

**SENATE, No. 1632**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**  
**Senator NIA H. GILL**  
**District 34 (Essex and Passaic)**

**SYNOPSIS**

Requires AG oversight of transfer of federal surplus military equipment to local law enforcement agencies; establishes review and reporting requirement.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning surplus federal government military equipment  
2 transferred to local law enforcement agencies and supplementing  
3 Title 52 of the Revised Statutes.

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

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8 1. a. The Attorney General shall direct the Office of  
9 Emergency Management to review the transfer of military  
10 equipment made available to law enforcement agencies in this State  
11 pursuant to the provisions of 10 U.S.C. s.2576a. The review shall  
12 include, but not be limited to, a historical overview of the operation  
13 of this federal program in this State and an analysis of the current  
14 policies on the distribution of equipment and whether this  
15 distribution correlates to the needs of the requesting law  
16 enforcement agency. Based on the findings of this review, the  
17 Attorney General, in consultation with the Superintendent of State  
18 Police, the Director of the Division of Criminal Justice, and the  
19 county prosecutors, shall determine if applicable policies,  
20 procedures, and guidelines currently governing the program should  
21 be revised.

22 b. Notwithstanding the appointment of the Office of  
23 Emergency Management as state coordinator for the transfer of  
24 military equipment pursuant to the provisions of 10 U.S.C. s.2576a,  
25 the Attorney General shall directly oversee the transfer of military  
26 equipment made available to law enforcement agencies under the  
27 federal program. The Attorney General shall approve each  
28 individual equipment transfer to a law enforcement agency.  
29 Approval of a transfer shall be based on criteria developed by the  
30 Attorney General which shall include, but not be limited to:

31 (1) a showing of a demonstrated need for the equipment by the  
32 local law enforcement agency;

33 (2) a determination of whether specialized training is necessary  
34 for safe usage of the equipment; and

35 (3) equipment storage and maintenance requirements.

36 c. The Attorney General shall annually report to the Governor  
37 and, pursuant to section 2 of P.L.1991, c.164 (C:52:14-19.1), to the  
38 President of the Senate and the Speaker of the General Assembly  
39 the number of equipment transfers that were made, specifically  
40 identifying each law enforcement agency which received the  
41 equipment, the exact equipment received, and the purposes for  
42 which the equipment will be used. If the State is suspended from  
43 the program, the report also shall include the dates of and basis for  
44 the suspension.

45  
46 2. The Attorney General shall promulgate regulations pursuant  
47 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
48 1 et seq.), as are necessary to effectuate the provisions of this act.

1       3. This act shall take effect on the first day of the fourth month  
2 next following the date of enactment.

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STATEMENT

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7       This bill requires the Attorney General to direct the Office of  
8 Emergency Management to review the transfer of surplus military  
9 equipment to law enforcement agencies in this State under a federal  
10 Department of Defense program commonly referred to as the “1033  
11 program.” The review required by the bill is to include a historical  
12 overview of the operation of the federal program in this State and  
13 an analysis of the current policies on the distribution of equipment  
14 and whether this distribution correlates to the needs of the  
15 requesting law enforcement agency. Based on the review, the  
16 Attorney General is to consult with the Superintendent of State  
17 Police, the Director of the Division of Criminal Justice, and the  
18 county prosecutors to determine if applicable policies, procedures,  
19 and guidelines currently governing the program should be revised.

20       The bill also requires the Attorney General to directly oversee  
21 the transfer of surplus federal military equipment to county and  
22 municipal law enforcement agencies in this State. Approval is to be  
23 based on criteria developed by the Attorney General, such as  
24 whether there is a need for the equipment by the local law  
25 enforcement agency; whether specialized training is necessary for  
26 safe usage of the equipment; and the extent of equipment storage  
27 and maintenance requirements.

28       The bill also requires the Attorney General to submit to the  
29 Governor and the Legislature annual reports detailing these  
30 transfers, as well as State suspensions from the program.

31       Federal law authorizes the transfer of military equipment held by  
32 the Department of Defense that otherwise might be destroyed, free-  
33 of-charge, to law enforcement agencies throughout the United  
34 States. Under the 1033 program, the equipment is required to be  
35 used for bona fide law enforcement purposes, particularly counter-  
36 drug and counterterrorism. To acquire this equipment, a law  
37 enforcement agency first must be approved by the Law  
38 Enforcement Support Office (LESO), the federal agency which  
39 oversees the program, as well as by a state coordinator who is  
40 appointed by the governor of each state. The state coordinator is  
41 responsible for ensuring that the program is not abused by  
42 participating law enforcement agencies. The New Jersey Office of  
43 Emergency Management in the Division of State Police serves as  
44 the coordinator in this State.

45       The use of free military equipment by law enforcement agencies  
46 under the 1033 program has come under increased scrutiny since  
47 military equipment was used in the police response to  
48 demonstrations following the August 2014 tragedy in Ferguson,

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1 Missouri. In light of these developments, the Attorney General, as  
2 head of the State's Department of Law and Public Safety and as  
3 chief law enforcement officer of this State under the Criminal  
4 Justice Act of 1970, should directly oversee the operation of the  
5 1033 program in this State.

6 Currently, information on certain equipment transferred to law  
7 enforcement agencies is available by county, but not by  
8 municipality. The bill's reporting requirement will bring more  
9 transparency to the 1033 program by identifying the specific law  
10 enforcement agencies that have obtained surplus military equipment  
11 and the purpose for which it was obtained.