

2C:64-6 and 2C:64-7

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:64-6 and 2C:64-7

(Property seized from criminals by Federal agencies--enable state and local law enforcement agencies to have share)

LAWS OF: 1986 CHAPTER 135

BILL NO: S2236

Sponsor(s): McManimon and others

Date Introduced: June 5, 1986

Committee: Assembly: Law

Senate: Law, Public Safety and Defense

Amended during passage: No

Date of Passage: Assembly: October 18, 1986

Senate: June 30, 1986

Date of Approval: October 21, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

SENATE, No. 2236

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1986

By Senators McMANIMON, LYNCH, STOCKMAN, GARIBALDI
and GORMLEY

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning property forfeited as a result of certain criminal investigations and amending N. J. S. 2C:64-6 and N. J. S. 2C:64-7.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

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

2 2C:64-6. Disposal of Forfeited Property. Property which has
3 been forfeited shall be destroyed if it can serve no lawful purpose
4 or it presents a danger to the public health, safety or welfare.
5 All other forfeited property or any proceeds resulting from the
6 forfeiture and all money seized pursuant to this chapter shall
7 become the property of the entity funding the prosecuting agency
8 involved *and shall be disposed of, distributed, appropriated and*
9 *used in accordance with the provisions of this chapter.*

10 The prosecutor or the Attorney General, whichever is prose-
11 cuting the case, shall divide the forfeited property, any proceeds
12 resulting from the forfeiture of any money seized pursuant to this
13 chapter with any other entity where the other entity's law enforce-
14 ment agency participated in the surveillance, investigation **[and]**,
14a *arrest or prosecution* resulting in the forfeiture, in proportion to
15 the other entity's contribution to the surveillance, investigation
16 **[and]**, *arrest or prosecuting* resulting in the forfeiture *as deter-*
17 *mined in the discretion of the prosecutor or the Attorney General,*
18 *whichever is prosecuting the case. Notwithstanding any other pro-*
19 *vision of law, such forfeited property and proceeds shall be used*

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 printed in italics thus is new matter.

20 solely for law enforcement purposes, and shall be designated for the
 21 exclusive use of the law enforcement agency which contributed to
 22 the surveillance, investigation, arrest or prosecution resulting in
 23 the forfeiture.

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

1 2. N. J. S. 2C:64-7 is amended to read as follows:

2 2C:64-7. Vesting of Title in Forfeited Property. Title to prop-
 3 erty forfeited under this chapter shall vest in the entity funding
 4 the prosecuting agency involved at the time the item was utilized
 5 illegally, or, in the case of proceeds, when received.

6 If another entity's law enforcement agency has participated
 7 in the surveillance, investigation [and], arrest or prosecution re-
 8 sulting in the forfeiture, then the prosecutor or the Attorney Gen-
 9 eral, whichever is prosecuting the case, shall vest title to forfeited
 10 property, including motor vehicles, by dividing the forfeited prop-
 11 erty with the other entity in proportion to the other entity's contri-
 12 bution to the surveillance, investigation [and], arrest or prosecu-
 13 cution resulting in the forfeiture, as determined in the discretion
 14 of the prosecutor or the Attorney General. If the property, includ-
 15 ing motor vehicles, cannot be divided as required by this section,
 16 then the prosecutor or the Attorney General, whichever is prose-
 17 cuting the case, shall sell the property, including motor vehicles,
 18 and the proceeds of the sale shall be divided with the other entity
 19 in proportion to the other entity's contribution to the surveillance,
 20 investigation [and], arrest or prosecution resulting in the for-
 21 feiture, as determined in the discretion of the prosecutor or the
 22 Attorney General.

1 3. This act shall take effect on the first day of the second month
 2 after enactment.

STATEMENT

This bill would amend New Jersey's forfeiture law to allow State, county and municipal law enforcement agencies to take advantage of recent changes in federal law and procedure.

Federal forfeiture law now allows State, county and municipal law enforcement agencies to share in the distribution of property forfeited in a federal proceeding, where these law enforcement agencies contributed directly in any of the acts which led to the seizure or forfeiture of the property. Federal regulations provide, however, that forfeited property will be transferred in this manner only where the forfeited property or proceeds are to be used

or expended exclusively for law enforcement. This bill insures that forfeitures would be used for this purpose and authorizes the Attorney General to issue rules and regulations governing their distribution.

This bill would also clarify recent amendments to the forfeiture provisions of Title 2C contained in P. L. 1985, c. 110. Specifically, the bill clarifies that any determination of the relative contribution of each law enforcement agency should take into account the costs which are associated with prosecuting the underlying criminal offense and the related civil forfeiture action. The bill also clarifies that the ultimate determination of the relative contribution of each law enforcement agency is to be left to the discretion of the county prosecutor or the Attorney General, whoever is prosecuting the case. This amendment is intended to eliminate any possibility of lawsuits arising from the distribution of forfeited property and proceeds. Such collateral litigation could only detract from and undermine the overriding purpose of the forfeiture provisions of the Code of Criminal Justice, which is to take the profit out of crime and thereby to remove the economic incentive to commit it.

LAW AND PUBLIC SAFETY -- GENERAL

Enables State, county and municipal law enforcement agencies to share federally seized property.

20 solely for law enforcement purposes, and shall be designated for the
 21 exclusive use of the law enforcement agency which contributed to
 22 the surveillance, investigation, arrest or prosecution resulting in
 23 the forfeiture.

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

1 2. N. J. S. 2C:64-7 is amended to read as follows:

2 2C:64-7. Vesting of Title in Forfeited Property. Title to prop-
 3 erty forfeited under this chapter shall vest in the entity funding
 4 the prosecuting agency involved at the time the item was utilized
 5 illegally, or, in the case of proceeds, when received.

6 If another entity's law enforcement agency has participated
 7 in the surveillance, investigation **[and]**, arrest or prosecution re-
 8 sulting in the forfeiture, then the prosecutor or the Attorney Gen-
 9 eral, whichever is prosecuting the case, shall vest title to forfeited
 10 property, including motor vehicles, by dividing the forfeited prop-
 11 erty with the other entity in proportion to the other entity's contri-
 12 bution to the surveillance, investigation **[and]**, arrest or prosecu-
 13 tion resulting in the forfeiture, as determined in the discretion
 14 of the prosecutor or the Attorney General. If the property, includ-
 15 ing motor vehicles, cannot be divided as required by this section,
 16 then the prosecutor or the Attorney General, whichever is prose-
 17 cuting the case, shall sell the property, including motor vehicles,
 18 and the proceeds of the sale shall be divided with the other entity
 19 in proportion to the other entity's contribution to the surveillance,
 20 investigation **[and]**, arrest or prosecution resulting in the for-
 21 feiture, as determined in the discretion of the prosecutor or the
 22 Attorney General.

1 3. This act shall take effect on the first day of the second month
 2 after enactment.

STATEMENT

This bill would amend New Jersey's forfeiture law to allow State, county and municipal law enforcement agencies to take advantage of recent changes in federal law and procedure.

Federal forfeiture law now allows State, county and municipal law enforcement agencies to share in the distribution of property forfeited in a federal proceeding, where these law enforcement agencies contributed directly in any of the acts which led to the seizure or forfeiture of the property. Federal regulations provide, however, that forfeited property will be transferred in this manner only where the forfeited property or proceeds are to be used

S2236 (1986)

or expended exclusively for law enforcement. This bill insures that forfeitures would be used for this purpose and authorizes the Attorney General to issue rules and regulations governing their distribution.

This bill would also clarify recent amendments to the forfeiture provisions of Title 2C contained in P. L. 1985, c. 110. Specifically, the bill clarifies that any determination of the relative contribution of each law enforcement agency should take into account the costs which are associated with prosecuting the underlying criminal offense and the related civil forfeiture action. The bill also clarifies that the ultimate determination of the relative contribution of each law enforcement agency is to be left to the discretion of the county prosecutor or the Attorney General, whoever is prosecuting the case. This amendment is intended to eliminate any possibility of lawsuits arising from the distribution of forfeited property and proceeds. Such collateral litigation could only detract from and undermine the overriding purpose of the forfeiture provisions of the Code of Criminal Justice, which is to take the profit out of crime and thereby to remove the economic incentive to commit it.

LAW AND PUBLIC SAFETY — GENERAL

Enables State, county and municipal law enforcement agencies to share federally seized property.

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND
CORRECTIONS COMMITTEE

STATEMENT TO

SENATE, No. 2236

STATE OF NEW JERSEY

DATED: SEPTEMBER 11, 1986

The Assembly Law, Public Safety, Defense and Corrections Committee favorably reports Senate Bill No. 2236.

Senate Bill No. 2236 amends New Jersey's forfeiture law to allow State, county, and municipal law enforcement agencies to take advantage of recent changes in federal law and procedure.

Federal forfeiture law now allows State, county, and municipal law enforcement agencies to share in the distribution of property forfeited in a federal proceeding, where these law enforcement agencies contributed directly to any of the acts which led to the seizure or forfeiture of the property. Federal regulations provide, however, that forfeited property will be transferred to a local entity only where the forfeited property or proceeds are to be used or expanded exclusively for law enforcement purposes. This bill insures that forfeitures would only be used for law enforcement purposes and authorizes the Attorney General to issue rules and regulations governing the distribution of such property.

This bill would clarify the recent amendments to the forfeiture provisions of Title 2C made in P. L. 1985, c. 110. Specifically, the bill clarifies that any determination of the relative contribution of each law enforcement agency should take into account the costs which are associated with prosecuting the underlying criminal offense and the related civil forfeiture action.

The bill also clarifies that the ultimate determination of the relative contribution of each law enforcement agency is to be left to the discretion of the county prosecutor or the Attorney General, whoever is prosecuting the case. This provision is intended to eliminate any possibility of lawsuits arising from the distribution of forfeited property or proceeds.

As released by the committee, this bill is identical to Assembly Bill No. 2816.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 2236

STATE OF NEW JERSEY

DATED: JUNE 19, 1986

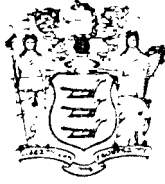
The Senate Law, Public Safety and Defense Committee favorably reports Senate Bill No. 2236.

This bill amends current law on the disposal of forfeited property to allow State, county and municipal law enforcement agencies to share in property forfeited in a federal proceeding, pursuant to recent changes in federal law and procedure.

Federal forfeiture law allows State, county and municipal law enforcement agencies to receive property forfeited in a federal proceeding if these law enforcement agencies contributed directly to the seizure or forfeiture of the property. Federal regulations provide, however, that forfeited property will be transferred in this manner only when the forfeited property or proceeds will be used or expended exclusively for law enforcement purposes. This bill ensures that forfeited property and proceeds will be used for law enforcement purposes and authorizes the Attorney General to issue rules and regulations governing their distribution that will comply with federal guidelines.

This bill also clarifies that when forfeited property and proceeds are being distributed, any determination of the relative contribution of each law enforcement agency will take into account the costs which are associated with prosecuting the underlying criminal offense and the related civil forfeiture action.

The bill also clarifies that the ultimate determination of the relative contribution of each law enforcement agency is to be left to the discretion of the county prosecutor or the Attorney General, whichever is prosecuting the case. This amendment is intended to eliminate any possibility of lawsuits arising from the distribution of forfeited property and proceeds.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: JOHN SAMERJAN
609-292-8956 OR 292-6000 EXT. 207

TRENTON, N.J. 08625

Release: THURS., OCT. 23, 1986

Governor Thomas H. Kean today signed the following legislation:

S-2236/A-2816, sponsored by Senator Francis McManimon, D-Mercer, and Assemblyman Thomas Paterniti, D-Middlesex, which amends the New Jersey forfeiture law to ensure that State, county and municipal law enforcement agencies are eligible to share in the property seized by the Federal Government. By specifically providing that forfeited property shall be used exclusively for law enforcement, this bill ensures that New Jersey State and local law enforcement agencies are eligible to share in the property seized by the Federal Government. This act shall take effect on the first day of the second month after enactment.

A-1803, sponsored by Assemblyman Byron Baer, D-Bergen, increases the membership of the boards of trustees of each State college from nine to eleven members with the addition of two student representatives, one voting and one non-voting. The legislation is effective immediately.

#

#

#

PROPERTY OF
NEW JERSEY STATE LIBRARY

NOV 7 1986

185 W. State Street
Trenton, N. J.