Public Safety

RESOLUTION NO. 2016156

RE: AMENDING THE 2016 ADOPTED COUNTY BUDGET AS IT PERTAINS TO THE DISTRICT ATTORNEY (A.1165.05)

Legislator ROMAN, BOLNER, FORMAN, PULVER, THOMES, SAGLIANO, LANDISI, AND JETER-JACKSON offer the following and move its adoption:

WHEREAS, the District Attorney has requested the appropriation of forfeiture of crime proceeds, and

WHEREAS, pursuant to Article 13-A of the CPLR, said funds must be used to enhance prosecutorial and law enforcement efforts, enforcement training, equipment and operations, and not to supplement ordinary budgetary expenses, and

WHEREAS, the District Attorney has requested that the sum of $18,371 be placed in various District Attorney Asset Forfeiture accounts to be used for the purchase of equipment, office supplies and training expenses, listed on the attached Asset Forfeiture Expenditure sheet, now therefore, be it

RESOLVED, that the Commissioner of Finance is authorized and directed to amend the 2016 Adopted County Budget as follows:

APPROPRIATIONS

Increase

A.1165.05.4160	Office supplies	$ 5,700
A.1165.05.4750	Other Equipment	5,382
A.1165.05.4631	Training/seminars/conferences	750
A.1165.05.4765.312	Asset Forf. Reimb. Exp. Municipality	5,074
A.1165.05.4765.313	Asset Forf. Exp. Other than Local Gov.	1,465
		$18,371

REVENUES

Increase

A.9998.95110.01	Approp. Res. Asset Forfeiture – State	$18,371

CA-099-16
LDF/kvh/G-0135
06/15/16
Fiscal Impact: See attached statement

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 11th day of July 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 11th day of July 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ 18,371

Total Current Year Revenue and Source $ 18,371

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency, ☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☑ Other *(explain)*.

Identify Line Items(s):

Please see attached spreadsheet

Related Expenses: Amount $ _____

Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____

Over Five Years: _____

Additional Comments/Explanation:

This resolution is to appropriate Asset Forfeiture Funds to enable the purchase of equipment, etc. listed on the attached Asset Forfeiture Expenditure sheet.

Prepared by: Gina Barry/Heidi Owens

Asset Forfeiture Expenditures		
4160 - Office Stat & Supplies		
2 Desk Printers @ $350 each	700.00	Dutchess County District Attorney
Miscellaneous Office Equipment	5,000.00	Dutchess County District Attorney
TOTAL:	**5,700.00**	
4750 - Other Equipment-ND		
Elmo Document Camera	1,382.00	Dutchess County District Attorney
Digital Display	4,000.00	Dutchess County District Attorney
TOTAL:	**5,382.00**	
4631 - Training and Seminars/Conf		
Training for 1 Person for Service Dog	750.00	Dutchess County District Attorney
	750.00	
4765.312 - Asset Forfeiture Reimbursed Expense-Municpality		
Trauma Informed Sexual Assault Investigations Training	4,000.00	Town of Poughkeepsie Police
Renovation of Interview Room	1,074.00	New York State Police
TOTAL:	**5,074.00**	
4765.313 - Asset Forfeiture Expenses Other Than Local Government		
Wiring of CAC Interview Room	1,465.00	Child Advocacy Center
TOTAL:	**1,465.00**	

TOTAL TO BE APPROPRIATED:	**18,371.00**	
TOTALS BY PROGRAM		
Child Advocacy Program	1,465.00	
New York State Police	1,074.00	
Town of Poughkeepsie Police	4,000.00	
District Attorney	11,832.00	
TOTAL TO BE APPROPRIATED:	**18,371.00**	

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
Civil Practice Law and Rules (Refs & Annos)
Chapter Eight. Of the Consolidated Laws
Article 13-a. Proceeds of a Crime--Forfeiture (Refs & Annos)

McKinney's CPLR § 1310

§ 1310. Definitions

Currentness

In this article:

1. "Property" means and includes: real property, personal property, money, negotiable instruments, securities, or any thing of value or any interest in a thing of value.

2. "Proceeds of a crime" means any property obtained through the commission of a felony crime defined in subdivisions five and six hereof, and includes any appreciation in value of such property.

3. "Substituted proceeds of a crime" means any property obtained by the sale or exchange of proceeds of a crime, and any gain realized by such sale or exchange.

4. "Instrumentality of a crime" means any property, other than real property and any buildings, fixtures, appurtenances, and improvements thereon, whose use contributes directly and materially to the commission of a crime defined in subdivisions five and six hereof.

4-a. "Real property instrumentality of a crime" means an interest in real property the use of which contributes directly and materially to the commission of a specified felony offense.

4-b. "Specified felony offense" means:

(a) a conviction of a person for a violation of section 220.18, 220.21, 220.41, or 220.43 of the penal law, or where the accusatory instrument charges one or more of such offenses, conviction upon a plea of guilty to any of the felonies for which such plea is otherwise authorized by law or a conviction of a person for conspiracy to commit a violation of section 220.18, 220.21, 220.41, or 220.43 of the penal law, where the controlled substances which are the object of the conspiracy are located in the real property which is the subject of the forfeiture action; or

(b) on three or more occasions, engaging in conduct constituting a violation of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43 or 221.55 of the penal law, which violations do

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not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of the penal law, or a conviction of a criminal defendant for a violation of section 221.30 of the penal law, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances or where the conviction is for a violation of section 221.30 of the penal law, marijuana, as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance or where the conviction is for a violation of section 221.30 of the penal law, marijuana, that such possession was with the intent to sell it.

5. "Post-conviction forfeiture crime" means any felony defined in the penal law or any other chapter of the consolidated laws of the state.

6. "Pre-conviction forfeiture crime" means only a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law.

7. "Court" means a superior court.

8. "Defendant" means a person against whom a forfeiture action is commenced and includes a "criminal defendant" and a "non-criminal defendant".

9. "Criminal defendant" means a person who has criminal liability for a crime defined in subdivisions five and six hereof. For purposes of this article, a person has criminal liability when (a) he has been convicted of a post-conviction forfeiture crime, or (b) the claiming authority proves by clear and convincing evidence that such person has committed an act in violation of article two hundred twenty or section 221.30 or 221.55 of the penal law.

10. "Non-criminal defendant" means a person, other than a criminal defendant, who possesses an interest in the proceeds of a crime, the substituted proceeds of a crime or an instrumentality of a crime.

11. "Claiming authority" means the district attorney having jurisdiction over the offense or the attorney general for purpose of those crimes for which the attorney general has criminal jurisdiction in a case where the underlying criminal charge has been, is being or is about to be brought by the attorney general, or the appropriate corporation counsel or county attorney, provided that the corporation counsel or county attorney may act as a claiming authority only with the consent of the district attorney or the attorney general, as appropriate.

12. "Claiming agent" means and shall include all persons described in subdivision thirty-four of section 1.20 of the criminal procedure law, and sheriffs, undersheriffs and deputy sheriffs of counties within the city of New York.

13. "Fair consideration" means fair consideration is given for property, or obligation, (a) when in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied, or (b) when such property, or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property, or obligation obtained.

14. "District attorney" means and shall include all persons described in subdivision thirty-two of section 1.20 of the criminal procedure law and the special assistant district attorney in charge of the office of prosecution, special narcotics courts of the city of New York.

Credits
(Added L.1984, c. 669, § 1. Amended L.1986, c. 8, § 1; L.1986, c. 174, § 1; L.1990, c. 655, §§ 1, 2.)

McKinney's CPLR § 1310, NY CPLR § 1310
Current through L.2016, chapters 1 to 64.

End of Document

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