

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S2/25/97 S3/19/97

A Bill

SENATE BILL 445

4
5 By: Senator Everett
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 5-64-505(k) TO
10 PROVIDE FOR THE DISTRIBUTION OF PROCEEDS FROM ASSET
11 FORFEITURES IN CONTROLLED SUBSTANCES CASES TO THE COUNTY
12 GENERAL FUND IN THE COUNTY WHERE THE PROPERTY IS SEIZED;
13 AND FOR OTHER PURPOSES."

Subtitle

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16 "TO PROVIDE FOR THE DISTRIBUTION OF
17 PROCEEDS FROM ASSET FORFEITURES IN
18 CONTROLLED SUBSTANCES CASES TO THE
19 COUNTY GENERAL FUND IN THE COUNTY WHERE
20 THE PROPERTY IS SEIZED"

21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Annotated § 5-64-505(k) is amended to read as
25 follows:

26 "(k)(1) Whenever property is forfeited under subchapters 1-6 of this
27 chapter, the circuit court shall enter an order:

28 (i) To permit the law enforcement agency or attorney for
29 the state to retain the property for official use except that all aircraft
30 shall be transferred to the Arkansas Drug Director;

31 (ii) To sell that which is not required by law to be
32 destroyed and which is not harmful to the public. Such property shall be sold
33 at a public sale to the highest bidder, and if not sold at public sale, the
34 court may permit a private sale. The proceeds of any sale and any moneys
35 forfeited or obtained by judgment or settlement under subchapters 1-6 of this
36 chapter shall be deposited in the special asset forfeiture fund of the

1 attorney for the state.

2 (2) The attorney for the state shall administer expenditures from
3 the fund. The fund is subject to audit by the Division of Legislative Audit.
4 Moneys in the fund must be distributed in the following order:

5 (i) For satisfaction of any bona fide security interest or
6 lien;

7 (ii) For payment of all proper expenses of the proceedings
8 for forfeiture and sale, including expenses of seizure, maintenance of
9 custody, advertising, and court costs; and

10 (iii) Any balance under two hundred fifty thousand dollars
11 (\$250,000 shall be distributed proportionally so as to reflect generally the
12 contribution of the appropriate local or state law enforcement or
13 prosecutorial agency's participation in any of the activities that led to the
14 seizure or forfeiture of the property or deposit of moneys under subchapters
15 1-6 of this chapter; provided, however, that a Quorum Court of any county may
16 provide, by ordinance, that any funds seized in that county and forfeited
17 under this chapter shall be distributed to the county general fund in the
18 county where the property is seized, in the same manner as fines in felony
19 cases;

20 (A) When any such quorum court so provides, then any police
21 agency, governmental entity, or prosecuting attorney who is a recipient of
22 funds from the United States government or from the State of Arkansas for the
23 prosecution of controlled substance crime is authorized to apply to the Quorum
24 Court of any county in which it is authorized to operate for an appropriation
25 of funds for the operation of that agency.

26 (B) It is the policy of the State of Arkansas that the
27 various counties should fund such agencies in a manner proportionate to the
28 level of controlled substance crime in the respective counties, as such crime
29 is reflected by the forfeitures in each county and that the various counties
30 should use the fund and property forfeited under this section for law
31 enforcement, drug abuse prevention and drug abuse rehabilitation.

32 (iv) Any balance over two hundred fifty thousand dollars
33 (\$250,000) shall be forwarded to the Department of the Arkansas State Police
34 to be transferred to the State Treasury for deposit in the Special State
35 Assets Forfeiture Fund for distribution as provided in subsection (1).

36 (3) All controlled substances shall be forwarded to the Drug

1 Enforcement Administration or Department of Health for disposition or
2 destruction.

3 (4)(i) There is created on the books of law enforcement agencies
4 and attorneys for the state a Drug Control Fund. The Drug Control Fund shall
5 consist of all moneys obtained under subsection (1) and other revenues as may
6 be provided by law or ordinance. Moneys from the fund may not supplant other
7 local, state, or federal funds. Moneys in this fund are appropriated on a
8 continuing basis and are not subject to the Revenue Stabilization Law,
9 § 19-5-101 et seq. Moneys in this fund must only be used for law enforcement
10 and prosecutorial purposes. The fund is subject to audit by the Division of
11 Legislative Audit; provided, however, that cities and counties whose law
12 enforcement or prosecutorial agencies effectuate forfeitures hereunder may
13 provide by ordinance that the moneys so forfeited shall be delivered to the
14 treasurer of the respective city or county, for deposit in general funds. Any
15 such agency may then apply to the respective legislative body of the city or
16 county for appropriations for funding that agency. For purposes of this
17 subsection, prosecutors shall be considered employees of the county where the
18 property was seized.

19 (ii) The law enforcement agencies and attorneys for the
20 state shall submit to the State Drug Director on or before January 1 and July
21 1 of each year a report detailing all moneys received and expenditures made
22 from the Drug Control Fund during the preceding six-month period."

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24 SECTION 2. The provisions of this act shall take effect on January 1,
25 1998.

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27 SECTION 3. All provisions of this act of a general and permanent nature
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 4. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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1 SECTION 5. All laws and parts of laws in conflict with this act are
2 hereby repealed.

/s/ *Everett*