

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:64-3

(Law Enforcement agencies--use of seized property pending forfeiture)

LAWS OF: 1989

CHAPTER: 279

Bill No: S2204

Sponsor(s): Lynch

Date Introduced: March 3, 1988

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: January 4, 1989

Senate: June 13, 1988

Date of Approval: January 11, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: ///No///

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[FIRST REPRINT]  
SENATE, No. 2204

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1988

By Senator LYNCH

1 AN ACT concerning the use of seized property pending forfeiture  
and amending N.J.S. 2C:64-3.

3

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

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

7 2C:64-3. Forfeiture procedures. a. Whenever any property  
other than prima facie contraband is subject to forfeiture under  
9 this chapter, such forfeiture may be enforced by a civil action,  
instituted within 90 days of the seizure and commenced by the  
11 State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It  
13 shall describe with reasonable particularity the property that is  
the subject matter of the action and shall contain allegations  
15 setting forth the reason or reasons the article sought to be or  
which has been seized is contraband.

17 c. Notice of the action shall be given to any person known to  
have a property interest in the article. In addition, the notice  
19 requirements of the Rules of Court for an in rem action shall be  
followed.

21 d. The claimant of the property that is the subject of an action  
under this chapter shall file and serve his claim in the form of an  
23 answer in accordance with the Rules of Court. The answer shall  
be verified on oath or affirmation, and shall state the interest in  
25 the property by virtue of which the claimant demands its  
restitution and the right to defend the action. If the claim is  
27 made in behalf of the person entitled to possession by an agent,  
bailee or attorney, it shall state that he is duly authorized to  
29 make the claim.

e. If no answer is filed and served within the applicable time,  
31 the property seized shall be disposed of pursuant to N.J.S.  
2C:64-6.

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.

Matter enclosed in superscript numerals has been adopted as follows:  
Senate SJU committee amendments adopted April 25, 1988.

1 f. If an answer is filed, the Superior or county district court  
shall set the matter down for a summary hearing as soon as  
3 practicable. Upon application of the State or claimant, if he be a  
defendant in a criminal proceeding arising out of the seizure, the  
5 Superior or county district court may stay proceedings in the  
forfeiture action until the criminal proceedings have been  
7 concluded by an entry of final judgment.

g. Any person with a property interest in the seized property,  
9 other than a defendant who is being prosecuted in connection  
with the seizure of property may secure its release pending the  
11 forfeiture action unless the article is dangerous to the public  
health, safety and welfare or the State can demonstrate that the  
13 property will probably be lost or destroyed if released or  
employed in subsequent criminal activity. Any person with such a  
15 property interest other than a defendant who is being prosecuted,  
prior to the release of said property shall post a bond with the  
17 court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding  
19 such agency, or any other entity<sup>1</sup>, with the approval of the  
prosecuting agency,<sup>1</sup> where the other entity's law enforcement  
21 agency participated in the surveillance, investigation or arrest  
which is the subject of the forfeiture action, may apply to the  
23 Superior [or county district court] Court for an order permitting  
use of seized property, pending the disposition of the forfeiture  
25 action <sup>1</sup>provided, however, that such property shall be used solely  
for law enforcement purposes<sup>1</sup>. Approval shall be liberally  
27 granted but shall be conditioned upon the filing of a bond in an  
amount equal to the market value of the item seized or a written  
29 guarantee of payment for property which may be subject to  
return, replacement or compensation as to reasonable value in  
31 the event that the forfeiture is refused or only partial  
extinguishment of property rights is ordered by the court.

33 i. If the property is of such nature that substantial difficulty  
may result in preserving its value during the pendency of the  
35 forfeiture action, the Superior or county district court may  
appoint a trustee to protect the interests of all parties involved  
37 in the action.

j. Evidence of a conviction of a criminal offense in which  
39 seized property was either used or provided an integral part of  
the State's proofs in the prosecution shall be considered in the

1 forfeiture proceeding as creating a rebuttable presumption that  
the property was utilized in furtherance of an unlawful activity.

3 (cf: P.L. 1981, c. 290, s. 48)

2. This act shall take effect immediately.

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CRIMINAL JUSTICE

Criminal Investigation and Arrest

9

11 Permits local law enforcement agency to apply for use of seized  
property pending forfeiture action.

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the property was utilized in furtherance of an unlawful activity.

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#### STATEMENT

9 This bill amends New Jersey's forfeiture law to permit local  
law enforcement agencies to apply to the Superior Court for an  
11 order permitting use of seized property pending the disposition of  
the forfeiture action. Present law permits only the prosecuting  
13 agency to apply for the use of seized property.

It is the sponsor's intent that those local law enforcement  
15 agencies which participated in the surveillance, investigation or  
arrest resulting in the seizure have access to the seized  
17 property. This is particularly important in cases where a person  
has been arrested on drug charges, and his automobile has been  
19 seized. Under the bill the local law enforcement agency would be  
permitted to use that vehicle pending the forfeiture action. Such  
21 a vehicle would not be easily recognizable as an undercover  
police vehicle and may aid in additional arrests.

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#### CRIMINAL JUSTICE

##### Criminal Investigation and Arrest

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Permits local law enforcement agency to apply for use of seized  
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52204 (1989)

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]  
**SENATE, No. 2204**

**STATE OF NEW JERSEY**

DATED: JANUARY 23, 1989

The Assembly Judiciary Committee reports favorably Senate Bill No. 2204 [1R].

Senate Bill No. 2204 [1R] amends N.J.S.A.2C:64-3 to permit a local law enforcement agency which has participated in a criminal investigation to apply to the Superior Court for use of any property seized as a result of that investigation pending the disposition of an action for forfeiture. Presently, only the agency prosecuting the case may apply for the use of property pending the outcome of the forfeiture action although all agencies which participated in the investigation may share in property after forfeiture.

The bill provides that a local law enforcement agency must have the approval of the prosecuting agency in order to apply for use of property which is pending forfeiture. The property to be used pending the forfeiture action may only be used for law enforcement purposes.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 2204**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 25, 1988

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2204.

This bill would permit a local law enforcement agency which has participated in a criminal investigation to apply to the Superior Court for use of any property seized as a result of that investigation pending the disposition of an action for forfeiture. Presently, only the agency prosecuting the case may apply for the use of property pending the outcome of the forfeiture action although all agencies which participated in the investigation may share in property after forfeiture.

The committee adopted amendments providing that a local law enforcement agency must have the approval of the prosecuting agency in order to apply for use of property, which is pending forfeiture. The amendments also provide that property used pending forfeiture may only be used for law enforcement purposes.