



## 2020 South Dakota Legislature

# Senate Bill 176

Introduced by: **Senator Kolbeck**

1 **An Act to provide for the seizure and holding of real property as evidence.**

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

3 **Section 1.** That § 23A-37-4 be AMENDED:

4 **23A-37-4. Application for return of property to person with right to**  
 5 **possession.**

6 Any person claiming the right to possession of such property may make application  
 7 for its return in the office of the clerk of courts for the county in which it is being held.

8 An application for the return of real property may be made within thirty days of  
 9 the seizure of such real property. Absent good cause shown that the real property contains  
 10 exculpatory evidence of the defendant's innocence which is incapable of being preserved  
 11 by other means, or that the prosecuting attorney makes a showing that the continued  
 12 seizure of the real property is essential to the prosecution of the case, the court may order  
 13 the law enforcement personnel in possession of the property to release it to the owner.