

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

931P0079

SENATE JUDICIARY ENGROSSED NO. **HB 1001** - 2/4/2008

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 a trial 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 pursuant to subsection 15-6-38(b). At the
7 ~~hearing~~ trial, the state shall establish probable cause for instituting the forfeiture action
8 following which any owner, party in interest, or claimant who has filed a verified answer ~~shall~~
9 ~~have~~ has the burden of proving that the property seized is not subject to forfeiture under this
10 chapter. If the court or a jury finds that the property is not subject to forfeiture under this
11 chapter, the court shall order the property released to the owner, party in interest, or claimant
12 ~~as his~~ according to such person's right, title, or interest appears, the. The court shall order the
13 property forfeited if ~~it~~ the court or a jury determines that such property was subject to forfeiture.

