

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

931P0079

HOUSE BILL NO. 1001

Introduced by: Representatives Deadrick, Burg, Engels, Noem, Pederson (Gordon), Pitts, Putnam, and Tidemann and Senators Abdallah, Bartling, Gray, Hansen (Tom), Hundstad, and Hunhoff at the request of the Executive Board of the Legislative Research Council

1 FOR AN ACT ENTITLED, An Act to provide for a jury trial in forfeiture proceedings.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 34-20B-88 be amended to read as follows:

4 34-20B-88. If a verified answer is filed, the forfeiture proceedings shall be set for hearing
5 on a day not more than sixty days ~~therefrom~~; at from the date of the filing. Any party may
6 demand a trial by jury for the forfeiture proceedings. At the hearing, the state shall establish
7 probable cause for instituting the forfeiture action following which any owner, party in interest,
8 or claimant who has filed a verified answer ~~shall have~~ has the burden of proving that the
9 property seized is not subject to forfeiture under this chapter. If the court or a jury finds that the
10 property is not subject to forfeiture under this chapter, the court shall order the property released
11 to the owner, party in interest, or claimant ~~as his~~ according to such person's right, title, or
12 interest ~~appears, the~~. The court shall order the property forfeited if ~~it~~ the court or a jury
13 determines that such property was subject to forfeiture.

