

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1845

6 S.P. 722

In Senate, January 15, 1986

7 Approved for introduction by a majority of the Legislative Council
8 pursuant to Joint Rule 26.

9 Referred to the Committee on Judiciary and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Sewall of Lincoln.

Cosponsored by Representative Holloway of Edgecomb, Representative
Begley of Waldoboro and Representative Allen of Washington.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Concerning the Disbursement of Money
18 Acquired Through Confiscation of
19 Seized Property in Drug-related
20 Crimes.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 22 MRSA §2387, sub-§4, as amended by PL 1981, c.
25 529, §3, is further amended to read:

26 4. Petition; order. A district attorney or the
27 Attorney General may petition the Superior Court in
28 the name of the State in the nature of a proceeding
29 in rem to order forfeiture of property subject to
30 forfeiture under subsection 1, paragraphs B and C.
31 Such petition shall be filed in the court having ju-
32 risdiction over the property. Such proceeding shall
33 be deemed a civil suit, in which the State shall have
34 the burden of proving all material facts by a prepon-
35 derance of the evidence and the owner of the property
36 or other person claiming thereunder shall have such

1 burden as to all exceptions set forth in subsection
2 3. The court shall order the State to give notice by
3 certified or registered mail or hand delivered by a
4 deputy sheriff to the owner of the property and to
5 such other person as appears to have an interest
6 therein and shall promptly, but not less than 2 weeks
7 after notice, hold a hearing on the petition. At such
8 hearing, the court shall hear evidence and make find-
9 ings of fact and enter conclusions of law, and shall
10 thereupon issue a final order, from which the parties
11 shall have such right of appeal. Such final order
12 shall provide for disposition of the property by the
13 State or any subdivision thereof in any manner not
14 prohibited by law, including official use by an au-
15 thorized law enforcement or other public agency, or
16 sale at public auction or by competitive bidding. The
17 proceeds of any such sale shall be used to pay the
18 reasonable expenses of the forfeiture proceedings,
19 seizure, storage, maintenance of custody, advertising
20 and notice, and to pay any ~~benefide~~ bona fide mort-
21 gage thereon, and the balance, if any, shall be de-
22 posited in the treasury of the State, county or mu-
23 nicipality making such seizure. If a seizure is made
24 by a county or municipality and if the State retains
25 the property rights to any seized property, the State
26 shall reimburse the county or municipality in an
27 amount equal to 20% of the fair market value of that
28 property. All moneys, negotiable instruments, securi-
29 ties, proceeds and other things of value forfeited
30 pursuant to subsection 1, paragraph C shall be used
31 to pay the reasonable expenses of the forfeiture pro-
32 ceedings, seizure, storage, maintenance of custody,
33 advertising and notice and the balance, if any, shall
34 be deposited in the General Fund of the State Trea-
35 sury; except that, if the seizure was made by a coun-
36 ty or municipality, 20% of the balance shall be de-
37 posited in the treasury of that county or
38 municipality.

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STATEMENT OF FACT

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This bill provides that local law enforcement agencies making seizures of property in drug-related crimes shall receive 20% of the value of any seized property.

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