

SENATE, No. 2774

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED NOVEMBER 10, 2016

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Reallocates portion of certain forfeited property as incentive for informants of drug-related offenses and to provide inpatient treatment for certain drug-dependent individuals.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning forfeiture of property, supplementing Title 26
2 of the New Jersey Statutes, and amending N.J.S.2C:64-1,
3 N.J.S.2C:64-2, and N.J.S.2C:64-6.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) The Attorney General shall establish a fund
9 to be known as the "Inpatient Drug Rehabilitation Assistance
10 Fund." All moneys received pursuant to paragraph (2) of subsection
11 d. of N.J.S.2C:64-6 and any other moneys appropriated by law shall
12 be deposited into the fund. Moneys in the fund shall be used to
13 provide treatment at a licensed residential drug treatment program
14 which does not operate in a State correctional facility or county jail
15 to New Jersey citizens who cannot afford treatment. The
16 Commissioner of Human Services shall determine eligibility and
17 disbursements from the fund.

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19 2. N.J.S.2C:64-1 is amended to read as follows:
20 2C:64-1. Property Subject to Forfeiture.

21 a. Any interest in the following shall be subject to forfeiture
22 and no property right shall exist in them:

23 (1) Controlled dangerous substances or controlled substance
24 analogs, firearms which are unlawfully possessed, carried, acquired
25 or used, illegally possessed gambling devices, untaxed or otherwise
26 contraband cigarettes or tobacco products, untaxed special fuel,
27 unlawful sound recordings and audiovisual works and items bearing
28 a counterfeit mark. These shall be designated prima facie
29 contraband.

30 (2) All property which has been, or is intended to be, utilized in
31 furtherance of an unlawful activity, including, but not limited to,
32 conveyances intended to facilitate the perpetration of illegal acts, or
33 buildings or premises maintained for the purpose of committing
34 offenses against the State.

35 (3) Property which has become or is intended to become an
36 integral part of illegal activity, including, but not limited to, money
37 which is earmarked for use as financing for an illegal gambling
38 enterprise.

39 (4) Proceeds of illegal activities, including, but not limited to,
40 property or money obtained as a result of the sale of prima facie
41 contraband as defined by subsection a. (1), proceeds of illegal
42 gambling, prostitution, bribery and extortion.

43 A portion of any property set forth in this subsection that is
44 obtained as a result of a proceeding for a controlled dangerous
45 substance or controlled substance analog violation pursuant to

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 chapter 35 of Title 2C of the New Jersey Statutes, except paragraph
2 (4) of subsection a. of N.J.S.2C:35-10, that proximately results from
3 information provided to an enforcing authority by a person shall be
4 distributed to that person in accordance with subsection d. of
5 N.J.S.2C:64-6.

6 b. Any article subject to forfeiture under this chapter may be
7 seized by the State or any law enforcement officer as evidence
8 pending a criminal prosecution pursuant to section **[2C:64-4]**
9 N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon
10 process issued by any court of competent jurisdiction over the
11 property, except that seizure without such process may be made
12 when not inconsistent with the Constitution of this State or the
13 United States, and when

14 (1) The article is prima facie contraband; or

15 (2) The property subject to seizure poses an immediate threat to
16 the public health, safety or welfare.

17 c. For the purposes of this section:

18 "Items bearing a counterfeit mark" means items bearing a
19 counterfeit mark as defined in N.J.S.2C:21-32.

20 "Unlawful sound recordings and audiovisual works" means
21 sound recordings and audiovisual works as those terms are defined
22 in N.J.S.2C:21-21 which were produced in violation of
23 N.J.S.2C:21-21.

24 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
25 kerosene on which the motor fuel tax imposed pursuant to
26 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
27 transferred in this State in a manner not authorized pursuant to
28 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

29 (cf: 2011, c.80, s.4)

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31 3. N.J.S.2C:64-2 is amended to read as follows:

32 2C:64-2. Forfeiture Procedures; Prima Facie Contraband.

33 Except as provided in N.J.S.2C:35-21, prima facie contraband
34 shall be retained by the State until entry of judgment or dismissal of
35 the criminal proceeding, if any, arising out of the seizure.
36 Thereafter, prima facie contraband shall be forfeited to the entity
37 funding the prosecuting agency involved, subject to the rights of
38 owners and others holding interests pursuant to **[section 2C:64-5]**
39 N.J.S.2C:64-5 and subsection a. of N.J.S.2C:64-1.

40 (cf: P.L.1987, c.106, s.17)

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42 4. N.J.S.2C:64-6 is amended to read as follows:

43 2C:64-6. Disposal of Forfeited Property. a. Property which
44 has been forfeited shall be destroyed if it can serve no lawful
45 purpose or it presents a danger to the public health, safety or
46 welfare. **[All]** Except as provided in subsection d. of this section,
47 all other forfeited property or any proceeds resulting from the
48 forfeiture and all money seized pursuant to this chapter shall

1 become the property of the entity funding the prosecuting agency
2 involved and shall be disposed of, distributed, appropriated, and
3 used in accordance with the provisions of this chapter.

4 The prosecutor or the Attorney General, whichever is
5 prosecuting the case, shall divide the forfeited property, any
6 proceeds resulting from the forfeiture or any money seized pursuant
7 to this chapter with any other entity where the other entity's law
8 enforcement agency participated in the surveillance, investigation,
9 arrest or prosecution resulting in the forfeiture, in proportion to the
10 other entity's contribution to the surveillance, investigation, arrest
11 or prosecution resulting in the forfeiture, as determined in the
12 discretion of the prosecutor or the Attorney General, whichever is
13 prosecuting the case. Notwithstanding any other provision of law,
14 such forfeited property and proceeds shall be used solely for law
15 enforcement purposes, and shall be designated for the exclusive use
16 of the law enforcement agency which contributed to the
17 surveillance, investigation, arrest or prosecution resulting in the
18 forfeiture.

19 The Attorney General is authorized to promulgate rules and
20 regulations to implement and enforce the provisions of this act.

21 b. For a period of two years from the date of enactment of
22 P.L.1993, c.227 (C.26:4-100.13 et al.), **[10%]** 10 percent of the
23 proceeds obtained by the Attorney General under the provisions of
24 subsection a. of this section shall be deposited into the Hepatitis
25 Inoculation Fund established pursuant to section 2 of P.L.1993,
26 c.227 (C.26:4-100.13).

27 c. Beginning two years from the date of enactment of
28 P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years,
29 **[5%]** five percent of the proceeds obtained by the Attorney General
30 under the provisions of subsection a. of this section shall be
31 deposited into the Hepatitis Inoculation Fund established pursuant
32 to section 2 of P.L.1993, c.227 (C.26:4-100.13).

33 d. A portion of the proceeds of any property under subsection
34 a. of N.J.S.2C:64-1 that is obtained as a result of a proceeding for a
35 violation involving a controlled dangerous substance or controlled
36 substance analog as set forth in chapter 35 of Title 2C of the New
37 Jersey Statutes, except paragraph (4) of subsection a. of
38 N.J.S.2C:35-10, that proximately results from information provided
39 to an enforcing authority shall be distributed as follows:

40 (1) Ten percent of the proceeds shall be paid to the person who
41 provides the information leading to the proceeding provided for in
42 subsection a. of N.J.S.2C:64-1. If more than one person is entitled
43 to a portion of the proceeds under this subsection, the Attorney
44 General shall determine the portion, not to exceed a total of 10
45 percent of the proceeds, that each person shall receive.

46 (2) Five percent of the proceeds shall be deposited into the
47 “Inpatient Drug Rehabilitation Assistance Fund” established

1 pursuant to section 1 of P.L. c. (C.) (pending before the
2 Legislature as this bill).

3 (cf: P.L.1993, c.227, s.1)

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5 5. (New Section) The Attorney General, in consultation with
6 the Commissioner of Human Services shall promulgate rules and
7 regulations, pursuant to the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
9 purposes of this act.

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11 6. This act shall take effect on the first day of the third month
12 following the date of enactment, but the Attorney General and the
13 Commissioner of Human Services may take such anticipatory
14 administrative action in advance thereof as shall be necessary for
15 the implementation of this act.

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STATEMENT

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20 This bill by provides a financial incentive to people who possess
21 information that could assist in the prosecution of certain drug-
22 related offenses, and provides financial assistance for certain
23 individuals in need of inpatient drug treatment.

24 Under current law, proceeds from forfeited property are to be
25 used solely for law enforcement purposes and must be designated
26 for the exclusive use of the law enforcement agency that
27 contributed to the surveillance, investigation, arrest, or prosecution
28 resulting in the forfeiture. This bill would reallocate a portion of
29 the proceeds from forfeited property obtained from proceedings for
30 drug-related offenses that arises out of information provided by an
31 informant. The remaining proceeds would be distributed in
32 accordance with current law.

33 Under the bill, a person who provides information that leads to a
34 proceeding for a drug-related crime is entitled to 10 percent of the
35 proceeds of any property forfeited as a result of that action.

36 In addition, the bill establishes the "Inpatient Drug
37 Rehabilitation Assistance Fund." Five percent of the proceeds from
38 property that is forfeited from a drug-related offense because of
39 information provided by an informant will be deposited into the
40 fund. The fund is to be used to provide treatment at a licensed
41 residential drug treatment program to New Jersey citizens who
42 cannot afford treatment. Eligibility and assistance from the fund
43 will be determined by the Commissioner of Human Services.