

1631

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. CROUCH
-- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to extending forfeiture provisions to crimes of obscenity

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 1310 of the civil practice law and
2 rules, as added by chapter 669 of the laws of 1984, is amended to read
3 as follows:

4 5. "Post-conviction forfeiture crime" means ANY MISDEMEANOR OR FELONY
5 DEFINED IN ARTICLE TWO HUNDRED THIRTY-FIVE OF THE PENAL LAW OR any felo-
6 ny defined in ANY OTHER PROVISION OF the penal law or any other chapter
7 of the consolidated laws of the state.

8 S 2. Paragraph (a) of subdivision 1 of section 1311 of the civil prac-
9 tice law and rules, as added by chapter 669 of the laws of 1984, is
10 amended to read as follows:

11 (a) Actions relating to post-conviction forfeiture crimes. An action
12 relating to a post-conviction forfeiture crime must be grounded upon a
13 conviction of a MISDEMEANOR OR felony defined in subdivision five of
14 section one thousand three hundred ten of this article, or upon criminal
15 activity arising from a common scheme or plan of which such a conviction
16 is a part, or upon a count of an indictment or information alleging SUCH
17 a MISDEMEANOR OR felony which was dismissed at the time of a plea of
18 guilty to a MISDEMEANOR OR felony in satisfaction of such count. A court
19 may not grant forfeiture until such conviction has occurred. However, an
20 action may be commenced, and a court may grant a provisional remedy
21 provided under this article, prior to such conviction having occurred.
22 An action under this paragraph must be dismissed at any time after sixty
23 days of the commencement of the action unless the conviction upon which
24 the action is grounded has occurred, or an indictment or information
25 upon which the asserted conviction is to be based is pending in a supe-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 rior court. An action under this paragraph shall be stayed during the
2 pendency of a criminal action which is related to it; provided, however,
3 that such stay shall not prevent the granting or continuance of any
4 provisional remedy provided under this article or any other provisions
5 of law.

6 S 3. This act shall take effect on the sixtieth day after it shall
7 have become a law.