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No

NEWSPAPER ARTICLES:

Yes

"Corzine signs bill allowing bail probes," Asbury Park Press, February 22, 2007, p.A3

RWH 4/29/08

P.L. 2007, CHAPTER 46, *approved February 21, 2007*
Assembly, No. 2987 (*Third Reprint*)

1 AN ACT concerning sources of bail, ²and² amending ³P.L.1994,
2 c.144 and³ P.L.2003, c.213 ²[and supplementing Title 2A of the
3 New Jersey Statutes]².

4

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

7

8 ³1. Section 1 of P.L.1994, c.144 (C.2A:162-12) is amended to
9 read as follows:

10 1. a. As used in this section:

11 "Crime with bail restrictions" means a crime of the first or
12 second degree charged under any of the following sections:

13 (1) Murder 2C:11-3.

14 (2) Manslaughter 2C:11-4.

15 (3) Kidnaping 2C:13-1.

16 (4) Sexual Assault 2C:14-2.

17 (5) Robbery 2C:15-1.

18 (6) Carjacking P.L.1993, c.221, s.1 (C.2C:15-2).

19 (7) Arson and Related Offenses 2C:17-1.

20 (8) Causing or Risking Widespread Injury or Damage 2C:17-2.

21 (9) Burglary 2C:18-2.

22 (10) Theft by Extortion 2C:20-5.

23 (11) Endangering the Welfare of Children 2C:24-4.

24 (12) Resisting Arrest; Eluding Officer 2C:29-2.

25 (13) Escape 2C:29-5.

26 (14) Corrupting or Influencing a Jury 2C:29-8.

27 (15) Possession of Weapons for Unlawful Purposes 2C:39-4.

28 (16) Weapons Training for Illegal Activities P.L.1983, c.229,

29 s.1 (C.2C:39-14).

30 (17) Soliciting or Recruiting Gang Members P.L.1999, c.160,

31 s.1 (C.2C:33-28).

32 "Crime with bail restrictions" also includes any first or second
33 degree drug-related crimes under chapter 35 of Title 2C of the New
34 Jersey Statutes and any first or second degree racketeering crimes
35 under chapter 41 of Title 2C of the New Jersey Statutes.

36 b. Subject to the provisions of subsection c. of this section, a
37 person charged with a crime with bail restrictions may post the
38 required amount of bail only in the form of:

39 (1) Full cash;

40 (2) A surety bond executed by a corporation authorized under
41 chapter 31 of Title 17 of the Revised Statutes; or

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:

¹Assembly ALP committee amendments adopted May 18, 2006.

²Senate SLP committee amendments adopted November 27, 2006.

³Senate SBA committee amendments adopted December 11, 2006.

1 (3) A bail bond secured by real property situated in this State
2 with an unencumbered equity equal to the amount of bail
3 undertaken plus \$20,000.

4 c. There shall be a presumption in favor of the court
5 designating the posting of full United States currency cash bail to
6 the exclusion of other forms of bail when a defendant is charged
7 with an offense as set forth in subsection a. of this section and:

8 (1) has two other indictable cases pending at the time of the
9 arrest; or

10 (2) has two prior convictions for a first or second degree crime
11 or for a violation of section 1 of P.L.1987, c.101 (C.2C:35-7) or any
12 combination thereof; or

13 (3) has one prior conviction for murder, aggravated
14 manslaughter, aggravated sexual assault, kidnapping or bail
15 jumping; or

16 (4) was on parole at the time of the arrest,
17 unless the court finds on the record that another form of bail
18 authorized in subsection b. of this section will ensure the
19 defendant's presence in court when required.

20 d. When bail is posted in the form of a bail bond secured by real
21 property, the owner of the real property, whether the person is
22 admitted to bail or a surety, shall also file an affidavit containing:

23 (1) A legal description of the real property;

24 (2) A description of each encumbrance on the real property;

25 (3) The market value of the unencumbered equity owned by the
26 affiant as determined in a full appraisal conducted by an appraiser
27 licensed by the State of New Jersey; and

28 (4) A statement that the affiant is the sole owner of the
29 unencumbered equity.

30 e. Nothing herein is intended to preclude a court from releasing
31 a person on the person's own recognizance when the court
32 determines that such person is deserving.³

33 (cf: P.L.2003, c.177, s.1)

34
35 ³[1.] 2.³ Section 1 of P.L.2003, c.213 (C.2A:162-13) is
36 amended to read as follows:

37 1. ²a.² When a person charged with ²[an offense] a crime with
38 bail restrictions, as defined in subsection a. of section 1 of
39 P.L.1994, c.144 (C.2A:162-12),² posts cash bail or secures a bail
40 bond, the ²person, no later than the time of posting bail or
41 proffering the surety or bail bond, shall provide to the prosecutor,
42 on a form promulgated by the Attorney General, relevant
43 information under penalty of perjury about the obligor, indemnifier
44 or person posting cash bail, the security offered, and the source of
45 any money or property used to post the cash bail or secure the
46 surety or bail bond, as the case may be. This required information
47 shall include, but not be limited to, the defendant's employment
48 history, the names and addresses of any persons who contributed

1 money or pledged security for the proffered bail or toward a surety
 2 bond, the amount, nature and timing of such contributions, and the
 3 relationship to the defendant of any such persons contributing
 4 resources. Bail may not be accepted from a person subject to the
 5 requirements of this subsection until the prosecutor is provided the
 6 completed form required by this subsection.

7 b. When a person charged with an offense posts cash bail or
 8 secures a bail bond in any amount, the² court may, upon the request
 9 of the prosecutor, ²[and, in the cases set forth in section 2 of
 10 P.L. c. (C.) (pending before the Legislature as this bill),
 11 the court shall,]² conduct an inquiry to determine the reliability of
 12 the obligor or person posting cash bail, the value and sufficiency of
 13 any security offered, the relationship of the obligor or person
 14 posting cash bail to the defendant and the defendant's interest in
 15 ensuring that the bail is not forfeited, and whether the funds used to
 16 post the cash bail or secure the bail bond were acquired as a result
 17 of criminal or unlawful conduct. ²When the offense charged
 18 against such person is a crime with bail restrictions as defined in
 19 subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), the
 20 court shall, upon the request of the prosecutor, conduct an inquiry
 21 pursuant to the provisions of this subsection.² The court may
 22 examine, under oath or otherwise, any person who may possess
 23 relevant information, and may inquire into any matter appropriate to
 24 its determination, including, but not limited to, the following:

25 ²[a.] (1)² The character, background and reputation of the
 26 person posting cash bail;

27 ²[b.] (2)² The relationship of the person posting cash bail or
 28 securing a bail bond to the defendant;

29 ²[c.] (3)² The source of any money posted as cash bail and
 30 whether any such money constitutes the fruits of criminal or
 31 unlawful conduct;

32 ²[d.] (4)² The character, background and reputation of any
 33 person who has indemnified or agreed to indemnify ¹[and] an¹
 34 obligor on the bond;

35 ²[e.] (5)² The character, background and reputation of any
 36 obligor, or, in the case of a surety bond, the qualifications of the
 37 surety and its executing agent;

38 ²[f.] (6)² The source of any money or property deposited by any
 39 obligor as security and whether such money or property constitutes
 40 the fruits of criminal or unlawful conduct; and

41 ²[g.] (7)² The source of any money or property delivered or
 42 agreed to be delivered by any obligor as indemnification on the
 43 bond and whether such money or property constitutes the fruits of
 44 criminal or unlawful conduct.

45 At the conclusion of the inquiry, the court shall issue an order
 46 either approving or disapproving the bail. ²The court shall not issue
 47 an order approving the bail unless it is satisfied that the evidence

1 adduced in the inquiry establishes the reliability of the source of the
 2 funds used to post bail or security offered, that the relationship of
 3 the obligor or person posting cash bail is sufficient to ensure the
 4 defendant's presence in court when required, and that the funds
 5 used to post cash bail or secure a bail bond were not acquired as a
 6 result of criminal or unlawful conduct.²

7 (cf: P.L.2003, c.213, s.1)

8
 9 ²[2. (New section) The court shall conduct an inquiry in
 10 accordance with the provisions of section 1 of P.L.2003, c.213
 11 (C.2A:162-13) in any case where the defendant is charged with a
 12 violation of ¹[N.J.S.2C:35-5, manufacturing, distributing or
 13 dispensing controlled dangerous substance or analog;]

14 a. a crime of the first or second degree;

15 b.¹ N.J.S.2C:39-4, possession of a weapon for unlawful purpose;

16 c.¹ N.J.S.2C:39-5, unlawful possession of weapon;¹[or]

17 d.¹ a crime related to criminal street gang activity as defined in
 18 subsection h. of N.J.S.2C:44-3 ¹; or

19 e. N.J.S.2C:35-5, manufacturing, distributing or dispensing
 20 controlled dangerous substance or analog, other than a violation of
 21 paragraphs (3), (5) and (11) through (14) of subsection b. of that
 22 section¹.]²

23
 24 ²[3. Section 2 of P.L.2003, c.213 (C.2A:162-14) is amended to
 25 read as follows:

26 2. The procedure to determine the sufficiency of bail in
 27 accordance with the provisions of section 1 of P.L.2003, c.213
 28 (C.2A:162-13) and section 2 of P.L. , c. (C.) (pending before
 29 the Legislature as this bill) shall be governed by rules adopted by
 30 the Supreme Court.

31 (cf: P.L.2003,c.213,s.2)]²

32
 33 ²[4.] ³[².] ³ This act shall take effect on the ¹[90th] first¹
 34 day ¹of the fourth month¹ following enactment.

35
 36
 37
 38
 39 Requires court to conduct inquiry at prosecutor's request
 40 concerning source of bail funds where defendant is charged with
 41 crime with bail restrictions.

ASSEMBLY, No. 2987

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman ALFRED E. STEELE

District 35 (Bergen and Passaic)

SYNOPSIS

Requires the court to conduct an inquiry concerning the source of bail funds where defendant is charged with certain serious crimes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/16/2006)

1 AN ACT concerning sources of bail, amending P.L.2003, c.213 and
2 supplementing Title 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. Section 1 of P.L.2003, c.213 (C.2A:162-13) is amended to
8 read as follows:

9 1. When a person charged with an offense posts cash bail or
10 secures a bail bond, the court may, upon the request of the
11 prosecutor, and, in the cases set forth in section 2 of P.L. _____,
12 c. (C. _____) (pending before the Legislature as this bill), the court
13 shall, conduct an inquiry to determine the reliability of the obligor
14 or person posting cash bail, the value and sufficiency of any
15 security offered, the relationship of the obligor or person posting
16 cash bail to the defendant and the defendant's interest in ensuring
17 that the bail is not forfeited, and whether the funds used to post the
18 cash bail or secure the bail bond were acquired as a result of
19 criminal or unlawful conduct. The court may examine, under oath
20 or otherwise, any person who may possess relevant information,
21 and may inquire into any matter appropriate to its determination,
22 including, but not limited to, the following:

23 a. The character, background and reputation of the person
24 posting cash bail;

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

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

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

31 e. The character, background and reputation of any obligor, or,
32 in the case of a surety bond, the qualifications of the surety and its
33 executing agent;

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

37 g. The source of any money or property delivered or agreed to
38 be delivered by any obligor as indemnification on the bond and
39 whether such money or property constitutes the fruits of criminal or
40 unlawful conduct.

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

43 (cf: P.L.2003,c.213,s.1)

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.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2987

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2006

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2987.

As amended and reported by the committee, Assembly Bill No. 2987 requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail 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.

This bill, as amended, requires the court to conduct the inquiry concerning the source of bail funds in all cases, regardless of whether the prosecutor requests an inquiry, where the defendant is charged with: 1) a crime of the first or second degree; 2) possessing a weapon for unlawful purpose under N.J.S.2C:39-4; 3) unlawfully possessing a weapon under N.J.S.2C:39-5; or 4) a crime related to criminal street gang activity as defined in subsection h. of N.J.S.2C:44-3; or (5) first and second degree crimes involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs under N.J.S.2C:35-5.

COMMITTEE AMENDMENTS:

The committee amended the bill to require the court to conduct an inquiry whenever a defendant is charged with a crime of the first or second degree. Further, the committee amendments clarify that while the court is obligated to conduct an inquiry into the source of bail funds in cases where the defendant is charged with a first or second degree crime involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs, an inquiry into the source of bail funds in those instances where the defendant is charged with a third or fourth degree crime involving the manufacturing, distributing or dispensing of controlled dangerous

substances or controlled substance analogs may be conducted by the court upon a prosecutor's request.

The committee also made technical amendments.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 2987

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 20, 2006

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Assembly Bill No. 2987 [1R].

This bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail 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.

As amended and reported by the committee, this bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

The amended bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

As received by the committee, the bill required the court to conduct the inquiry concerning the source of bail funds in all cases, regardless of whether the prosecutor requests an inquiry, where the defendant is charged with: 1) a crime of the first or second degree; 2) possessing a weapon for unlawful purpose under N.J.S.2C:39-4; 3) unlawfully possessing a weapon under N.J.S.2C:39-5; or 4) a crime related to criminal street gang activity as defined in subsection h. of N.J.S.2C:44-3; or (5) first and second degree crimes involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs under N.J.S.2C:35-5.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2012, also amended and reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 2987

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2006

The Senate Budget and Appropriations committee reports favorably Assembly Bill No. 2987 (2R), with committee amendments.

As amended, the bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes. Specifically, this bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

The bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

As amended and reported, this bill is identical to Senate Bill No. 2012 (1R), as also reported and amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendment would include N.J.S.A. 2C:33-28, which codifies the crime of soliciting or recruiting gang members, in the list of crimes with bail restrictions.

FISCAL IMPACT:

According to a fiscal estimate to the bill, the OLS notes that there is not enough data available to determine the cost of conducting an inquiry into the source of bail, nor the number of inquiries which would be required under the bill. As a result, the cost of implementing the bill cannot be determined.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2987

STATE OF NEW JERSEY 212th LEGISLATURE

DATED: JUNE 7, 2006

SUMMARY

Synopsis: Requires the court to conduct an inquiry concerning the source of bail funds where defendant is charged with certain serious crimes.

Type of Impact: General Fund Expenditure

Agencies Affected: Judiciary

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Cannot Be Determined - See Comments Below		

- The Office of Legislative Services (OLS) notes that there are not enough data available to the OLS to determine the cost of conducting an inquiry into the source of bail, nor the number of inquiries which would be required under the bill. As a result, the cost of implementing the bill cannot be determined. The bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.
- The amended bill requires the court to conduct the inquiry concerning the source of bail funds in all cases, regardless of whether the prosecutor requests an inquiry, where the defendant is charged with: 1) a crime of the first or second degree; 2) possessing a weapon for unlawful purpose under N.J.S.2C:39-4; 3) unlawfully possessing a weapon under N.J.S.2C:39-5; or 4) a crime related to criminal street gang activity as defined in subsection h. of N.J.S.2C:44-3; or (5) first and second degree crimes involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs under N.J.S.2C:35-5.

BILL DESCRIPTION

Assembly Bill No. 2987 (1R) of 2006 requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail

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, as amended, requires the court to conduct the inquiry concerning the source of bail funds in all cases, regardless of whether the prosecutor requests an inquiry, where the defendant is charged with: 1) a crime of the first or second degree; 2) possessing a weapon for unlawful purpose under N.J.S.2C:39-4; 3) unlawfully possessing a weapon under N.J.S.2C:39-5; or 4) a crime related to criminal street gang activity as defined in subsection h. of N.J.S.2C:44-3; or (5) first and second degree crimes involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs under N.J.S.2C:35-5.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that there are not enough data available to the OLS to determine the cost of conducting an inquiry into the source of bail, nor the number of inquiries which would be required under the bill. As a result, the cost of implementing the bill cannot be determined.

Section: Judiciary

Analyst: Anne Raughley
Principal Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE
 [Second Reprint]
ASSEMBLY, No. 2987
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 4, 2007

SUMMARY

Synopsis: Requires court to conduct inquiry at prosecutor's request concerning source of bail funds where defendant is charged with crime with bail restrictions.

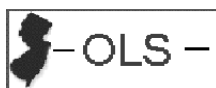
Type of Impact: General Fund Expenditure.

Agencies Affected: Judiciary.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$573,169 to \$4,585,352	\$499,164 to \$3,993,312	\$524,123 to \$4,192,984

- The Office of Legislative Services **concurs** with the Executive estimate.
- The amended bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.
- The amended bill requires a person charged with a crime with bail restrictions, who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be.
- The amended bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.



- The Administrative Office of the Courts (AOC) states that approximately 34,859 cases would be eligible for a bail source hearing under the provisions of the legislation. However the total cost of the bill would be determined by the number of hearings which are requested by the prosecutor.
- The AOC notes that depending upon the number of bail hearings requested by the prosecutor, the cost of implementing the bill could range from \$573,169 to \$4,585,352 during the first year of implementation. Second year cost would range between \$499,164 and \$3,993,312, and third-year cost would range between \$524,123 and \$4,192,984.

BILL DESCRIPTION

Assembly Bill No. 2987 (2R) of 2006 requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail 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 amended bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

The amended bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The AOC states that any expenditure the Judiciary would incur as a result of the legislation is based in part on the percentage of offenses a prosecutor would request a bail source hearing for. Since this information is not available, the Judiciary is unable to project with certainty the full impact of the legislation. As a result, the following fiscal analysis provides projections based on

bail source hearing requests occurring in between 1 to 10 percent of the total criminal cases annually.

The AOC notes that approximately 34,859 cases would be eligible for a bail source hearing under the provisions of the legislation. Each bail source hearing takes approximately 3 hours and a Judge can dispose of 2 hearings per day. A judge sits 215 days per year and would be able to handle 430 hearings annually. The following table illustrates the number of judge teams required depending upon the number of hearings requested by the prosecutor.

% of Hearings Requested	Number Hearings Required	Number Days Required	Number Judge Teams Required
1%	349	175	1
5%	1,743	872	4
10%	3,486	1,743	8

Expenditures

The AOC states that the creation of a new judgeship requires the creation of a complete judge team consisting of a Superior Court Judge, a Judge's Secretary, a Law Clerk, a Court Clerk, and an Official Court Reporter (usually only used in Criminal cases). Associated costs include salaries and fringe benefits, office and courtroom space, start up costs, recurring operating costs and optional costs.

The AOC notes that annual salary and fringe benefits costs for one judge team would total \$412,266 in the first year following enactment. Second- and third-year costs would increase to \$423,883 and \$454,528 respectively.

The AOC states that one-time start-up costs of \$97,775 per court room would be generated to fund office furniture, video court room capability, computers, law books, etc. Continuing operating expenses (office supplies, telephone bills, postage, office machine rentals, etc.) are estimated at \$13,128 per court room during the first year of operation. Second- and third year program costs would total \$13,781 and \$14,470 per court room. In addition, the AOC notes that although not included in the cost projection as it is beyond the projection period, after two years, the maintenance of the video court capability is approximately \$3,675 per court room. The AOC further states that it is assumed that the Judiciary would be required to rent additional office and courtroom space necessary to facilitate the judicial team. Assuming the need for 2,000 square feet per judicial team, at \$25 per square foot, the annual facility rental cost would total \$50,000 per court room in the first year, \$52,500 in the second year, and \$55,125 in the third year after implementation.

The AOC reports that based on the total number of hearings requested the number of judge teams and costs would be as follows:

% of Hearings Requested	Judge Teams Required	Year 1	Year 2	Year 3
1%	1	\$537,169	\$499,164	\$524,123
5%	4	\$2,292,676	\$1,996,656	\$2,096,492
10%	8	\$4,585,352	\$3,993,312	\$4,192,984

Summary

In summary, The AOC states that depending upon the number of bail hearings requested by the prosecutor, the cost of implementing the bill could range from \$573,169 to \$4,585,352 during

the first full year of implementation. Second year cost would range between \$499,164 and \$3,993,312, and third-year cost would range between \$524,123 and \$4,192,984.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary

*Analyst: Anne Raughley
 Principal Fiscal Analyst*

*Approved: David J. Rosen
 Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 2012

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JUNE 12, 2006

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

SYNOPSIS

Requires the court to conduct an inquiry concerning the source of bail funds where defendant is charged with certain serious crimes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/28/2006)

1 AN ACT concerning sources of bail, amending P.L.2003, c.213 and
2 supplementing Title 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. Section 1 of P.L.2003, c.213 (C.2A:162-13) is amended to
8 read as follows:

9 1. When a person charged with an offense posts cash bail or
10 secures a bail bond, the court may, upon the request of the
11 prosecutor, and, in the cases set forth in section 2 of
12 P.L. , c. (C.) (pending before the Legislature as this bill), the
13 court shall, conduct an inquiry to determine the reliability of the
14 obligor or person posting cash bail, the value and sufficiency of any
15 security offered, the relationship of the obligor or person posting
16 cash bail to the defendant and the defendant's interest in ensuring
17 that the bail is not forfeited, and whether the funds used to post the
18 cash bail or secure the bail bond were acquired as a result of
19 criminal or unlawful conduct. The court may examine, under oath
20 or otherwise, any person who may possess relevant information,
21 and may inquire into any matter appropriate to its determination,
22 including, but not limited to, the following:

23 a. The character, background and reputation of the person
24 posting cash bail;

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

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

30 d. The character, background and reputation of any person who
31 has indemnified or agreed to indemnify **[and]** an obligor on the
32 bond;

33 e. The character, background and reputation of any obligor, or,
34 in the case of a surety bond, the qualifications of the surety and its
35 executing agent;

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

39 g. The source of any money or property delivered or agreed to
40 be delivered by any obligor as indemnification on the bond and
41 whether such money or property constitutes the fruits of criminal or
42 unlawful conduct.

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

45 (cf: P.L.2003, c.213, s.1)

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.

S2012 TURNER, GIRGENTI

4

1 dispensing of controlled dangerous substances or controlled
2 substance analogs under N.J.S.2C:35-5 (all CDS crimes of the
3 first and second degree as well as those CDS crimes of the third
4 degree that are set out in subparagraph (b) of paragraph (9) of
5 N.J.S.2C:35-5).

6 The bill also makes a technical correction to existing law, set out
7 in subsection d. of section 1 of P.L.2003, c.213 (C.2A:162-13).

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2012

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 20, 2006

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 2012.

This bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail 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.

As amended and reported by the committee, this bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

The amended bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

As received by the committee, the bill required the court to conduct the inquiry concerning the source of bail funds in all cases, regardless of whether the prosecutor requests an inquiry, where the defendant is charged with: 1) a crime of the first or second degree; 2) possessing a weapon for unlawful purpose under N.J.S.2C:39-4; 3) unlawfully possessing a weapon under N.J.S.2C:39-5; or 4) a crime related to criminal street gang activity as defined in subsection h. of N.J.S.2C:44-3; or (5) first and second degree crimes involving the manufacturing, distributing or dispensing of controlled dangerous substances or controlled substance analogs under N.J.S.2C:35-5.

As amended and reported, this bill is identical to Assembly bill No. 2987 [1R], also amended and reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2012

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2006

The Senate Budget and Appropriations committee reports favorably Senate Bill No. 2012 (1R), with committee amendments.

As amended, this bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes. Specifically, the bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

The bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

As amended and reported, this bill is identical to Assembly Bill No. 2987 (2R), as also reported and amended by the committee.

COMMITTEE AMENDMENTS:

The committee amendment would include N.J.S.A.2C:33-28, which codifies the crime of soliciting or recruiting gang members, in the list of crimes with bail restrictions.

FISCAL IMPACT:

The Administrative Office of the Courts (AOC) states that approximately 34,859 cases would be eligible for a bail source hearing under the provisions of this bill. However the total cost of the bill would be determined by the number of hearings which are requested by the prosecutor, a number which the Judiciary cannot predict with certainty. Based on an assumption, however, that bail source hearing requests would occur in one to ten percent of total criminal cases annually, the AOC estimates that the cost of implementing the bill could range from \$573,169 to \$4,585,352 during the first year of implementation, between \$499,164 and \$3,993,312 in the second year, and between 524,123 and \$4,192,984 in the third year. This estimate includes the cost of a new judgeship, supporting personnel and other related administrative expenditures.

FISCAL NOTE
[First Reprint]
SENATE, No. 2012
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 4, 2007

SUMMARY

Synopsis: Requires court to conduct inquiry at prosecutor's request concerning source of bail funds where defendant is charged with crime with bail restrictions.

Type of Impact: General Fund Expenditure.

Agencies Affected: Judiciary.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$573,169 to \$4,585,352	\$499,164 to \$3,993,312	\$524,123 to \$4,192,984

- The Office of Legislative Services **concurs** with the Executive estimate.
- The amended bill requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.
- The amended bill requires a person charged with a crime with bail restrictions, who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be.
- The amended bill further provides that when a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to 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. When the offense charged against the person is a crime with bail restrictions, the court is required to conduct an inquiry if the prosecutor so requests.

- The Administrative Office of the Courts (AOC) states that approximately 34,859 cases would be eligible for a bail source hearing under the provisions of the legislation. However the total cost of the bill would be determined by the number of hearings which are requested by the prosecutor.
- The AOC notes that depending upon the number of bail hearings requested by the prosecutor, the cost of implementing the bill could range from \$573,169 to \$4,585,352 during the first year of implementation. Second year cost would range between \$499,164 and \$3,993,312, and third-year cost would range between \$524,123 and \$4,192,984.

BILL DESCRIPTION

Senate Bill No. 2012 (1R) of 2006 requires courts to conduct an inquiry into the source of bail of defendants charged with certain crimes.

Current law provides that, at the request of the prosecutor, the court may conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship to the defendant of the obligor or person posting cash bail 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 amended bill requires a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), who posts cash bail or secures a bail bond, to provide to the prosecutor relevant information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This information is to include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources.

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FISCAL ANALYSIS

EXECUTIVE BRANCH

The AOC states that any expenditure the Judiciary would incur as a result of the legislation is based in part on the percentage of offenses a prosecutor would request a bail source hearing for. Since this information is not available, the Judiciary is unable to project with certainty the full impact of the legislation. As a result, the following fiscal analysis provides projections based on

bail source hearing requests occurring in between 1 to 10 percent of the total criminal cases annually.

The AOC notes that approximately 34,859 cases would be eligible for a bail source hearing under the provisions of the legislation. Each bail source hearing takes approximately 3 hours and a Judge can dispose of 2 hearings per day. A judge sits 215 days per year and would be able to handle 430 hearings annually. The following table illustrates the number of judge teams required depending upon the number of hearings requested by the prosecutor.

% of Hearings Requested	Number Hearings Required	Number Days Required	Number Judge Teams Required
1%	349	175	1
5%	1,743	872	4
10%	3,486	1,743	8

Expenditures

The AOC states that the creation of a new judgeship requires the creation of a complete judge team consisting of a Superior Court Judge, a Judge's Secretary, a Law Clerk, a Court Clerk, and an Official Court Reporter (usually only used in Criminal cases). Associated costs include salaries and fringe benefits, office and courtroom space, start up costs, recurring operating costs and optional costs.

The AOC notes that annual salary and fringe benefits costs for one judge team would total \$412,266 in the first year following enactment. Second- and third-year costs would increase to \$423,883 and \$454,528 respectively.

The AOC states that one-time start-up costs of \$97,775 per court room would be generated to fund office furniture, video court room capability, computers, law books, etc. Continuing operating expenses (office supplies, telephone bills, postage, office machine rentals, etc.) are estimated at \$13,128 per court room during the first year of operation. Second- and third year program costs would total \$13,781 and \$14,470 per court room. In addition, the AOC notes that although not included in the cost projection as it is beyond the projection period, after two years, the maintenance of the video court capability is approximately \$3,675 per court room. The AOC further states that it is assumed that the Judiciary would be required to rent additional office and courtroom space necessary to facilitate the judicial team. Assuming the need for 2,000 square feet per judicial team, at \$25 per square foot, the annual facility rental cost would total \$50,000 per court room in the first year, \$52,500 in the second year, and \$55,125 in the third year after implementation.

The AOC reports that based on the total number of hearings requested the number of judge teams and costs would be as follows:

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OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: Judiciary

Analyst: Anne Raughley
Principal Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.