

1985 Senate Bill 419

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1985 Wisconsin Act 245

AN ACT to amend 161.55 (1) (d) 4 and (3) (intro.) and 973.075 (1) (b) 3 and (5) (intro.); and to create 161.555 (2) (d) and 973.076 (2) (d) of the statutes, relating to forfeiture of vehicles used in connection with a felony and default judgments.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 161.55 (1) (d) 4 and (3) (intro.) of the statutes are amended to read:

161.55 (1) (d) 4. A If forfeiture of a vehicle encumbered by a bona fide perfected security interest is subject to the interest of the secured party if occurs, the holder of the security interest shall be paid from the proceeds of the forfeiture if the security interest was perfected prior to the date of the commission of the felony which forms the basis for the forfeiture and he or she neither had knowledge of nor consented to the act or omission.

(3) (intro.) In the event of seizure under sub. (2), proceedings under sub. (4) shall be instituted promptly. All dispositions and forfeitures under this section and ss. 161.555 and 161.56 shall be made with due provision for the rights of innocent persons under sub. (1) (d) 1, 2 and 4. Any property seized but not forfeited shall be returned to its rightful owner. Any person claiming the right to possession of property seized may apply for its return to the circuit court for the county in which the property was seized. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property returned if:

SECTION 2. 161.555 (2) (d) of the statutes is created to read:

161.555 (2) (d) If no answer is served or no issue of law or fact has been joined and the time for that service or joining issue has expired, or if any defendant fails to appear at trial after answering or joining issue,

the court may render a default judgment as provided in s. 806.02.

SECTION 3. 973.075 (1) (b) 3 and (5) (intro.) of the statutes are amended to read:

973.075 (1) (b) 3. A If forfeiture of a vehicle encumbered by a bona fide perfected security interest is subject to the interest of the secured party if occurs, the holder of the security interest shall be paid from the proceeds of the forfeiture if the security interest was perfected prior to the date of the commission of the felony which forms the basis for the forfeiture and he or she neither had knowledge of nor consented to the act or omission.

(5) (intro.) All forfeitures under ss. 973.075 to 973.077 shall be made with due provision for the rights of innocent persons under sub. (1) (b) 1 to 3. Any property seized but not forfeited shall be returned to its rightful owner. Any person claiming the right to possession of property seized may apply for its return to the circuit court for the county in which the property was seized. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property returned if:

SECTION 4. 973.076 (2) (d) of the statutes is created to read:

973.076 (2) (d) If no answer is served or no issue of law or fact has been joined and the time for that service or joining issue has expired, or if any defendant fails to appear at trial after answering or joining issue, the court may render a default judgment as provided in s. 806.02.