other costs mandated by
4 the state, reimbursement to local agencies and school
5 districts for those costs shall be made pursuant to Part 7
6 (commencing with Section 17500) of Division 4 of Title
7 2 of the Government Code. If the statewide cost of the
8 claim for reimbursement does not exceed one million
9 dollars (\$1,000,000), reimbursement shall be made from
10 the State Mandates Claims Fund.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

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