

52:4B-26 to 52:4B-33

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:4B-26 to 52:4B-33

(Violent Crimes Compensation Board - management of royalties and fees paid to accused or convicted criminals)

LAWS OF: 1983

CHAPTER: 33

Bill No.: S434

Sponsor(s): Codey

Date Introduced: Pre-filed

Committee: Assembly: Judiciary, Law, Public Safety & Defense

Senate: Law, Public Safety & Defense

Amended during passage Yes // Assembly Committee Substitute (OCR) enacted. Amendments during passage denoted by asterisks

Date of Passage: Assembly: Dec. 2, 1982

Senate: May 10, 1982

Date of Approval: Jan. 26, 1983

Following statements are attached if available:

Sponsor statement: Yes // Attached: Senate amendments, adopted 11-8-82 (with statement)

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

33
1 26-83
87

[OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 434

STATE OF NEW JERSEY

ADOPTED OCTOBER 18, 1982

AN ACT concerning certain moneys received by persons accused of crimes and supplementing the "Criminal Injuries Compensation Act of 1971," approved October 4, 1971 (P. L. 1971, c. 317; C. 52:4B-1 et seq.).

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

1 1. The Legislature finds and declares that every contract with
2 a person convicted or accused of a crime in this State or an agent,
3 assignee, beneficiary, conservator, executor, guardian, representa-
4 tive, relative, friend, associate or conspirator of a person convicted
5 or accused of a crime in this State, with respect to the reenactment
6 of the crime, by way of a movie, book, magazine article, other
7 literary expression, recording, radio or television presentation, live
8 entertainment or presentation of any kind, or from the expression
9 of the person's thoughts, feelings, opinions or emotions regarding
10 the crime is contrary to public policy and void unless the contract
11 provides for payment of the moneys in escrow to the Violent
12 Crimes Compensation Board in accordance with the procedures
13 set forth in this act.

1 2. As used in this act:

2 a. "Victim" means any person who suffers personal injury or
3 death or incurs loss of or injury to personal or real property as a
4 result of the crime;

5 b. "Victim's representative" means one who represents or stands
6 in the place of a victim, including but not limited to a spouse,
7 parent, relative, guardian, dependent, heir, or executor.

1 3. Every person, firm, corporation, partnership, association or
2 other legal entity contracting with a person convicted or accused
3 of a crime in this State or an agent, assignee, beneficiary, con-
4 servator, executor, guardian, representative, relative, friend, as-

**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.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate amendments adopted November 8, 1982.**

5 sociate or conspirator of a person convicted or accused of a crime
6 in this State, with respect to the reenactment of the crime, by way
7 of a movie, book, magazine article, other literary expression, re-
8 cording, radio or television presentation, live entertainment or
9 presentation of any kind, or from the expression of the person's
10 thoughts, feelings, opinions or emotions regarding the crime, shall
11 submit a copy of the contract to the board and shall pay over to
12 the board all moneys which would otherwise, by terms of the con-
13 tract, be owing the person convicted or accused of a crime in this
14 State or an agent, assignee, beneficiary, conservator, executor,
15 guardian, representative, relative, friend, associate or conspirator
16 of a person convicted or accused of a crime in this State. The
17 board shall deposit these moneys in an interest bearing escrow
18 account for the benefit of and payable to any victim of the con-
19 victed or accused person or the victim's representative, provided
20 that the person is eventually convicted of the crime and that the
21 victim or victim's representative brings, within five years of the
22 date of the establishment of the escrow account, a civil action for
23 damages resulting from the crime, or, has already obtained a
24 judgment for damages resulting from the crime in a court of
25 competent jurisdiction ****[within five years of the date of the estab-**
26 **lishment of the escrow account]**** and files notice of such action
27 with the board and recovers a money judgment for damages result-
28 ing from the crime against the person or an agent, assignee, bene-
29 ficiary, conservator, executor, guardian, representative, relative,
30 friend, associate or conspirator of a person convicted or accused
31 of a crime in this State.

1 4. The board, if the victim or victims are identifiable, shall notify
2 these persons that such escrow moneys are available to satisfy
3 money judgments under this act. The board, if the victim or
4 victims are not identifiable or cannot be located, shall, at least once
5 every six months for five years from the date it receives these
6 moneys, cause to have published a legal notice in newspapers of
7 general circulation in each county of the State advising that such
8 escrow moneys are available to satisfy money judgments under
9 this act.

1 5. a. If a person is not convicted of committing a crime, the
2 board shall immediately pay over all moneys in the escrow account
3 to the person, subject to any outstanding or pending liens or judg-
4 ments. If the person is convicted, the board shall pay over the
5 moneys according to the following priorities:

6 (1) Civil judgments of the victim or the victim's representative,
7 which shall be apportioned among these judgment holders if there

SENATE, No. 434

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senator CODEY

AN ACT concerning certain moneys received by persons accused of crimes and supplementing the "Criminal Injuries Compensation Act of 1971," approved October 4, 1971 (P. L. 1971, c. 317; C. 52:4B-1 et seq.).

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

1 1. Every person, firm, corporation, partnership, association or
2 other legal entity contracting with a person or the representa-
3 tive or assignee of a person accused of a crime in this State for
4 which compensation may be provided under P. L. 1971, c. 317
5 (C. 52:4B-1 et seq.), with respect to the reenactment of the crime,
6 by way of a movie, book, magazine article, radio or television
7 presentation, live entertainment of any kind, or from the expres-
8 sion of the person's thoughts, feelings, opinions or emotions re-
9 garding the crime, shall pay over to the board all moneys which
10 would otherwise, by terms of the contract, be owing to the person
11 so convicted or the person's representatives. The board shall de-
12 posit these moneys in an escrow account for the benefit of and
13 payable to a victim or other person authorized to receive these
14 moneys under P. L. 1971, c. 317 (C. 52:4B-1 et seq.), if the person
15 is eventually convicted of the crime and if the victim or the person
16 entitled to make an application to the board for relief under P. L.
17 1971, c. 317 (C. 52:4B-1 et seq.), within 5 years of the date of the
18 crime, brings a civil action in a court of competent jurisdiction and
19 recovers a money judgment against the person or the person's
20 representatives.

1 2. The board, at least once every 6 months for 5 years from the
2 date it receives these moneys, shall cause to have published a legal
3 notice in newspapers of general circulation in each county of the
4 State advising that such escrow moneys are available to satisfy
5 money judgments under this act.

1 3. Upon disposition of charges favorable to a person accused
2 of committing a crime, or upon a showing by the person that 5
3 years have elapsed from the establishment of the escrow account
4 and further that no actions are pending against the person under
5 this section the board shall immediately pay over all moneys in
6 the escrow account to the person.

1 4. Notwithstanding any inconsistent provision of the civil prac-
2 tice law and rules with respect to the timely bringing of an action,
3 the 5-year period provided for in this act shall not begin to run
4 until an escrow account has been established.

1 5. Notwithstanding the foregoing provisions of this act, the
2 board shall make payments from an escrow account to a person
3 accused of crime upon the order of a court of competent jurisdiction
4 after a showing by the person that these moneys shall be used
5 for the exclusive purpose of retaining legal representation at any
6 stage of the proceedings against the person, including the appeals
7 process.

1 6. Any action taken by a person convicted of a crime, whether
2 by way of execution of a power of attorney, creation of corporate
3 entities or otherwise, to defeat the purpose of this section shall
4 be void as against the public policy of this State.

1 7. This act shall take effect immediately.

STATEMENT

This bill provides a procedure whereby any person accused of a violent crime who contracts to sell his version of the reenactment of the crime by way of a movies, book, magazine article, radio or television presentation, live entertainment of any kind, or who contracts to publish his thoughts, feelings, opinions or emotions regarding the crime must turn the proceeds of such contract over to the Violent Crimes Compensation Board for the benefit of the victims of the crime. The moneys would be deposited in an escrow account, and would be paid to the victims when the accused person has been convicted of the crime. If the accused is acquitted, the money would be returned to him. The money in the account could also be obtained by the accused if he can show that the money is needed to retain legal representation.

8 is insufficient moneys in the account to pay each judgment in full.
9 Any money received by the victim or the victim's representative
10 as a result of a judgment in a prior civil action relating to the
11 crime shall be set-off against any amount due to be paid from the
12 fund.

13 (2) Restitution ordered by the court pursuant to the New Jersey
14 Code of Criminal Justice.

15 (3) Other judgment creditors of the accused.

16 (4) Reasonable costs incurred by the Violent Crimes Compensa-
17 tion Board in connection with the administration of the provisions
18 of this act.

19 (5) The remainder of the moneys in the escrow account shall
20 be paid to the Violent Crimes Compensation Board for use in
21 satisfying claims filed pursuant to the "Criminal Injuries Compensa-
22 tion Act of 1971," P. L. 1971, c. 317 (C. 52:4B-1 et seq.). If
23 there is a dispute as to the respective priority of or the appor-
24 tionment due a judgment creditor the board shall apply to Superior
25 Court for a declaratory judgment with proper notice given to all
26 parties.

27 b. No payment shall be made pursuant to subsection a. (5) until
28 five years have elapsed from establishment of the escrow account
29 or final disposition of any action brought by any victim or victim's
30 representative, pursuant to this act.

31 c. Moneys in the escrow account shall not be subject to execution,
32 levy, attachment or lien except in accordance with the priority of
33 claims established in subsection a.

1 6. Notwithstanding any inconsistent provision of the civil prac-
2 tice law and rules with respect to the timely bringing of an action,
3 the five year period provided for in this act shall not begin to run
4 until an escrow account has been established.

1 7. Notwithstanding the foregoing provisions of this act, the board
2 shall make payments from an escrow account to a person accused
3 of crime upon the order of a court of competent jurisdiction after
4 a showing by the person that a reasonable amount of these moneys
5 shall be used for the exclusive purpose of retaining legal repre-
6 sentation at any ****[state]**** ****stage**** of the criminal proceedings
7 against the person, including the appeals process.

1 8. Any action taken by a person convicted of a crime, whether by
2 way of execution of a power of attorney, creation of corporate
3 entities or otherwise, to defeat the purpose of this act shall be void
4 as against the public policy of this State.

1 9. This act shall take effect immediately.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 434

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1982

This bill provides a procedure whereby any person accused of a violent crime who contracts to sell his version of the reenactment of the crime by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or who contracts to publish his thoughts, feelings, opinions or emotions regarding the crime must turn the proceeds of such contract over to the Violent Crimes Compensation Board for the benefit of the victims of the crime.

Due to technical problems in the bill in its original form, the Attorney General's office had suggested certain revisions to the bill which were adopted by the committee. Included among these changes is a clarification of who may be a victim or a victim's representative in order to be entitled to seek escrow funds, as a recovery source for civil judgments against the defendant. This bill in its revised form would also require that the proceeds of any contract be deposited by the defendant into an interest-bearing escrow account established by the board. This account would be for the benefit of and payable to any victim of the convicted or accused person or the victim's representative. These proceeds would become payable once a person was convicted of the crime. The victim or victim's representative, however, would also, within five years of the date of the establishment of the escrow account, have to bring a civil action for damages resulting from the crime and recover a money judgment against the defendant or other designated successors to the proceeds. Any money recovered by a victim or the victim's representative in a civil judgment relating to the crime would be set-off from the amount due from the board.

Should any excess in proceeds remain once the victim's claim has been satisfied, then these funds would be dispensed according to the statutory priorities established.

A provision of the bill would allow that proceeds could be used by the defendant to cover reasonable legal fees incurred as a result of his criminal defense. Any remaining proceeds would be paid to the board for use in satisfying other claims.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

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STATEMENT TO
SENATE, No. 434

STATE OF NEW JERSEY

DATED: MARCH 8, 1982

As amended, this bill provides a procedure whereby any person accused of a violent crime who contracts to sell his version of the re-enactment of the crime by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or who contracts to publish his thoughts, feelings, opinions or emotions regarding the crime must turn the proceeds of such contract over to the Violent Crimes Compensation Board for the benefit of the victims of the crime.

The proceeds, which would be deposited in an escrow account by the Violent Crimes Compensation Board, would be paid to the victim (a) if the accused is convicted of the crime and (b) if the victim, within 5 years of the date of the crime, brings and (b) if the victim, within 5 years of the date of the crime, brings a civil action and recovers a money judgment against the accused.

If the accused is acquitted, the money would be returned to him. The money would also be returned to him should he be convicted if, 5 years after the escrow account is established, no further actions are pending against him.

Before any money in the escrow account could be paid to victims, it could be obtained by the accused to pay for legal representation in proceedings against him, including appeals.

The accused would require a court order before the money could be paid to him for this purpose.

The committee amendment provides that if any money remains in the escrow account after all victims' claims are paid, it will be available to the Violent Crimes Compensation board to dispense to victims of crimes committed by others.

R-61

R-67 10/29/82

Senate Amendments

for study

to

Senate Bill No. 434 ACS

Sponsored by Senator Codey
11/8/82

ADOPTED

NOV 8 1982

Amend:

| Page | Sec. | Line | |
|------|------|-------|---|
| 2 | 3 | 25-26 | Omit "within five years of the date of the establishment of the escrow account" |
| 3 | 7 | 6 | Omit "state" insert "stage" |

STATEMENT

Technical amendments to the bill were suggested the Division of Criminal Justice.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: KATHERINE BROKAW

WEDNESDAY, JANUARY 26, 1983

Governor Thomas H. Kean today signed the following bills:

S-434, sponsored by Senator Richard Codey (D-Essex), requires that any person who has been convicted of a violent crime and later sells or publishes any account of that crime must pay the royalties to the Violent Crimes Compensation Board for the victims of his crime. The bill is intended to prevent perpetrators of sensational crimes from profiting by their criminal actions.

A-498, sponsored by Assemblyman Richard Van Wagner (D-Monmouth), amends the language of tax statutes to make them consistent with Tax Court legislation.

S-1985, sponsored by Senator John Caufield (D-Essex), removes a \$100 fine imposed on the city engineer of Newark for tardiness in getting his license as a uniform construction code official.

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