

HB 661-FN – AS INTRODUCED

2013 SESSION

13-0527
04/01

HOUSE BILL

661-FN

AN ACT allocating a portion of proceeds from forfeiture of items used in connection with a drug offense to the cold case homicide unit.

SPONSORS: Rep. Cushing, Rock 21; Rep. Chandley, Hills 22; Rep. C. Williams, Hills 14

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill requires a portion of proceeds from the forfeiture of items used in connection with a drug offense to be allocated to the cold case homicide unit fund. The bill also provides that the amount of such proceeds transferred into the cold case homicide unit fund shall not exceed \$200,000.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT allocating a portion of proceeds from forfeiture of items used in connection with a drug offense to the cold case homicide unit.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Controlled Drug Act; Forfeiture of Items Used in Connection With Drug Offense. Amend
2 RSA 318-B:17-b, V to read as follows:

3 V. Final orders for forfeiture of property under this section or under RSA 318-B:17-d shall be
4 implemented by the department of justice and shall provide for disposition of the items or property
5 interests by the state in any manner not prohibited by law, including retention for official use by law
6 enforcement or other public agencies or sale at public auction. The department of justice shall pay
7 the reasonable expenses of the forfeiture proceeding, seizure, storage, maintenance of custody,
8 advertising, court costs and notice of sale from any money forfeited and from the proceeds of any sale
9 or public auction of forfeited items. All outstanding recorded liens on said items or property interests
10 seized shall be paid in full upon conclusion of the court proceedings from the proceeds of any sale or
11 public auction of forfeited items. The balance remaining shall be distributed by the department of
12 justice as follows:

13 (a) Of the first \$500,000:

14 (1) [~~Forty five~~] **Forty** percent shall be returned to the fiscal officer or officers of the
15 municipal, county, state, or federal government which provided the law enforcement agency or
16 agencies responsible for the seizure. Moneys returned to each fiscal officer shall be deposited in a
17 special account and shall be used primarily for meeting expenses incurred by law enforcement
18 agencies in connection with drug-related investigations. Except as provided in RSA 31:95-b, such
19 funds shall be available for expenditure without further appropriation by the legislative body of the
20 municipal, county, state or federal government, and shall not be transferred or expended for any
21 other purpose. Moneys returned to a state law enforcement agency shall be deposited in a special
22 nonlapsing account established within the office of the state treasurer and shall be in addition to all
23 other state appropriations to such agency;

24 (2) Ten percent shall be deposited into a special nonlapsing account established
25 within the office of the state treasurer for the department of health and human services; and

26 (3) [~~Forty five~~] **Forty** percent shall be deposited in a revolving drug forfeiture fund,
27 administered by the department of justice pursuant to RSA 318-B:17-c; and

28 (4) **Ten percent shall be deposited in the cold case homicide unit fund**
29 **established in RSA 21-M:8-m, III; and**

30 (b) Of any balance remaining:

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1 (1) Ten percent shall be deposited in the manner prescribed in subparagraph V(a)(2)
2 of this section; and

3 (2) *Thirty-five percent shall be deposited in the cold case homicide unit fund*
4 *established in RSA 21-M:8-m, III; and*

5 (3) [~~Ninety~~] *Fifty-five* percent shall be deposited in the manner prescribed in
6 subparagraph V(a)(3) of this section.

7 The total amount of payments made to the special account for the department of health and
8 human services pursuant to subparagraphs V(a)(2) and V(b)(1) of this section shall not exceed
9 \$400,000 in any fiscal year and any excess over \$400,000 which would otherwise be paid to such
10 special account under this section shall be deposited in the general fund. *The total amount of*
11 *payments made to the cold case homicide unit fund pursuant to subparagraphs V(a)(4)*
12 *and V(b)(2) shall not exceed \$200,000 in any fiscal year and any excess which would*
13 *otherwise be paid to such fund under this section shall be deposited in the general fund.*

14 The revolving drug forfeiture fund shall at no time exceed \$1,000,000. All sums in the revolving
15 drug forfeiture fund in excess of \$1,000,000 shall be credited to the general fund.

16 2 Effective Date. This act shall take effect 60 days after its passage.

HB 661 FISCAL NOTE

AN ACT allocating a portion of proceeds from forfeiture of items used in connection with a drug offense to the cold case homicide unit.

FISCAL IMPACT:

The Department of Justice and Department of Safety state this bill, **as introduced**, will have an indeterminable impact on state, county, and local revenue in FY 2014 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures.

METHODOLOGY:

The Department of Justice states this bill alters the current distribution of funds forfeited in connection with drug offenses, establishes the cold case unit homicide fund as a funding source for the unit, and sets limits on each of the funds associated with the distribution. As established in RSA 21-M:8, the cold case unit consists of personnel from both the Department of Justice and the Department of Safety. Currently, the distribution of funds forfeited in connection with drug offenses is as follows: 45% to the fiscal officer or officers of the municipality, county, or state that provided the law enforcement agency responsible for the seizure; 45% to a revolving drug forfeiture fund administered by the Department of Justice; and 10% to the Department of Health and Human Services. Under the bill, the distribution would be 40% to the fiscal officer of the municipality, county or state; 40% to the drug forfeiture fund; 10% to the Department of Health and Human Services; and 10% to the newly created cold case homicide unit fund. Once collections exceed \$500,000, the distribution of the balance remaining changes to: 35% to the cold case unit, 55% to the drug forfeiture fund, and 10% to the Department of Health and Human Services. The bill states the total amount of payments to the cold case homicide unit fund shall not exceed \$200,000 in any fiscal year, with the excess deposited into the state general fund. The Department states that during FY 2012, forfeiture collections equaled approximately \$98,240. The following table depicts how these funds were distributed under existing statute, compared with how they would have been distributed had the proposed bill been in effect at the time:

	Current Distribution	Proposed Distribution
Drug forfeiture fund	\$44,208	\$39,296
Agents responsible for seizure	\$44,208	\$39,296
Department of Health and Human Services	\$9,824	\$9,824
Cold case homicide unit fund	\$0	\$9,824

The Department of Safety states that in FY 2012, the Department of Justice's forfeiture account had a balance of \$732,647. The Department states it is unable to estimate how much will be deposited into the fund each fiscal year, because the amount of money deposited into the forfeiture account changes yearly and is directly related to criminal investigations, drug forfeitures, and confiscated money collected on behalf of state police law enforcement.

According to information provided by the Department of Justice, total expenditures for the cold case unit for FY 2011 and FY 2012 were as follows.

Department of Justice Cold Case Expenditures:

	FY 2011	FY 2012
Staff Attorney Salary	\$59,630	\$61,789
Staff Attorney Benefits	\$25,756	\$23,578
Investigator	\$45,240	\$48,480
Travel	\$5,651	\$3,107
Cellphones, etc.	\$2,008	\$1,184
Computers	\$709	\$0
Totals for Department of Justice:	<u>\$138,994</u>	<u>\$138,138</u>

Department of Safety Cold Case Expenditures:

	FY 2011	FY 2012
Troopers Salary	\$107,681	\$92,169
Troopers Benefits	\$34,333	\$28,213
Lab fees	\$3,618	\$3,220
Travel	\$9,007	\$5,644
Indirect and supplies	\$17,969	\$10,699
computers and other hardware	\$5,315	\$0
Totals for Department of Safety:	<u>\$177,923</u>	<u>\$139,945</u>

Totals for both departments:	<u>\$316,917</u>	<u>\$278,083</u>
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