

§285. Forfeiture of equipment used to facilitate violations

1. Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an attorney for the State may, in writing, move the court for an order requiring the forfeiture to the State of any equipment, including computers, that may have facilitated the commission of the offense. Notice of the motion must be made by the State to the defendant and any party of interest; this notice must be done by registered mail.

[PL 2003, c. 711, Pt. B, §12 (NEW).]

2. If contesting the forfeiture, the defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding must be before the court.

[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. At the jury trial or court hearing, the State has the burden of proving to the fact finder by a preponderance of the evidence that the equipment was used in violation of this chapter.

[PL 2003, c. 711, Pt. B, §12 (NEW).]

4. Upon a finding by a preponderance of the evidence that the equipment was used to facilitate the commission of a violation of this chapter, the court shall order the equipment forfeited and may, upon the written recommendation of the attorney for the State, provide in its order for the disposition or use of the equipment by any state, county or municipal law enforcement agency that made a substantial contribution to the investigation or prosecution of the case. Any equipment forfeited that is not transferred to an investigating or prosecuting agency must be sold and the proceeds deposited in the General Fund.

[PL 2003, c. 711, Pt. B, §12 (NEW).]

5. The Attorney General may adopt by rule guidelines regulating the disposition and use of property forfeited or sought for forfeiture under this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 711, Pt. B, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW).

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