

FIRST REGULAR SESSION

HOUSE BILL NO. 904

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROBINSON (Sponsor), HARRIS (110), ROORDA, AULL, KUESSNER, HENKE, RUCKER, LAMPE, WITTE, JONES, BLACK, BARNITZ, SWINGER, CASEY, PARSON AND WAGNER (Co-sponsors).

Read 1st time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2171L.011

AN ACT

To repeal section 217.197, RSMo, and to enact in lieu thereof one new section relating to forfeiture of personal property of offenders who escape or abscond.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 217.197, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.197, to read as follows:

217.197. 1. The amount and type of personal property an offender housed in a correctional center may possess shall be established by policy. Control and disposition of offender property as related to value and volume shall be set by policy.

2. Unauthorized personal property found in the possession of an offender housed in a correctional center may be impounded and disposed of per policy directives.

3. If an offender escapes or absconds from supervision or fails to return after having been permitted to leave, all of such offender's personal property, including money in the possession of the department, shall be deemed abandoned by the department and shall be forfeited. The department shall within seven days of the date such property was abandoned publish notice of forfeiture in the local newspaper of the city or town closest to the correctional facility from which the offender escaped or absconded. Such notice shall be in writing and shall give the offender ten days from the first date of publication to return to the correctional facility from which he or she escaped or absconded to claim his or her abandoned property. If the offender voluntarily returns to the correctional

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 facility prior to the first publication date such offender shall be personally served with
16 notice, in writing, of the forfeiture and may claim the abandoned property which shall not
17 be forfeited. If the offender does not voluntarily return but is otherwise returned to the
18 correctional facility within the ten-day time period such offender shall be personally served
19 with notice, in writing, of the forfeiture and may request a hearing to contest the forfeiture
20 of the abandoned property. If a request for hearing is made an administrative hearing
21 shall be held prior to forfeiture of the property. The only issues to be determined at such
22 hearing are whether or not the offender escaped or absconded and if so whether or not the
23 offender escaped or absconded of his or her own free will. At the hearing if it is found that
24 the offender did not escape or abscond or that the offender did not escape or abscond of
25 his or her own free will the property shall not be forfeited and shall be returned to the
26 offender. If, however, it is found that the offender did escape or abscond and did so of his
27 or her own free will then the property shall be forfeited. If the offender has not returned
28 to the correctional facility within the ten day time period the property shall automatically
29 be forfeited. Any and all forfeited moneys or proceeds from the sale of forfeited property
30 shall be used to pay the following obligations of the offender, in the following order, until
31 the obligations are satisfied or the funds are depleted:

- 32 (1) Restitution to the offender's victims;
- 33 (2) Child support obligations;
- 34 (3) Court ordered obligations; and
- 35 (4) The costs of the offender's incarceration.

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37 Any remaining moneys shall be deposited in the unclaimed property fund within the state
38 treasury.