

SENATE, No. 1681

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Reallocates portion of certain forfeited property as incentive for informants of drug-related offenses and to provide inpatient treatment for certain drug-dependent individuals.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning forfeiture of property, supplementing Title 26
2 of the Revised Statutes, and amending N.J.S.2C:64-1,
3 N.J.S.2C:64-2, and N.J.S.2C:64-6.

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

7
8 1. (New section) The Attorney General shall establish a fund
9 to be known as the "Inpatient Drug Rehabilitation Assistance
10 Fund." All moneys received pursuant to paragraph (2) of subsection
11 d. of N.J.S.2C:64-6 and any other moneys appropriated by law shall
12 be deposited into the fund. Moneys in the fund shall be used to
13 provide treatment at a licensed residential drug treatment program
14 which does not operate in a State correctional facility or county jail
15 to New Jersey citizens who cannot afford treatment. The
16 Commissioner of Human Services shall determine eligibility and
17 disbursements from the fund.

18
19 2. N.J.S.2C:64-1 is amended to read as follows:
20 2C:64-1. Property Subject to Forfeiture.

21 a. Any interest in the following shall be subject to forfeiture
22 and no property right shall exist in them:

23 (1) Controlled dangerous substances or controlled substance
24 analogs, firearms which are unlawfully possessed, carried, acquired
25 or used, illegally possessed gambling devices, untaxed or otherwise
26 contraband cigarettes or tobacco products, unlawfully possessed
27 container e-liquid, untaxed special fuel, unlawful sound recordings
28 and audiovisual works and items bearing a counterfeit mark. These
29 shall be designated prima facie contraband.

30 (2) All property which has been, or is intended to be, utilized in
31 furtherance of an unlawful activity, including, but not limited to,
32 conveyances intended to facilitate the perpetration of illegal acts, or
33 buildings or premises maintained for the purpose of committing
34 offenses against the State.

35 (3) Property which has become or is intended to become an
36 integral part of illegal activity, including, but not limited to, money
37 which is earmarked for use as financing for an illegal gambling
38 enterprise.

39 (4) Proceeds of illegal activities, including, but not limited to,
40 property or money obtained as a result of the sale of prima facie
41 contraband as defined by subsection a. (1), proceeds of illegal
42 gambling, prostitution, bribery and extortion.

43 A portion of any property set forth in this subsection that is
44 obtained as a result of a proceeding for a controlled dangerous
45 substance or controlled substance analog violation pursuant to

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.

chapter 35 of Title 2C of the New Jersey Statutes, except paragraph (4) of subsection a. of N.J.S.2C:35-10, that proximately results from information provided to an enforcing authority by a person shall be distributed to that person in accordance with paragraph (1) of subsection d. of N.J.S.2C:64-6.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to **section 2C:64-4** N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in **section 1 of** P.L.1997, c.57 (C.2C:21-32).

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in **section 1 of** P.L.1991, c.125 (C.2C:21-21) which were produced in violation of **section 1 of** P.L.1991, c.125 (C.2C:21-21).

"Unlawfully possessed container e-liquid" means container e-liquid as defined in section 2 of P.L.1990, c.39 (C.54:40B-2) that is possessed for retail sale by a person that is not licensed as a vapor business pursuant to section 4 of P.L.2019, c.147 (C.54:40B-3.3).

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

(cf: P.L.2019, c.147, s.10)

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

2C:64-2. Forfeiture Procedures; Prima Facie Contraband.

Except as provided in N.J.S.2C:35-21, prima facie contraband shall be retained by the State until entry of judgment or dismissal of the criminal proceeding, if any, arising out of the seizure. Thereafter, prima facie contraband shall be forfeited to the entity funding the prosecuting agency involved, subject to the rights of owners and others holding interests pursuant to **section 2C:64-5** N.J.S.2C:64-5 and subsection a. of N.J.S.2C:64-1.

(cf: P.L.1987, c.106, s.17)

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

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

11 The prosecutor or the Attorney General, whichever is
12 prosecuting the case, shall divide the forfeited property, any
13 proceeds resulting from the forfeiture or any money seized pursuant
14 to this chapter with any other entity where the other entity's law
15 enforcement agency participated in the surveillance, investigation,
16 arrest or prosecution resulting in the forfeiture, in proportion to the
17 other entity's contribution to the surveillance, investigation, arrest
18 or prosecution resulting in the forfeiture, as determined in the
19 discretion of the prosecutor or the Attorney General, whichever is
20 prosecuting the case. Notwithstanding any other provision of law,
21 such forfeited property and proceeds shall be used solely for law
22 enforcement purposes, and shall be designated for the exclusive use
23 of the law enforcement agency which contributed to the
24 surveillance, investigation, arrest or prosecution resulting in the
25 forfeiture.

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

28 b. For a period of two years from the date of enactment of
29 P.L.1993, c.227 (C.26:4-100.13 et al.), **【10%】** 10 percent of the
30 proceeds obtained by the Attorney General under the provisions of
31 subsection a. of this section shall be deposited into the Hepatitis
32 Inoculation Fund established pursuant to section 2 of P.L.1993,
33 c.227 (C.26:4-100.13).

34 c. Beginning two years from the date of enactment of
35 P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years,
36 **【5%】** five percent of the proceeds obtained by the Attorney General
37 under the provisions of subsection a. of this section shall be
38 deposited into the Hepatitis Inoculation Fund established pursuant
39 to section 2 of P.L.1993, c.227 (C.26:4-100.13).

40 d. A portion of the proceeds of any property under subsection
41 a. of N.J.S.2C:64-1 that is obtained as a result of a proceeding for a
42 violation involving a controlled dangerous substance or controlled
43 substance analog as set forth in chapter 35 of Title 2C of the New
44 Jersey Statutes, except paragraph (4) of subsection a. of
45 N.J.S.2C:35-10, that proximately results from information provided
46 to an enforcing authority shall be distributed as follows:

47 (1) Ten percent of the proceeds shall be paid to the person who
48 provides the information leading to the proceeding provided for in

1 subsection a. of N.J.S.2C:64-1. If more than one person is entitled
2 to a portion of the proceeds under this subsection, the Attorney
3 General shall determine the portion, not to exceed a total of 10
4 percent of the proceeds, that each person shall receive.

5 (2) Five percent of the proceeds shall be deposited into the
6 “Inpatient Drug Rehabilitation Assistance Fund” established
7 pursuant to section 1 of P.L. c. (C.) (pending before the
8 Legislature as this bill).

9 (cf: P.L.1993, c.227, s.1)

10
11 5. (New section) The Attorney General, in consultation with
12 the Commissioner of Human Services, shall promulgate rules and
13 regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
15 purposes of this act.

16
17 6. This act shall take effect on the first day of the third month
18 following the date of enactment, but the Attorney General and the
19 Commissioner of Human Services may take such anticipatory
20 administrative action in advance thereof as shall be necessary for
21 the implementation of this act.

22 23 24 STATEMENT

25
26 This bill reallocates certain forfeiture funds to provide a financial
27 incentive to informants in drug-related cases and provide financial
28 assistance for inpatient drug treatment for those who cannot afford it.

29 Under current law, proceeds from forfeited property are to be used
30 solely for law enforcement purposes and are to be designated for the
31 exclusive use of the law enforcement agency that contributed to the
32 surveillance, investigation, arrest, or prosecution resulting in the
33 forfeiture. This bill would reallocate a portion of the proceeds from
34 forfeited property obtained from a proceeding for a drug-related
35 offense that arises out of information provided by an informant. The
36 remaining proceeds would be distributed in accordance with current
37 law.

38 Under the bill, a person who provides information that leads to a
39 proceeding for a drug-related crime is entitled to 10 percent of the
40 proceeds of any property forfeited as a result of that action.

41 In addition, the bill establishes the “Inpatient Drug Rehabilitation
42 Assistance Fund.” Five percent of the proceeds from property that is
43 forfeited from a drug-related offense because of information provided
44 by an informant will be deposited into the fund. The fund is to be used
45 to provide treatment at a licensed residential drug treatment program to
46 New Jersey citizens who cannot afford treatment. Eligibility and
47 assistance from the fund will be determined by the Commissioner of
48 Human Services.