

2A:162-13

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 213
NJSA: 2A:162-13 (Bail funds acquired lawfully)
BILL NO: S1322 (Substituted for A3301)

SPONSOR(S): Bryant and others

DATE INTRODUCED: March 14, 2002

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 15, 2003

SENATE: February 27, 2003

DATE OF APPROVAL: January 9, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Senate Committee Substitute enacted)

S1322

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3301

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

Identical to Assembly Statement to S1322

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2003, CHAPTER 213, *approved January 9, 2004*
Senate Committee Substitute for
Senate, No. 1322

1 **AN ACT** concerning bail sufficiency hearings and supplementing Title
2 2A of the New Jersey Statutes.

3

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

6

7 1. When a person charged with an offense posts cash bail or
8 secures a bail bond, the court may, upon the request of the prosecutor,
9 conduct an inquiry to determine the reliability of the obligor or person
10 posting cash bail, the value and sufficiency of any security offered, the
11 relationship of the obligor or person posting cash bail to the defendant
12 and the defendant's interest in ensuring that the bail is not forfeited,
13 and whether the funds used to post the cash bail or secure the bail
14 bond were acquired as a result of criminal or unlawful conduct. The
15 court may examine, under oath or otherwise, any person who may
16 possess relevant information, and may inquire into any matter
17 appropriate to its determination, including, but not limited to, the
18 following:

19 a. The character, background and reputation of the person posting
20 cash bail;

21 b. The relationship of the person posting cash bail or securing a
22 bail bond to the defendant;

23 c. The source of any money posted as cash bail and whether any
24 such money constitutes the fruits of criminal or unlawful conduct;

25 d. The character, background and reputation of any person who
26 has indemnified or agreed to indemnify and obligor on the bond;

27 e. The character, background and reputation of any obligor, or, in
28 the case of a surety bond, the qualifications of the surety and its
29 executing agent;

30 f. The source of any money or property deposited by any obligor
31 as security and whether such money or property constitutes the fruits
32 of criminal or unlawful conduct; and

33 g. The source of any money or property delivered or agreed to be
34 delivered by any obligor as indemnification on the bond and whether
35 such money or property constitutes the fruits of criminal or unlawful
36 conduct.

37 At the conclusion of the inquiry, the court shall issue an order
38 either approving or disapproving the bail.

39

40 2. The procedure to determine the sufficiency of bail shall be
41 governed by rules adopted by the Supreme Court.

1 3. This act shall take effect immediately.

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6 Permits court, upon request of prosecutor, to examine reliability of
7 the obligor or person posting cash bail, relationship to defendant,
8 value and sufficiency of security offered and whether funds used to
9 post bail or secure bond were acquired lawfully.

SENATE, No. 1322

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 14, 2002

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

SYNOPSIS

Requires individual who posts bail to prove funds were acquired lawfully in certain drug-related cases.

CURRENT VERSION OF TEXT

As introduced.



S1322 BRYANT

2

1 AN ACT concerning proof of lawful ownership of bail sources in
2 certain cases and supplementing Title 2A of the New Jersey
3 Statutes.

4

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

7

8 1. An individual charged with a drug related offense under chapter
9 35 of Title 2C of the New Jersey Statutes for which the maximum term
10 of imprisonment can exceed one year who posts cash bail in an amount
11 exceeding \$1,000, or secures a bail bond for an amount exceeding
12 \$10,000 to satisfy an order for pretrial bail, or any individual who
13 posts cash bail in an amount exceeding \$1,000, or secures a bail bond
14 for an amount exceeding \$10,000 on behalf of an individual so
15 charged, shall be required by the court to prove that the funds used to
16 post the cash bail or to secure the bail bond were acquired through
17 lawful means.

18 As used in this act, "lawful means" shall include, but is not limited
19 to, any source which is not property or money obtained as a result of
20 the sale of prima facie contraband as defined in subsection a.(1) of
21 N.J.S.2C:64-1, proceeds of illegal gambling, prostitution, bribery or
22 extortion.

23

24 2. The procedure to determine the source of bail shall be governed
25 by rules adopted by the Supreme Court.

26

27 3. This act shall take effect immediately.

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STATEMENT

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32 Presently, when determining the amount and conditions of pretrial
33 bail release, a court may inquire into circumstances bearing on the risk
34 that the defendant will fail to appear. This bill would require that prior
35 to admitting to bail a defendant charged with a drug related offense for
36 which the penalty could include a term of imprisonment which exceeds
37 one year, the court shall require the individual who posts pretrial cash
38 bail or a bail bond secured by real property situated in this State to
39 prove that the cash or real property was acquired through lawful
40 means.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1322

STATE OF NEW JERSEY

DATED: JUNE 5, 2003

The Assembly Judiciary Committee reports favorably Senate Committee Substitute for Senate, No. 1322.

This substitute establishes a procedure by which a court may, upon the request of the prosecutor, inquire into the sufficiency of bail posted by a person charged with a crime. The court would determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship of the obligor or person posting cash bail to the defendant and the defendant's interest in ensuring that the bail is not forfeited, and whether the funds used to post the cash bail or secure the bail bond were acquired as a result of criminal or unlawful conduct. The substitute requires the court to issue an order at the conclusion of the inquiry either approving or disapproving the bail.

The purpose of the substitute is to clarify that the court has the authority to reject cash bail or a bail bond that is acquired by means of criminal or unlawful conduct. Additionally, the substitute would ensure that the court has the authority to reject certain sureties who do not properly assume the responsibility to produce the defendant in court as required.

Finally, the substitute provides that the hearing procedures will be governed by rules adopted by the Supreme Court.

This bill is identical to Assembly Bill No. 3301.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1322**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1322.

This substitute establishes a procedure by which a court may, upon the request of the prosecutor, inquire into the sufficiency of bail posted by a person charged with a crime. The court would determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship of the obligor or person posting cash bail to the defendant and the defendant's interest in ensuring that the bail is not forfeited, and whether the funds used to post the cash bail or secure the bail bond were acquired as a result of criminal or unlawful conduct. The substitute requires the court to issue an order at the conclusion of the inquiry either approving or disapproving the bail.

The purpose of the substitute is to clarify that the court has the authority to reject cash bail or a bail bond that is acquired by means of criminal or unlawful conduct. Additionally, the substitute would ensure that the court has the authority to reject certain sureties who do not properly assume the responsibility to produce the defendant in court as required.

Finally, the substitute provides that the hearing procedures will be governed by rules adopted by the Supreme Court.

ASSEMBLY, No. 3301

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 4, 2003

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Permits court, upon request of prosecutor, to examine reliability of the obligor or person posting cash bail, relationship to defendant, value and sufficiency of security offered and whether funds used to post bail or secure bond were acquired lawfully.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/16/2003)

1 AN ACT concerning bail sufficiency hearings and supplementing Title
2 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. When a person charged with an offense posts cash bail or
8 secures a bail bond, the court may, upon the request of the prosecutor,
9 conduct an inquiry to determine the reliability of the obligor or person
10 posting cash bail, the value and sufficiency of any security offered, the
11 relationship of the obligor or person posting cash bail to the defendant
12 and the defendant's interest in ensuring that the bail is not forfeited,
13 and whether the funds used to post the cash bail or secure the bail
14 bond were acquired as a result of criminal or unlawful conduct. The
15 court may examine, under oath or otherwise, any person who may
16 possess relevant information, and may inquire into any matter
17 appropriate to its determination, including, but not limited to, the
18 following:

19 a. The character, background and reputation of the person posting
20 cash bail;

21 b. The relationship of the person posting cash bail or securing a
22 bail bond to the defendant;

23 c. The source of any money posted as cash bail and whether any
24 such money constitutes the fruits of criminal or unlawful conduct;

25 d. The character, background and reputation of any person who
26 has indemnified or agreed to indemnify and obligor on the bond;

27 e. The character, background and reputation of any obligor, or, in
28 the case of a surety bond, the qualifications of the surety and its
29 executing agent;

30 f. The source of any money or property deposited by any obligor
31 as security and whether such money or property constitutes the fruits
32 of criminal or unlawful conduct; and

33 g. The source of any money or property delivered or agreed to be
34 delivered by any obligor as indemnification on the bond and whether
35 such money or property constitutes the fruits of criminal or unlawful
36 conduct.

37 At the conclusion of the inquiry, the court shall issue an order either
38 approving or disapproving the bail.

39
40 2. The procedure to determine the sufficiency of bail shall be
41 governed by rules adopted by the Supreme Court.

42
43 3. This act shall take effect immediately.

1 STATEMENT

2

3 This bill establishes a procedure by which a court may, upon the
4 request of the prosecutor, inquire into the sufficiency of bail posted by
5 a person charged with a crime. The court would determine the
6 reliability of the obligor or person posting cash bail, the value and
7 sufficiency of any security offered, the relationship of the obligor or
8 person posting cash bail to the defendant and the defendant's interest
9 in ensuring that the bail is not forfeited, and whether the funds used to
10 post the cash bail or secure the bail bond were acquired as a result of
11 criminal or unlawful conduct. The bill requires the court to issue an
12 order at the conclusion of the inquiry either approving or disapproving
13 the bail.

14 The purpose of the bill is to clarify that the court has the authority
15 to reject cash bail or a bail bond that is acquired by means of criminal
16 or unlawful conduct. Additionally, the bill would ensure that the court
17 has the authority to reject certain sureties who do not properly assume
18 the responsibility to produce the defendant in court as required.

19 Finally, the bill provides that the hearing procedures will be
20 governed by rules adopted by the Supreme Court.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3301

STATE OF NEW JERSEY

DATED: JUNE 5, 2003

The Assembly Judiciary Committee reports favorably Assembly Bill No. 3301.

This bill establishes a procedure by which a court may, upon the request of the prosecutor, inquire into the sufficiency of bail posted by a person charged with a crime. The court would determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship of the obligor or person posting cash bail to the defendant and the defendant's interest in ensuring that the bail is not forfeited, and whether the funds used to post the cash bail or secure the bail bond were acquired as a result of criminal or unlawful conduct. The bill requires the court to issue an order at the conclusion of the inquiry either approving or disapproving the bail.

The purpose of the bill is to clarify that the court has the authority to reject cash bail or a bail bond that is acquired by means of criminal or unlawful conduct. Additionally, the bill would ensure that the court has the authority to reject certain sureties who do not properly assume the responsibility to produce the defendant in court as required.

Finally, the bill provides that the hearing procedures will be governed by rules adopted by the Supreme Court.

This bill is identical to Senate Committee Substitute for Senate Bill No.1322.