



Rep. Will Guzzardi

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1 AMENDMENT TO SENATE BILL 2342

2 AMENDMENT NO. _____. Amend Senate Bill 2342 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Seizure and Forfeiture Reporting Act is
5 amended by changing Section 20 as follows:

6 (5 ILCS 810/20)

7 Sec. 20. Applicability. This Act and the changes made to
8 this Act by Public Act 100-699 ~~this amendatory Act of the 100th~~
9 ~~General Assembly~~ only apply to property seized on and after
10 July 1, 2018.

11 (Source: P.A. 100-699, eff. 8-3-18.)

12 Section 10. The Illinois Food, Drug and Cosmetic Act is
13 amended by changing Section 3.23 as follows:

14 (410 ILCS 620/3.23)

1 Sec. 3.23. Legend drug prohibition.

2 (a) In this Section:

3 "Legend drug" means a drug limited by the Federal Food,
4 Drug and Cosmetic Act to being dispensed by or upon a medical
5 practitioner's prescription because the drug is:

6 (1) habit forming;

7 (2) toxic or having potential for harm; or

8 (3) limited in use by the new drug application for the
9 drug to use only under a medical practitioner's
10 supervision.

11 "Medical practitioner" means any person licensed to
12 practice medicine in all its branches in the State.

13 "Deliver" or "delivery" means the actual, constructive, or
14 attempted transfer of possession of a legend drug, with or
15 without consideration, whether or not there is an agency
16 relationship.

17 "Manufacture" means the production, preparation,
18 propagation, compounding, conversion, or processing of a
19 legend drug, either directly or indirectly, by extraction from
20 substances of natural origin, or independently by means of
21 chemical synthesis, or by a combination of extraction and
22 chemical synthesis, and includes any packaging or repackaging
23 of the substance or labeling of its container. "Manufacture"
24 does not include:

25 (1) by an ultimate user, the preparation or compounding
26 of a legend drug for his or her own use; or

1 (2) by a medical practitioner, or his or her authorized
2 agent under his or her supervision, the preparation,
3 compounding, packaging, or labeling of a legend drug:

4 (A) as an incident to his or her administering or
5 dispensing of a legend drug in the course of his or her
6 professional practice; or

7 (B) as an incident to lawful research, teaching, or
8 chemical analysis and not for sale.

9 "Prescription" has the same meaning ascribed to it in
10 Section 3 of the Pharmacy Practice Act.

11 (b) It is unlawful for any person to knowingly manufacture
12 or deliver or possess with the intent to manufacture or deliver
13 a legend drug of 6 or more pills, tablets, capsules, or caplets
14 or 30 ml or more of a legend drug in liquid form who is not
15 licensed by applicable law to prescribe or dispense legend
16 drugs or is not an employee of the licensee operating in the
17 normal course of business under the supervision of the
18 licensee. Any person who violates this Section is guilty of a
19 Class 3 felony, the fine for which shall not exceed \$100,000. A
20 person convicted of a second or subsequent violation of this
21 Section is guilty of a Class 1 felony, the fine for which shall
22 not exceed \$250,000.

23 (c) The following are subject to forfeiture:

24 (1) (blank);

25 (2) all raw materials, products, and equipment of any
26 kind which are used, or intended for use, in manufacturing,

1 distributing, dispensing, administering, or possessing any
2 substance in violation of this Section;

3 (3) all conveyances, including aircraft, vehicles, or
4 vessels, which are used, or intended for use, to transport,
5 or in any manner to facilitate the transportation, sale,
6 receipt, possession, or concealment of any substance
7 manufactured, distributed, dispensed, or possessed in
8 violation of this Section or property described in
9 paragraph (2) of this subsection (c), but:

10 (A) no conveyance used by any person as a common
11 carrier in the transaction of business as a common
12 carrier is subject to forfeiture under this Section
13 unless it appears that the owner or other person in
14 charge of the conveyance is a consenting party or privy
15 to the violation;

16 (B) no conveyance is subject to forfeiture under
17 this Section by reason of any act or omission which the
18 owner proves to have been committed or omitted without
19 his or her knowledge or consent; and

20 (C) a forfeiture of a conveyance encumbered by a
21 bona fide security interest is subject to the interest
22 of the secured party if he or she neither had knowledge
23 of nor consented to the act or omission;

24 (4) all money, things of value, books, records, and
25 research products and materials including formulas,
26 microfilm, tapes, and data that are used, or intended to be

1 used, in violation of this Section;

2 (5) everything of value furnished, or intended to be
3 furnished, in exchange for a substance in violation of this
4 Section, all proceeds traceable to such an exchange, and
5 all moneys, negotiable instruments, and securities used,
6 or intended to be used, to commit or in any manner to
7 facilitate any violation of this Section; and

8 (6) all real property, including any right, title, and
9 interest, including, but not limited to, any leasehold
10 interest or the beneficial interest in a land trust, in the
11 whole of any lot or tract of land and any appurtenances or
12 improvements, which is used or intended to be used, in any
13 manner or part, to commit, or in any manner to facilitate
14 the commission of, any violation or act that constitutes a
15 violation of this Section or that is the proceeds of any
16 violation or act that constitutes a violation of this
17 Section.

18 (d) Property subject to forfeiture under this Act may be
19 seized under the Drug Asset Forfeiture Procedure Act. In the
20 event of seizure, forfeiture proceedings shall be instituted
21 under the Drug Asset Forfeiture Procedure Act.

22 (e) Forfeiture under this Act is subject to an 8th
23 Amendment to the United States Constitution disproportionate
24 penalties analysis as provided under Section 9.5 of the Drug
25 Asset Forfeiture Procedure Act.

26 (f) With regard to possession of legend drug offenses only,

1 a sum of currency with a value of less than \$500 shall not be
2 subject to forfeiture under this Act. For all other offenses
3 under this Act, a sum of currency with a value of less than
4 \$100 shall not be subject to forfeiture under this Act. In
5 seizures of currency in excess of these amounts, this Section
6 shall not create an exemption for these amounts.

7 (f-5) For felony offenses involving possession of legend
8 drug only, no property shall be subject to forfeiture under
9 this Act because of the possession of less than 2 single unit
10 doses of a legend drug. This exemption shall not apply in
11 instances when the possessor, or another person at the
12 direction of the possessor, is engaged in the destruction of
13 any amount of a legend drug. The amount of a single unit dose
14 shall be the State's burden to prove in its case in chief.

15 (g) If the Department suspends or revokes a registration,
16 all legend drugs owned or possessed by the registrant at the
17 time of suspension or the effective date of the revocation
18 order may be placed under seal. No disposition may be made of
19 substances under seal until the time for taking an appeal has
20 elapsed or until all appeals have been concluded unless a
21 court, upon application therefor, orders the sale of perishable
22 substances and the deposit of the proceeds of the sale with the
23 court. Upon a revocation rule becoming final, all substances
24 are subject to seizure and forfeiture under the Drug Asset
25 Forfeiture Procedure Act.

26 (h) (Blank).

1 (i) (Blank).

2 (j) Contraband, including legend drugs possessed without a
3 prescription or other authorization under State or federal law,
4 is not subject to forfeiture. No property right exists in
5 contraband. Contraband is subject to seizure and shall be
6 disposed of according to State law.

7 (k) The changes made to this Section by Public Act 100-512
8 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
9 ~~100th General Assembly~~ only apply to property seized on and
10 after July 1, 2018.

11 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

12 Section 15. The Criminal Code of 2012 is amended by
13 changing Sections 29B-0.5, 29B-1, 29B-2, 29B-5, 29B-7, 29B-10,
14 29B-12, 29B-13, 29B-14, 29B-17, 29B-21, 29B-22, 29B-26,
15 29B-27, 36-1.3, 36-1.4, 36-1.5, 36-2, 36-2.1, 36-2.5, and 36-10
16 as follows:

17 (720 ILCS 5/29B-0.5)

18 Sec. 29B-0.5. Definitions. In this Article:

19 "Conduct" or "conducts" includes, in addition to its
20 ordinary meaning, initiating, concluding, or participating in
21 initiating or concluding a transaction.

22 "Criminally derived property" means: (1) any property,
23 real or personal, constituting or derived from proceeds
24 obtained, directly or indirectly, from activity that

1 constitutes a felony under State, federal, or foreign law; or
2 (2) any property represented to be property constituting or
3 derived from proceeds obtained, directly or indirectly, from
4 activity that constitutes a felony under State, federal, or
5 foreign law.

6 "Department" means the Department of State Police of this
7 State or its successor agency.

8 "Director" means the Director of State Police or his or her
9 designated agents.

10 "Financial institution" means any bank; savings ~~saving~~ and
11 loan association; trust company; agency or branch of a foreign
12 bank in the United States; currency exchange; credit union;
13 mortgage banking institution; pawnbroker; loan or finance
14 company; operator of a credit card system; issuer, redeemer, or
15 cashier of travelers checks, checks, or money orders; dealer in
16 precious metals, stones, or jewels; broker or dealer in
17 securities or commodities; investment banker; or investment
18 company.

19 "Financial transaction" means a purchase, sale, loan,
20 pledge, gift, transfer, delivery, or other disposition
21 utilizing criminally derived property, and with respect to
22 financial institutions, includes a deposit, withdrawal,
23 transfer between accounts, exchange of currency, loan,
24 extension of credit, purchase or sale of any stock, bond,
25 certificate of deposit or other monetary instrument, use of
26 safe deposit box, or any other payment, transfer or delivery

1 by, through, or to a financial institution. "Financial
2 transaction" also means a transaction which without regard to
3 whether the funds, monetary instruments, or real or personal
4 property involved in the transaction are criminally derived,
5 any transaction which in any way or degree: (1) involves the
6 movement of funds by wire or any other means; (2) involves one
7 or more monetary instruments; or (3) the transfer of title to
8 any real or personal property. The receipt by an attorney of
9 bona fide fees for the purpose of legal representation is not a
10 financial transaction for purposes of this Article.

11 "Form 4-64" means the Illinois State Police
12 Notice/Inventory of Seized Property (Form 4-64).

13 "Knowing that the property involved in a financial
14 transaction represents the proceeds of some form of unlawful
15 activity" means that the person knew the property involved in
16 the transaction represented proceeds from some form, though not
17 necessarily which form, of activity that constitutes a felony
18 under State, federal, or foreign law.

19 "Monetary instrument" means United States coins and
20 currency; coins and currency of a foreign country; travelers
21 checks; personal checks, bank checks, and money orders;
22 investment securities; bearer negotiable instruments; bearer
23 investment securities; or bearer securities and certificates
24 of stock in a form that title passes upon delivery.

25 "Specified criminal activity" means any violation of
26 Section 29D-15.1 and any violation of Article 29D of this Code.

1 "Transaction reporting requirement under State law" means
2 any violation as defined under the Currency Reporting Act.

3 (Source: P.A. 100-699, eff. 8-3-18.)

4 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

5 Sec. 29B-1. Money laundering.

6 (a) A person commits the offense of money laundering:

7 (1) when, knowing that the property involved in a
8 financial transaction represents the proceeds of some form
9 of unlawful activity, he or she conducts or attempts to
10 conduct the financial transaction which in fact involves
11 criminally derived property:

12 (A) with the intent to promote the carrying on of
13 the unlawful activity from which the criminally
14 derived property was obtained; or

15 (B) where he or she knows or reasonably should know
16 that the financial transaction is designed in whole or
17 in part:

18 (i) to conceal or disguise the nature, the
19 location, the source, the ownership or the control
20 of the criminally derived property; or

21 (ii) to avoid a transaction reporting
22 requirement under State law; or

23 (1.5) when he or she transports, transmits, or
24 transfers, or attempts to transport, transmit, or transfer
25 a monetary instrument:

1 (A) with the intent to promote the carrying on of
2 the unlawful activity from which the criminally
3 derived property was obtained; or

4 (B) knowing, or having reason to know, that the
5 financial transaction is designed in whole or in part:

6 (i) to conceal or disguise the nature, the
7 location, the source, the ownership or the control
8 of the criminally derived property; or

9 (ii) to avoid a transaction reporting
10 requirement under State law; or

11 (2) when, with the intent to:

12 (A) promote the carrying on of a specified criminal
13 activity as defined in this Article; or

14 (B) conceal or disguise the nature, location,
15 source, ownership, or control of property believed to
16 be the proceeds of a specified criminal activity as
17 defined in this Article; or

18 (C) avoid a transaction reporting requirement
19 under State law,

20 he or she conducts or attempts to conduct a financial
21 transaction involving property he or she believes to be the
22 proceeds of specified criminal activity or property used to
23 conduct or facilitate specified criminal activity as
24 defined in this Article.

25 (b) (Blank).

26 (c) Sentence.

1 (1) Laundering of criminally derived property of a
2 value not exceeding \$10,000 is a Class 3 felony;

3 (2) Laundering of criminally derived property of a
4 value exceeding \$10,000 but not exceeding \$100,000 is a
5 Class 2 felony;

6 (3) Laundering of criminally derived property of a
7 value exceeding \$100,000 but not exceeding \$500,000 is a
8 Class 1 felony;

9 (4) Money laundering in violation of subsection (a) (2)
10 of this Section is a Class X felony;

11 (5) Laundering of criminally derived property of a
12 value exceeding \$500,000 is a Class 1 non-probationable
13 felony;

14 (6) In a prosecution under clause (a) (1.5) (B) (ii) of
15 this Section, the sentences are as follows:

16 (A) Laundering of property of a value not exceeding
17 \$10,000 is a Class 3 felony;

18 (B) Laundering of property of a value exceeding
19 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

20 (C) Laundering of property of a value exceeding
21 \$100,000 but not exceeding \$500,000 is a Class 1
22 felony;

23 (D) Laundering of property of a value exceeding
24 \$500,000 is a Class 1 non-probationable felony.

25 ~~Substance Use Disorder Act.~~

26 (Source: P.A. 99-480, eff. 9-9-15; 100-512, eff. 7-1-18;

1 100-699, eff. 8-3-18; 100-759, eff. 1-1-19; revised 10-3-18.)

2 (720 ILCS 5/29B-2)

3 Sec. 29B-2. Evidence in money laundering prosecutions. In a
4 prosecution under this Article, either party may introduce the
5 following evidence pertaining to the issue of whether the
6 property or proceeds were known to be some form of criminally
7 derived property or from some form of unlawful activity:

8 (1) a financial transaction was conducted or
9 structured or attempted in violation of the reporting
10 requirements of any State or federal law;

11 (2) a financial transaction was conducted or attempted
12 with the use of a false or fictitious name or a forged
13 instrument;

14 (3) a falsely altered or completed written instrument
15 or a written instrument that contains any materially false
16 personal identifying information was made, used, offered,
17 or presented, whether accepted or not, in connection with a
18 financial transaction;

19 (4) a financial transaction was structured or
20 attempted to be structured so as to falsely report the
21 actual consideration or value of the transaction;

22 (5) a money transmitter, a person engaged in a trade or
23 business, or any employee of a money transmitter or a
24 person engaged in a trade or business, knows or reasonably
25 should know that false personal identifying information

1 has been presented and incorporates the false personal
2 identifying information into any report or record;

3 (6) the criminally derived property is transported or
4 possessed in a fashion inconsistent with the ordinary or
5 usual means of transportation or possession of the property
6 and where the property is discovered in the absence of any
7 documentation or other indicia of legitimate origin or
8 right to the property;

9 (7) a person pays or receives substantially less than
10 face value for one or more monetary instruments; or

11 (8) a person engages in a transaction involving one or
12 more monetary instruments, where the physical condition or
13 form of the monetary instrument or instruments makes it
14 apparent that they are not the product of bona fide
15 business or financial transactions.

16 (Source: P.A. 100-699, eff. 8-3-18.)

17 (720 ILCS 5/29B-5)

18 Sec. 29B-5. Property subject to forfeiture. The following
19 are subject to forfeiture:

20 (1) any property, real or personal, constituting,
21 derived from, or traceable to any proceeds the person
22 obtained, directly or indirectly, as a result of a
23 violation of this Article;

24 (2) any of the person's property used, or intended to
25 be used, in any manner or part, to commit, or to facilitate

1 the commission of, a violation of this Article;

2 (3) all conveyances, including aircraft, vehicles, or
3 vessels, which are used, or intended for use, to transport,
4 or in any manner to facilitate the transportation, sale,
5 receipt, possession, or concealment of property described
6 in paragraphs (1) and (2) of this Section, but:

7 (A) no conveyance used by any person as a common
8 carrier in the transaction of business as a common
9 carrier is subject to forfeiture under this Section
10 unless it appears that the owner or other person in
11 charge of the conveyance is a consenting party or privy
12 to a violation of this Article;

13 (B) no conveyance is subject to forfeiture under
14 this Article by reason of any act or omission which the
15 owner proves to have been committed or omitted without
16 his or her knowledge or consent;

17 (C) a forfeiture of a conveyance encumbered by a
18 bona fide security interest is subject to the interest
19 of the secured party if he or she neither had knowledge
20 of nor consented to the act or omission;

21 (4) all real property, including any right, title, and
22 interest, including, but not limited to, any leasehold
23 interest or the beneficial interest in a land trust, in the
24 whole of any lot or tract of land and any appurtenances or
25 improvements, which is used or intended to be used, in any
26 manner or part, to commit, or in any manner to facilitate

1 the commission of, any violation of this Article or that is
2 the proceeds of any violation or act that constitutes a
3 violation of this Article.

4 (Source: P.A. 100-699, eff. 8-3-18.)

5 (720 ILCS 5/29B-7)

6 Sec. 29B-7. Safekeeping of seized property pending
7 disposition.

8 (a) If property is seized under this Article, the seizing
9 agency shall promptly conduct an inventory of the seized
10 property and estimate the property's value and shall forward a
11 copy of the inventory of seized property and the estimate of
12 the property's value to the Director. Upon receiving notice of
13 seizure, the Director may:

14 (1) place the property under seal;

15 (2) remove the property to a place designated by the
16 Director;

17 (3) keep the property in the possession of the seizing
18 agency;

19 (4) remove the property to a storage area for
20 safekeeping or, if the property is a negotiable instrument
21 or money and is not needed for evidentiary purposes,
22 deposit it in an interest bearing account;

23 (5) place the property under constructive seizure by
24 posting notice of pending forfeiture on it, by giving
25 notice of pending forfeiture to its owners and interest

1 holders, or by filing notice of pending forfeiture in any
2 appropriate public record relating to the property; or

3 (6) provide for another agency or custodian, including
4 an owner, secured party, or lienholder, to take custody of
5 the property upon the terms and conditions set by the
6 Director.

7 (b) When property is forfeited under this Article, the
8 Director shall sell all the property unless the property is
9 required by law to be destroyed or is harmful to the public,
10 and shall distribute the proceeds of the sale, together with
11 any moneys forfeited or seized, under Section 29B-26 of this
12 Article.

13 (Source: P.A. 100-699, eff. 8-3-18.)

14 (720 ILCS 5/29B-10)

15 Sec. 29B-10. Notice to owner or interest holder.

16 (a) The first attempted service of notice shall be
17 commenced within 28 days of the latter of filing of the
18 verified claim or the receipt of the notice from the seizing
19 agency by Form 4-64. A complaint for forfeiture or a notice of
20 pending forfeiture shall be served on a claimant if the owner's
21 or interest holder's name and current address are known, then
22 by either: (1) personal service; or (2) mailing a copy of the
23 notice by certified mail, return receipt requested, and first
24 class mail to that address.

25 (b) If no signed return receipt is received by the State's

1 Attorney within 28 days of mailing or no communication from the
2 owner or interest holder is received by the State's Attorney
3 documenting actual notice by the parties, the State's Attorney
4 shall, within a reasonable period of time, mail a second copy
5 of the notice by certified mail, return receipt requested, and
6 first class mail to that address. If no signed return receipt
7 is received by the State's Attorney within 28 days of the
8 second mailing, or no communication from the owner or interest
9 holder is received by the State's Attorney documenting actual
10 notice by the parties, the State's Attorney shall have 60 days
11 to attempt to serve the notice by personal service, including
12 substitute service by leaving a copy at the usual place of
13 abode with some person of the family or a person residing
14 there, of the age of 13 years or upwards. If, after 3 attempts
15 at service in this manner, no service of the notice is
16 accomplished, the notice shall be posted in a conspicuous
17 manner at the address and service shall be made by the posting.
18 The attempts at service and the posting, if required, shall be
19 documented by the person attempting service which shall be made
20 part of a return of service returned to the State's Attorney.
21 The State's Attorney may utilize any Sheriff or Deputy Sheriff,
22 a peace officer, a private process server or investigator, or
23 an employee, agent, or investigator of the State's Attorney's
24 Office to attempt service without seeking leave of court.

25 (c) After the procedures listed are followed, service shall
26 be effective on the owner or interest holder on the date of

1 receipt by the State's Attorney of a return receipt, or on the
2 date of receipt of a communication from an owner or interest
3 holder documenting actual notice, whichever is first in time,
4 or on the date of the last act performed by the State's
5 Attorney in attempting personal service. For purposes of notice
6 under this Section, if a person has been arrested for the
7 conduct giving rise to the forfeiture, the address provided to
8 the arresting agency at the time of arrest shall be deemed to
9 be that person's known address. Provided, however, if an owner
10 or interest holder's address changes prior to the effective
11 date of the notice of pending forfeiture, the owner or interest
12 holder shall promptly notify the seizing agency of the change
13 in address or, if the owner or interest holder's address
14 changes subsequent to the effective date of the notice of
15 pending forfeiture, the owner or interest holder shall promptly
16 notify the State's Attorney of the change in address. If the
17 property seized is a conveyance, notice shall also be directed
18 to the address reflected in the office of the agency or
19 official in which title to or interest in the conveyance is
20 required by law to be recorded.

21 (d) If the owner's or interest holder's address is not
22 known, and is not on record as provided in this Section,
23 service by publication for 3 successive weeks in a newspaper of
24 general circulation in the county in which the seizure occurred
25 shall suffice for service requirements.

26 (e) Notice to any business entity, corporation, limited

1 liability company, limited liability partnership, or
2 partnership shall be completed by a single mailing of a copy of
3 the notice by certified mail, return receipt requested, and
4 first class mail to that address. This notice is complete
5 regardless of the return of a signed return receipt.

6 (f) Notice to a person whose address is not within the
7 State shall be completed by a single mailing of a copy of the
8 notice by certified mail, return receipt requested, and first
9 class mail to that address. This notice is complete regardless
10 of the return of a signed return receipt.

11 (g) Notice to a person whose address is not within the
12 United States shall be completed by a single mailing of a copy
13 of the notice by certified mail, return receipt requested, and
14 first class mail to that address. This notice is complete
15 regardless of the return of a signed return receipt. If
16 certified mail is not available in the foreign country where
17 the person has an address, notice shall proceed by publication
18 requirements under subsection (d) of this Section.

19 (h) Notice to a ~~A~~ person whom the State's Attorney
20 reasonably should know is incarcerated within this State, shall
21 also include, mailing a copy of the notice by certified mail,
22 return receipt requested, and first class mail to the address
23 of the detention facility with the inmate's name clearly marked
24 on the envelope.

25 (i) After a claimant files a verified claim with the
26 State's Attorney and provides an address at which the claimant

1 will accept service, the complaint shall be served and notice
2 shall be complete upon the mailing of the complaint to the
3 claimant at the address the claimant provided via certified
4 mail, return receipt requested, and first class mail. No return
5 receipt need be received, or any other attempts at service need
6 be made to comply with service and notice requirements under
7 this Section. This certified mailing, return receipt
8 requested, shall be proof of service of the complaint on the
9 claimant. If notice is to be shown by actual notice from
10 communication with a claimant, then the State's Attorney shall
11 file an affidavit as proof of service, providing details of the
12 communication, which shall be accepted as proof of service by
13 the court.

14 (j) If the property seized is a conveyance, notice shall
15 also be directed to the address reflected in the office of the
16 agency or official in which title to or interest in the
17 conveyance is required by law to be recorded, ~~then~~ by mailing a
18 copy of the notice by certified mail, return receipt requested,
19 to that address.

20 (k) Notice served under this Article is effective upon
21 personal service, the last date of publication, or the mailing
22 of written notice, whichever is earlier.

23 (Source: P.A. 100-699, eff. 8-3-18.)

24 (720 ILCS 5/29B-12)

25 Sec. 29B-12. Non-judicial forfeiture. If non-real

1 property that exceeds \$20,000 in value excluding the value of
2 any conveyance, or if real property is seized under the
3 provisions of this Article, the State's Attorney shall
4 institute judicial in rem forfeiture proceedings as described
5 in Section 29B-13 of this Article within 28 days from receipt
6 of notice of seizure from the seizing agency under Section
7 29B-8 of this Article. However, if non-real property that does
8 not exceed \$20,000 in value excluding the value of any
9 conveyance is seized, the following procedure shall be used:

10 (1) If, after review of the facts surrounding the
11 seizure, the State's Attorney is of the opinion that the
12 seized property is subject to forfeiture, then, within 28
13 days after the receipt of notice of seizure from the
14 seizing agency, the State's Attorney shall cause notice of
15 pending forfeiture to be given to the owner of the property
16 and all known interest holders of the property in
17 accordance with Section 29B-10 of this Article.

18 (2) The notice of pending forfeiture shall include a
19 description of the property, the estimated value of the
20 property, the date and place of seizure, the conduct giving
21 rise to forfeiture or the violation of law alleged, and a
22 summary of procedures and procedural rights applicable to
23 the forfeiture action.

24 (3) (A) Any person claiming an interest in property that
25 is the subject of notice under paragraph (1) of this
26 Section, must, in order to preserve any rights or claims to

1 the property, within 45 days after the effective date of
2 notice as described in Section 29B-10 of this Article, file
3 a verified claim with the State's Attorney expressing his
4 or her interest in the property. The claim shall set forth:

5 (i) the caption of the proceedings as set forth on
6 the notice of pending forfeiture and the name of the
7 claimant;

8 (ii) the address at which the claimant will accept
9 mail;

10 (iii) the nature and extent of the claimant's
11 interest in the property;

12 (iv) the date, identity of the transferor, and
13 circumstances of the claimant's acquisition of the
14 interest in the property;

15 (v) the names and addresses of all other persons
16 known to have an interest in the property;

17 (vi) the specific provision of law relied on in
18 asserting the property is not subject to forfeiture;

19 (vii) all essential facts supporting each
20 assertion; and

21 (viii) the relief sought.

22 (B) If a claimant files the claim, then the State's
23 Attorney shall institute judicial in rem forfeiture
24 proceedings with the clerk of the court as described in
25 Section 29B-13 of this Article within 28 days after receipt
26 of the claim.

1 (4) If no claim is filed within the 28-day period as
2 described in paragraph (3) of this Section, the State's
3 Attorney shall declare the property forfeited and shall
4 promptly notify the owner and all known interest holders of
5 the property and the Director of State Police of the
6 declaration of forfeiture and the Director shall dispose of
7 the property in accordance with law.

8 (Source: P.A. 100-699, eff. 8-3-18.)

9 (720 ILCS 5/29B-13)

10 Sec. 29B-13. Judicial in rem procedures. If property seized
11 under this Article is non-real property that exceeds \$20,000 in
12 value excluding the value of any conveyance, or is real
13 property, or a claimant has filed a claim under paragraph (3)
14 of Section 29B-12 of this Article, the following judicial in
15 rem procedures shall apply:

16 (1) If, after a review of the facts surrounding the
17 seizure, the State's Attorney is of the opinion that the
18 seized property is subject to forfeiture, then, within 28
19 days of the receipt of notice of seizure by the seizing
20 agency or the filing of the claim, whichever is later, the
21 State's Attorney shall institute judicial forfeiture
22 proceedings by filing a verified complaint for forfeiture.
23 If authorized by law, a forfeiture shall be ordered by a
24 court on an action in rem brought by a State's Attorney
25 under a verified complaint for forfeiture.

1 (2) A complaint of forfeiture shall include:

2 (A) a description of the property seized;

3 (B) the date and place of seizure of the property;

4 (C) the name and address of the law enforcement
5 agency making the seizure; and

6 (D) the specific statutory and factual grounds for
7 the seizure.

8 (3) The complaint shall be served upon the person from
9 whom the property was seized and all persons known or
10 reasonably believed by the State to claim an interest in
11 the property, as provided in Section 29B-10 of this
12 Article. The complaint shall be accompanied by the
13 following written notice:

14 "This is a civil court proceeding subject to the Code
15 of Civil Procedure. You received this Complaint of
16 Forfeiture because the State's Attorney's office has
17 brought a legal action seeking forfeiture of your seized
18 property. This complaint starts the court process where the
19 State seeks to prove that your property should be forfeited
20 and not returned to you. This process is also your
21 opportunity to try to prove to a judge that you should get
22 your property back. The complaint lists the date, time, and
23 location of your first court date. You must appear in court
24 on that day, or you may lose the case automatically. You
25 must also file an appearance and answer. If you are unable
26 to pay the appearance fee, you may qualify to have the fee

1 waived. If there is a criminal case related to the seizure
2 of your property, your case may be set for trial after the
3 criminal case has been resolved. Before trial, the judge
4 may allow discovery, where the State can ask you to respond
5 in writing to questions and give them certain documents,
6 and you can make similar requests of the State. The trial
7 is your opportunity to explain what happened when your
8 property was seized and why you should get the property
9 back."

10 (4) Forfeiture proceedings under this Article shall be
11 subject to the Code of Civil Procedure and the rules of
12 evidence relating to civil actions shall apply to
13 proceedings under this Article with the following
14 exception. The parties shall be allowed to use, and the
15 court shall receive and consider, all relevant hearsay
16 evidence that relates to evidentiary foundation, chain of
17 custody, business records, recordings, laboratory
18 analysis, laboratory reports, and relevant hearsay related
19 to the use of technology in the investigation that resulted
20 in the seizure of property that is subject to the
21 forfeiture action.

22 (5) Only an owner of or interest holder in the property
23 may file an answer asserting a claim against the property
24 in the action in rem. For purposes of this Section, the
25 owner or interest holder shall be referred to as claimant.
26 Upon motion of the State, the court shall first hold a

1 hearing, in which a claimant shall establish by a
2 preponderance of the evidence, that he or she has a lawful,
3 legitimate ownership interest in the property and that it
4 was obtained through a lawful source.

5 (6) The answer must be signed by the owner or interest
6 holder under penalty of perjury and shall set forth:

7 (A) the caption of the proceedings as set forth on
8 the notice of pending forfeiture and the name of the
9 claimant;

10 (B) the address at which the claimant will accept
11 mail;

12 (C) the nature and extent of the claimant's
13 interest in the property;

14 (D) the date, identity of transferor, and
15 circumstances of the claimant's acquisition of the
16 interest in the property;

17 (E) the names and addresses of all other persons
18 known to have an interest in the property;

19 (F) all essential facts supporting each assertion;

20 (G) the precise relief sought; and

21 (H) in a forfeiture action involving currency or
22 its equivalent, a claimant shall provide the State with
23 notice of his or her intent to allege that the currency
24 or its equivalent is not related to the alleged factual
25 basis for the forfeiture, and why. ~~and~~

26 The ~~(I) the~~ answer shall follow the rules under the

1 Code of Civil Procedure.

2 (7) The answer shall be filed with the court within 45
3 days after service of the civil in rem complaint.

4 (8) The hearing shall be held within 60 days after
5 filing of the answer unless continued for good cause.

6 (9) At the judicial in rem proceeding, in the State's
7 case in chief, the State shall show by a preponderance of
8 the evidence that the property is subject to forfeiture. If
9 the State makes such a showing, the claimant shall have the
10 burden of production to set forth evidence that the
11 property is not related to the alleged factual basis of the
12 forfeiture. After this production of evidence, the State
13 shall maintain the burden of proof to overcome this
14 assertion. A claimant shall provide the State notice of its
15 intent to allege that the currency or its equivalent is not
16 related to the alleged factual basis of the forfeiture and
17 why. As to conveyances, at the judicial in rem proceeding,
18 in its case in chief, the State shall show by a
19 preponderance of the evidence: ~~that~~

20 (A) that the property is subject to forfeiture; and

21 (B) at least one of the following:

22 (i) that the claimant was legally accountable
23 for the conduct giving rise to the forfeiture;

24 (ii) that the claimant knew or reasonably
25 should have known of the conduct giving rise to the
26 forfeiture;

1 (iii) that the claimant knew or reasonably
2 should have known that the conduct giving rise to
3 the forfeiture was likely to occur;

4 (iv) that the claimant held the property for
5 the benefit of, or as nominee for, any person whose
6 conduct gave rise to its forfeiture;

7 (v) that if the claimant acquired the interest
8 through any person engaging in any of the conduct
9 described above or conduct giving rise to the
10 forfeiture:

11 (a) the claimant did not acquire it as a
12 bona fide purchaser for value; or

13 (b) the claimant acquired the interest
14 under the circumstances that the claimant
15 reasonably should have known the property was
16 derived from, or used in, the conduct giving
17 rise to the forfeiture; or

18 (vi) that the claimant is not the true owner of
19 the property that is subject to forfeiture.

20 (10) If the State does not meet its burden to show that
21 the property is subject to forfeiture, the court shall
22 order the interest in the property returned or conveyed to
23 the claimant and shall order all other property forfeited
24 to the State. If the State does meet its burden to show
25 that the property is subject to forfeiture, the court shall
26 order all property forfeited to the State.

1 (11) A defendant convicted in any criminal proceeding
2 is precluded from later denying the essential allegations
3 of the criminal offense of which the defendant was
4 convicted in any proceeding under this Article regardless
5 of the pendency of an appeal from that conviction. However,
6 evidence of the pendency of an appeal is admissible.

7 (12) On a motion by the parties, the court may stay
8 civil forfeiture proceedings during the criminal trial for
9 a related criminal indictment or information alleging a
10 money laundering violation. Such a stay shall not be
11 available pending an appeal. Property subject to
12 forfeiture under this Article shall not be subject to
13 return or release by a court exercising jurisdiction over a
14 criminal case involving the seizure of the property unless
15 the return or release is consented to by the State's
16 Attorney.

17 (Source: P.A. 100-699, eff. 8-3-18.)

18 (720 ILCS 5/29B-14)

19 Sec. 29B-14. Innocent owner hearing.

20 (a) After a complaint for forfeiture has been filed and all
21 claimants have appeared and answered, a claimant may file a
22 motion with the court for an innocent owner hearing prior to
23 trial. This motion shall be made and supported by sworn
24 affidavit and shall assert the following along with specific
25 facts that support each assertion:

1 (1) that the claimant filing the motion is the true
2 owner of the conveyance as interpreted by case law;

3 (2) that the claimant was not legally accountable for
4 the conduct giving rise to the forfeiture or acquiesced in
5 the conduct;

6 (3) that the claimant did not solicit, conspire, or
7 attempt to commit the conduct giving rise to the
8 forfeiture;

9 (4) that the claimant did not know or did not have
10 reason to know that the conduct giving rise to the
11 forfeiture was likely to occur; and

12 (5) that the claimant did not hold the property for the
13 benefit of, or as nominee for, any person whose conduct
14 gave rise to its forfeiture, or if the claimant ~~owner or~~
15 ~~interest holder~~ acquired the interest through any person,
16 the claimant acquired ~~owner or interest holder did not~~
17 ~~acquire~~ it as a bona fide purchaser for value or acquired
18 the interest without knowledge of the seizure of the
19 property for forfeiture.

20 (b) The claimant's motion shall include specific facts
21 supporting these assertions.

22 (c) Upon this filing, a hearing may only be conducted after
23 the parties have been given the opportunity to conduct limited
24 discovery as to the ownership and control of the property, the
25 claimant's knowledge, or any matter relevant to the issues
26 raised or facts alleged in the claimant's motion. Discovery

1 shall be limited to the People's requests in these areas but
2 may proceed by any means allowed in the Code of Civil
3 Procedure.

4 (1) After discovery is complete and the court has
5 allowed for sufficient time to review and investigate the
6 discovery responses, the court shall conduct a hearing. At
7 the hearing, the fact that the conveyance is subject to
8 forfeiture shall not be at issue. The court shall only hear
9 evidence relating to the issue of innocent ownership.

10 (2) At the hearing on the motion, it shall be the
11 burden of the claimant to prove each of the assertions
12 listed in subsection (a) of this Section by a preponderance
13 of the evidence.

14 (3) If a claimant meets his or her burden of proof, the
15 court shall grant the motion and order the property
16 returned to the claimant. If the claimant fails to meet his
17 or her burden of proof, then the court shall deny the
18 motion and the forfeiture case shall proceed according to
19 the Code of Civil Procedure.

20 (Source: P.A. 100-699, eff. 8-3-18.)

21 (720 ILCS 5/29B-17)

22 Sec. 29B-17. Exception for bona fide purchasers. No
23 property shall be forfeited under this Article from a person
24 who, without actual or constructive notice that the property
25 was the subject of forfeiture proceedings, obtained possession

1 of the property as a bona fide purchaser for value. A person
2 who purports to effect ~~affect~~ transfer of property after
3 receiving actual or constructive notice that the property is
4 subject to seizure or forfeiture is guilty of contempt of
5 court⁷ and shall be liable to the State for a penalty in the
6 amount of the fair market value of the property.

7 (Source: P.A. 100-699, eff. 8-3-18.)

8 (720 ILCS 5/29B-21)

9 Sec. 29B-21. Attorney's fees. Nothing in this Article
10 applies to property that constitutes reasonable bona fide
11 attorney's fees paid to an attorney for services rendered or to
12 be rendered in the forfeiture proceeding or criminal proceeding
13 relating directly thereto if the property was paid before its
14 seizure and ⁷ before the issuance of any seizure warrant or
15 court order prohibiting transfer of the property and if the
16 attorney, at the time he or she received the property did not
17 know that it was property subject to forfeiture under this
18 Article.

19 (Source: P.A. 100-699, eff. 8-3-18.)

20 (720 ILCS 5/29B-22)

21 Sec. 29B-22. Construction.

22 (a) It is the intent of the General Assembly that the
23 forfeiture provisions of this Article be liberally construed so
24 as to effect their remedial purpose. The forfeiture of property

1 and other remedies under this Article shall be considered to be
2 in addition to, and not exclusive of, any sentence or other
3 remedy provided by law.

4 (b) The changes made to this Article by Public Act 100-512
5 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
6 ~~100th General Assembly~~ are subject to Section 2 of the Statute
7 on Statutes.

8 (Source: P.A. 100-699, eff. 8-3-18.)

9 (720 ILCS 5/29B-26)

10 Sec. 29B-26. Distribution of proceeds. All moneys ~~monies~~
11 and the sale proceeds of all other property forfeited and
12 seized under this Article shall be distributed as follows:

13 (1) 65% shall be distributed to the metropolitan
14 enforcement group, local, municipal, county, or State law
15 enforcement agency or agencies that conducted or
16 participated in the investigation resulting in the
17 forfeiture. The distribution shall bear a reasonable
18 relationship to the degree of direct participation of the
19 law enforcement agency in the effort resulting in the
20 forfeiture, taking into account the total value of the
21 property forfeited and the total law enforcement effort
22 with respect to the violation of the law upon which the
23 forfeiture is based. Amounts distributed to the agency or
24 agencies shall be used for the enforcement of laws.

25 (2) (i) 12.5% shall be distributed to the Office of the

1 State's Attorney of the county in which the prosecution
2 resulting in the forfeiture was instituted, deposited in a
3 special fund in the county treasury and appropriated to the
4 State's Attorney for use in the enforcement of laws. In
5 counties over 3,000,000 population, 25% shall be
6 distributed to the Office of the State's Attorney for use
7 in the enforcement of laws. If the prosecution is
8 undertaken solely by the Attorney General, the portion
9 provided under this subparagraph (i) shall be distributed
10 to the Attorney General for use in the enforcement of laws.

11 (ii) 12.5% shall be distributed to the Office of the
12 State's Attorneys Appellate Prosecutor and deposited in
13 the Narcotics Profit Forfeiture Fund of that office to be
14 used for additional expenses incurred in the
15 investigation, prosecution, and appeal of cases arising
16 under laws. The Office of the State's Attorneys Appellate
17 Prosecutor shall not receive distribution from cases
18 brought in counties with over 3,000,000 population.

19 (3) 10% shall be retained by the Department of State
20 Police for expenses related to the administration and sale
21 of seized and forfeited property.

22 Moneys and the sale proceeds distributed to the Department
23 of State Police under this Article shall be deposited in the
24 Money Laundering Asset Recovery Fund created in the State
25 treasury and shall be used by the Department of State Police
26 for State law enforcement purposes. All moneys and sale

1 proceeds of property forfeited and seized under this Article
2 and distributed according to this Section may also be used to
3 purchase opioid antagonists as defined in Section 5-23 of the
4 Substance Use Disorder Alcoholism and Other Drug Abuse and
5 Dependency Act.

6 (Source: P.A. 100-699, eff. 8-3-18.)

7 (720 ILCS 5/29B-27)

8 Sec. 29B-27. Applicability; savings clause.

9 (a) The changes made to this Article by Public Act 100-512
10 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
11 ~~100th General Assembly~~ only apply to property seized on and
12 after July 1, 2018.

13 (b) The changes made to this Article by Public Act 100-699
14 ~~this amendatory Act of the 100th General Assembly~~ are subject
15 to Section 4 of the Statute on Statutes.

16 (Source: P.A. 100-699, eff. 8-3-18.)

17 (720 ILCS 5/36-1.3)

18 Sec. 36-1.3. Safekeeping of seized property pending
19 disposition.

20 (a) Property seized under this Article is deemed to be in
21 the custody of the Director of State Police, subject only to
22 the order and judgments of the circuit court having
23 jurisdiction over the forfeiture proceedings and the decisions
24 of the State's Attorney under this Article.

1 (b) If property is seized under this Article, the seizing
2 agency shall promptly conduct an inventory of the seized
3 property and estimate the property's value, and shall forward a
4 copy of the inventory of seized property and the estimate of
5 the property's value to the Director of State Police. Upon
6 receiving notice of seizure, the Director of State Police may:

7 (1) place the property under seal;

8 (2) remove the property to a place designated by the
9 Director of State Police;

10 (3) keep the property in the possession of the seizing
11 agency;

12 (4) remove the property to a storage area for
13 safekeeping;

14 (5) place the property under constructive seizure by
15 posting notice of pending forfeiture on it, by giving
16 notice of pending forfeiture to its owners and interest
17 holders, or by filing notice of pending forfeiture in any
18 appropriate public record relating to the property; or

19 (6) provide for another agency or custodian, including
20 an owner, secured party, or lienholder, to take custody of
21 the property upon the terms and conditions set by the
22 seizing agency.

23 (c) The seizing agency shall exercise ordinary care to
24 protect the subject of the forfeiture from negligent loss,
25 damage, or destruction.

26 (d) Property seized or forfeited under this Article is

1 subject to reporting under the Seizure and Forfeiture Reporting
2 Act.

3 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

4 (720 ILCS 5/36-1.4)

5 Sec. 36-1.4. Notice to State's Attorney. The law
6 enforcement agency seizing property for forfeiture under this
7 Article shall, as soon as practicable but not later than 28
8 days after the seizure, notify the State's Attorney for the
9 county in which an act or omission giving rise to the seizure
10 occurred or in which the property was seized and the facts and
11 circumstances giving rise to the seizure, and shall provide the
12 State's Attorney with the inventory of the property and its
13 estimated value. The notice shall be by the delivery of
14 Illinois State Police Notice/Inventory of Seized Property
15 (Form 4-64). If the property seized for forfeiture is a
16 vehicle, the law enforcement agency seizing the property shall
17 immediately notify the Secretary of State that forfeiture
18 proceedings are pending regarding the vehicle.

19 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

20 (720 ILCS 5/36-1.5)

21 Sec. 36-1.5. Preliminary review.

22 (a) Within 14 days of the seizure, the State's Attorney of
23 the county in which the seizure occurred shall seek a
24 preliminary determination from the circuit court as to whether

1 there is probable cause that the property may be subject to
2 forfeiture.

3 (b) The rules of evidence shall not apply to any proceeding
4 conducted under this Section.

5 (c) The court may conduct the review under subsection (a)
6 of this Section simultaneously with a proceeding under Section
7 109-1 of the Code of Criminal Procedure of 1963 for a related
8 criminal offense if a prosecution is commenced by information
9 or complaint.

10 (d) The court may accept a finding of probable cause at a
11 preliminary hearing following the filing of an information or
12 complaint charging a related criminal offense or following the
13 return of indictment by a grand jury charging the related
14 offense as sufficient evidence of probable cause as required
15 under subsection (a) of this ~~the~~ Section.

16 (e) Upon making a finding of probable cause as required
17 under this Section, the circuit court shall order the property
18 subject to the provisions of the applicable forfeiture Act held
19 until the conclusion of any forfeiture proceeding.

20 For seizures of conveyances, within 28 days of a finding of
21 probable cause under subsection (a) of this Section, the
22 registered owner or other claimant may file a motion in writing
23 supported by sworn affidavits claiming that denial of the use
24 of the conveyance during the pendency of the forfeiture
25 proceedings creates a substantial hardship and alleges facts
26 showing that the hardship was not due to his or her culpable

1 negligence. The court shall consider the following factors in
2 determining whether a substantial hardship has been proven:

3 (1) the nature of the claimed hardship;

4 (2) the availability of public transportation or other
5 available means of transportation; and

6 (3) any available alternatives to alleviate the
7 hardship other than the return of the seized conveyance.

8 If the court determines that a substantial hardship has
9 been proven, the court shall then balance the nature of the
10 hardship against the State's interest in safeguarding the
11 conveyance. If the court determines that the hardship outweighs
12 the State's interest in safeguarding the conveyance, the court
13 may temporarily release the conveyance to the registered owner
14 or the registered owner's authorized designee, or both, until
15 the conclusion of the forfeiture proceedings or for such
16 shorter period as ordered by the court provided that the person
17 to whom the conveyance is released provides proof of insurance
18 and a valid driver's license and all State and local
19 registrations for operation of the conveyance are current. The
20 court shall place conditions on the conveyance limiting its use
21 to the stated hardship and providing transportation for
22 employment, religious purposes, medical needs, child care, and
23 restricting the conveyance's use to only those individuals
24 authorized to use the conveyance by the registered owner. The
25 use of the vehicle shall be further restricted to exclude all
26 recreational and entertainment purposes. The court may order

1 additional restrictions it deems reasonable and just on its own
2 motion or on motion of the People. The court shall revoke the
3 order releasing the conveyance and order that the conveyance be
4 reseized by law enforcement if the conditions of release are
5 violated or if the conveyance is used in the commission of any
6 offense identified in subsection (a) of Section 6-205 of the
7 Illinois Vehicle Code.

8 If the court orders the release of the conveyance during
9 the pendency of the forfeiture proceedings, the court may order
10 the registered owner or his or her authorized designee to post
11 a cash security with the clerk of the court as ordered by the
12 court. If cash security is ordered, the court shall consider
13 the following factors in determining the amount of the cash
14 security:

15 (A) the full market value of the conveyance;

16 (B) the nature of the hardship;

17 (C) the extent and length of the usage of the
18 conveyance;

19 (D) the ability of the owner or designee to pay; and

20 (E) other conditions as the court deems necessary to
21 safeguard the conveyance.

22 If the conveyance is released, the court shall order that
23 the registered owner or his or her designee safeguard the
24 conveyance, not remove the conveyance from the jurisdiction,
25 not conceal, destroy, or otherwise dispose of the conveyance,
26 not encumber the conveyance, and not diminish the value of the

1 conveyance in any way. The court shall also make a
2 determination of the full market value of the conveyance prior
3 to it being released based on a source or sources defined in 50
4 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

5 If the conveyance subject to forfeiture is released under
6 this Section and is subsequently forfeited, the person to whom
7 the conveyance was released shall return the conveyance to the
8 law enforcement agency that seized the conveyance within 7 days
9 from the date of the declaration of forfeiture or order of
10 forfeiture. If the conveyance is not returned within 7 days,
11 the cash security shall be forfeited in the same manner as the
12 conveyance subject to forfeiture. If the cash security was less
13 than the full market value, a judgment shall be entered against
14 the parties to whom the conveyance was released and the
15 registered owner, jointly and severally, for the difference
16 between the full market value and the amount of the cash
17 security. If the conveyance is returned in a condition other
18 than the condition in which it was released, the cash security
19 shall be returned to the surety who posted the security minus
20 the amount of the diminished value, and that amount shall be
21 forfeited in the same manner as the conveyance subject to
22 forfeiture. Additionally, the court may enter an order allowing
23 any law enforcement agency in the State of Illinois to seize
24 the conveyance wherever it may be found in the State to satisfy
25 the judgment if the cash security was less than the full market
26 value of the conveyance.

1 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

2 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

3 Sec. 36-2. Complaint for forfeiture.

4 (a) If the State's Attorney of the county in which such
5 seizure occurs finds that the alleged violation of law giving
6 rise to the seizure was incurred without willful negligence or
7 without any intention on the part of the owner of the vessel or
8 watercraft, vehicle, or aircraft or any person whose right,
9 title, or interest is of record as described in Section 36-1 of
10 this Article, to violate the law, or finds the existence of
11 such mitigating circumstances as to justify remission of the
12 forfeiture, he or she may cause the law enforcement agency
13 having custody of the property to return the property to the
14 owner within a reasonable time not to exceed 7 days. The
15 State's Attorney shall exercise his or her discretion under
16 this subsection (a) prior to or promptly after the preliminary
17 review under Section 36-1.5.

18 (b) If, after review of the facts surrounding the seizure,
19 the State's Attorney is of the opinion that the seized property
20 is subject to forfeiture and the State's Attorney does not
21 cause the forfeiture to be remitted under subsection (a) of
22 this Section, he or she shall bring an action for forfeiture in
23 the circuit court within whose jurisdiction the seizure and
24 confiscation has taken place by filing a verified complaint for
25 forfeiture in the circuit court within whose jurisdiction the

1 seizure occurred, or within whose jurisdiction an act or
2 omission giving rise to the seizure occurred, subject to
3 Supreme Court Rule 187. The complaint shall be filed as soon as
4 practicable but not later than 28 days after the State's
5 Attorney receives notice from the seizing agency as provided
6 under Section 36-1.4 of this Article. A complaint of forfeiture
7 shall include:

8 (1) a description of the property seized;

9 (2) the date and place of seizure of the property;

10 (3) the name and address of the law enforcement agency
11 making the seizure; and

12 (4) the specific statutory and factual grounds for the
13 seizure.

14 The complaint shall be served upon each person whose right,
15 title, or interest is of record in the office of the Secretary
16 of State, the Secretary of Transportation, the Administrator of
17 the Federal Aviation Agency, or any other department of this
18 State, or any other state of the United States if the vessel or
19 watercraft, vehicle, or aircraft is required to be so
20 registered, as the case may be, the person from whom the
21 property was seized, and all persons known or reasonably
22 believed by the State to claim an interest in the property, as
23 provided in this Article. The complaint shall be accompanied by
24 the following written notice:

25 "This is a civil court proceeding subject to the Code of
26 Civil Procedure. You received this Complaint of Forfeiture

1 because the State's Attorney's office has brought a legal
2 action seeking forfeiture of your seized property. This
3 complaint starts the court process where the State seeks to
4 prove that your property should be forfeited and not returned
5 to you. This process is also your opportunity to try to prove
6 to a judge that you should get your property back. The
7 complaint lists the date, time, and location of your first
8 court date. You must appear in court on that day, or you may
9 lose the case automatically. You must also file an appearance
10 and answer. If you are unable to pay the appearance fee, you
11 may qualify to have the fee waived. If there is a criminal case
12 related to the seizure of your property, your case may be set
13 for trial after the criminal case has been resolved. Before
14 trial, the judge may allow discovery, where the State can ask
15 you to respond in writing to questions and give them certain
16 documents, and you can make similar requests of the State. The
17 trial is your opportunity to explain what happened when your
18 property was seized and why you should get the property back."

19 (c) (Blank).

20 (d) (Blank).

21 (e) (Blank).

22 (f) (Blank).

23 (g) (Blank).

24 (h) (Blank).

25 (Source: P.A. 99-78, eff. 7-20-15; 100-512, eff. 7-1-18;
26 100-699, eff. 8-3-18.)

1 (720 ILCS 5/36-2.1)

2 Sec. 36-2.1. Notice to owner or interest holder. The first
3 attempted service of notice shall be commenced within 28 days
4 of the receipt of the notice from the seizing agency by Form
5 4-64. If the property seized is a conveyance, notice shall also
6 be directed to the address reflected in the office of the
7 agency or official in which title to or interest in the
8 conveyance is required by law to be recorded. A complaint for
9 forfeiture shall be served upon the property owner or interest
10 holder in the following manner:

11 (1) If the owner's or interest holder's name and
12 current address are known, then by either:

13 (A) personal service; or

14 (B) mailing a copy of the notice by certified mail,
15 return receipt requested, and first class mail to that
16 address.

17 (i) If notice is sent by certified mail and no
18 signed return receipt is received by the State's
19 Attorney within 28 days of mailing, and no
20 communication from the owner or interest holder is
21 received by the State's Attorney documenting
22 actual notice by said parties, the State's
23 Attorney shall, within a reasonable period of
24 time, mail a second copy of the notice by certified
25 mail, return receipt requested, and first class

1 mail to that address.

2 (ii) If no signed return receipt is received by
3 the State's Attorney within 28 days of the second
4 attempt at service by certified mail, and no
5 communication from the owner or interest holder is
6 received by the State's Attorney documenting
7 actual notice by said parties, the State's
8 Attorney shall have 60 days to attempt to serve the
9 notice by personal service, which also includes
10 substitute service by leaving a copy at the usual
11 place of abode, with some person of the family or a
12 person residing there, of the age of 13 years or
13 upwards. If, after 3 attempts at service in this
14 manner, no service of the notice is accomplished,
15 then the notice shall be posted in a conspicuous
16 manner at this address and service shall be made by
17 the posting.

18 The attempts at service and the posting, if
19 required, shall be documented by the person attempting
20 service and said documentation shall be made part of a
21 return of service returned to the State's Attorney.

22 The State's Attorney may utilize a Sheriff or
23 Deputy Sheriff, any peace officer, a private process
24 server or investigator, or any employee, agent, or
25 investigator of the State's Attorney's office to
26 attempt service without seeking leave of court.

1 After the procedures are followed, service shall
2 be effective on an owner or interest holder on the date
3 of receipt by the State's Attorney of a return receipt,
4 or on the date of receipt of a communication from an
5 owner or interest holder documenting actual notice,
6 whichever is first in time, or on the date of the last
7 act performed by the State's Attorney in attempting
8 personal service under item (ii) of this paragraph (1).
9 If notice is to be shown by actual notice from
10 communication with a claimant, then the State's
11 Attorney shall file an affidavit providing details of
12 the communication, which shall be accepted as
13 sufficient proof of service by the court.

14 For purposes of notice under this Section, if a
15 person has been arrested for the conduct giving rise to
16 the forfeiture, the address provided to the arresting
17 agency at the time of arrest shall be deemed to be that
18 person's known address. Provided, however, if an owner
19 or interest holder's address changes prior to the
20 effective date of the complaint for forfeiture, the
21 owner or interest holder shall promptly notify the
22 seizing agency of the change in address or, if the
23 owner or interest holder's address changes subsequent
24 to the effective date of the notice of pending
25 forfeiture, the owner or interest holder shall
26 promptly notify the State's Attorney of the change in

1 address; or if the property seized is a conveyance, to
2 the address reflected in the office of the agency or
3 official in which title to or interest in the
4 conveyance is required by law to be recorded.

5 (2) If the owner's or interest holder's address is not
6 known, and is not on record, then notice shall be served by
7 publication for 3 successive weeks in a newspaper of
8 general circulation in the county in which the seizure
9 occurred.

10 (3) Notice to any business entity, corporation,
11 limited liability company, limited liability partnership,
12 or partnership shall be completed by a single mailing of a
13 copy of the notice by certified mail, return receipt
14 requested, and first class mail to that address. This
15 notice is complete regardless of the return of a signed
16 return receipt.

17 (4) Notice to a person whose address is not within the
18 State shall be completed by a single mailing of a copy of
19 the notice by certified mail, return receipt requested, and
20 first class mail to that address. This notice is complete
21 regardless of the return of a signed return receipt.

22 (5) Notice to a person whose address is not within the
23 United States shall be completed by a single mailing of a
24 copy of the notice by certified mail, return receipt
25 requested, and first class mail to that address. This
26 notice shall be complete regardless of the return of a

1 signed return receipt. If certified mail is not available
2 in the foreign country where the person has an address,
3 then notice shall proceed by publication under paragraph
4 (2) of this Section.

5 (6) Notice to any person whom the State's Attorney
6 reasonably should know is incarcerated within the State
7 shall also include ~~the~~ mailing a copy of the notice by
8 certified mail, return receipt requested, and first class
9 mail to the address of the detention facility with the
10 inmate's name clearly marked on the envelope.

11 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

12 (720 ILCS 5/36-2.5)

13 Sec. 36-2.5. Judicial in rem procedures.

14 (a) The laws of evidence relating to civil actions shall
15 apply to judicial in rem proceedings under this Article.

16 (b) Only an owner of or interest holder in the property may
17 file an answer asserting a claim against the property in the
18 action in rem. For purposes of this Section, the owner or
19 interest holder shall be referred to as claimant. A person not
20 named in the forfeiture complaint who claims to have an
21 interest in the property may petition to intervene as a
22 claimant under Section 2-408 of the Code of Civil Procedure.

23 (c) The answer shall be filed with the court within 45 days
24 after service of the civil in rem complaint.

25 (d) The trial shall be held within 60 days after filing of

1 the answer unless continued for good cause.

2 (e) In its case in chief, the State shall show by a
3 preponderance of the evidence that:

4 (1) the property is subject to forfeiture; and

5 (2) at least one of the following:

6 (i) the claimant knew or should have known that the
7 conduct was likely to occur; or

8 (ii) the claimant is not the true owner of the
9 property that is subject to forfeiture.

10 In any forfeiture case under this Article, a claimant may
11 present evidence to overcome evidence presented by the State
12 that the property is subject to forfeiture.

13 (f) Notwithstanding any other provision of this Section,
14 the State's burden of proof at the trial of the forfeiture
15 action shall be by clear and convincing evidence if:

16 (1) a finding of not guilty is entered as to all counts
17 and all defendants in a criminal proceeding relating to the
18 conduct giving rise to the forfeiture action; or

19 (2) the State receives an adverse finding at a
20 preliminary hearing and fails to secure an indictment in a
21 criminal proceeding related to the factual allegations of
22 the forfeiture action.

23 (g) If the State does not meet its burden of proof, the
24 court shall order the interest in the property returned or
25 conveyed to the claimant and shall order all other property in
26 which the State does meet its burden of proof forfeited to the

1 State. If the State does meet its burden of proof, the court
2 shall order all property forfeited to the State.

3 (h) A defendant convicted in any criminal proceeding is
4 precluded from later denying the essential allegations of the
5 criminal offense of which the defendant was convicted in any
6 proceeding under this Article regardless of the pendency of an
7 appeal from that conviction. However, evidence of the pendency
8 of an appeal is admissible.

9 (i) An acquittal or dismissal in a criminal proceeding
10 shall not preclude civil proceedings under this Act; however,
11 for good cause shown, on a motion by either party, the court
12 may stay civil forfeiture proceedings during the criminal trial
13 for a related criminal indictment or information alleging a
14 violation of law authorizing forfeiture under Section 36-1 of
15 this Article.

16 (j) Title to all property declared forfeited under this Act
17 vests in this State on the commission of the conduct giving
18 rise to forfeiture together with the proceeds of the property
19 after that time. Except as otherwise provided in this Article,
20 any property or proceeds subsequently transferred to any person
21 remain subject to forfeiture unless a person to whom the
22 property was transferred makes an appropriate claim under or
23 has the claim adjudicated at the judicial in rem hearing.

24 (k) No property shall be forfeited under this Article from
25 a person who, without actual or constructive notice that the
26 property was the subject of forfeiture proceedings, obtained

1 possession of the property as a bona fide purchaser for value.
2 A person who purports to transfer property after receiving
3 actual or constructive notice that the property is subject to
4 seizure or forfeiture is guilty of contempt of court, and shall
5 be liable to the State for a penalty in the amount of the fair
6 market value of the property.

7 (l) A civil action under this Article shall be commenced
8 within 5 years after the last conduct giving rise to forfeiture
9 became known or should have become known or 5 years after the
10 forfeitable property is discovered, whichever is later,
11 excluding any time during which either the property or claimant
12 is out of the State or in confinement or during which criminal
13 proceedings relating to the same conduct are in progress.

14 (m) If property is ordered forfeited under this Article
15 from a claimant who held title to the property in joint tenancy
16 or tenancy in common with another claimant, the court shall
17 determine the amount of each owner's interest in the property
18 according to principles of property law.

19 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

20 (720 ILCS 5/36-10)

21 Sec. 36-10. Applicability; savings clause.

22 (a) The changes made to this Article by Public Act 100-512
23 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
24 ~~100th General Assembly~~ only apply to property seized on and
25 after July 1, 2018.

1 (b) The changes made to this Article by Public Act 100-699
2 ~~this amendatory Act of the 100th General Assembly~~ are subject
3 to Section 4 of the Statute on Statutes.

4 (Source: P.A. 100-699, eff. 8-3-18.)

5 Section 20. The Cannabis Control Act is amended by changing
6 Section 12 as follows:

7 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

8 Sec. 12. Forfeiture.

9 (a) The following are subject to forfeiture:

10 (1) (blank);

11 (2) all raw materials, products, and equipment of any
12 kind which are produced, delivered, or possessed in
13 connection with any substance containing cannabis in a
14 felony violation of this Act;

15 (3) all conveyances, including aircraft, vehicles, or
16 vessels, which are used, or intended for use, to transport,
17 or in any manner to facilitate the transportation, sale,
18 receipt, possession, or concealment of any substance
19 containing cannabis or property described in paragraph (2)
20 of this subsection (a) that constitutes a felony violation
21 of the Act, but:

22 (i) no conveyance used by any person as a common
23 carrier in the transaction of business as a common
24 carrier is subject to forfeiture under this Section

1 unless it appears that the owner or other person in
2 charge of the conveyance is a consenting party or privy
3 to the violation;

4 (ii) no conveyance is subject to forfeiture under
5 this Section by reason of any act or omission which the
6 owner proves to have been committed or omitted without
7 his or her knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered by a
9 bona fide security interest is subject to the interest
10 of the secured party if he or she neither had knowledge
11 of nor consented to the act or omission;

12 (4) all money, things of value, books, records, and
13 research products and materials including formulas,
14 microfilm, tapes, and data which are used, or intended for
15 use, in a felony violation of this Act;

16 (5) everything of value furnished or intended to be
17 furnished by any person in exchange for a substance in
18 violation of this Act, all proceeds traceable to such an
19 exchange, and all moneys, negotiable instruments, and
20 securities used, or intended to be used, to commit or in
21 any manner to facilitate any felony violation of this Act;

22 (6) all real property, including any right, title, and
23 interest including, but not limited to, any leasehold
24 interest or the beneficial interest in a land trust, in the
25 whole of any lot or tract of land and any appurtenances or
26 improvements, that is used or intended to be used to

1 facilitate the manufacture, distribution, sale, receipt,
2 or concealment of a substance containing cannabis or
3 property described in paragraph (2) of this subsection (a)
4 that constitutes a felony violation of this Act involving
5 more than 2,000 grams of a substance containing cannabis or
6 that is the proceeds of any felony violation of this Act.

7 (b) Property subject to forfeiture under this Act may be
8 seized under the Drug Asset Forfeiture Procedure Act. In the
9 event of seizure, forfeiture proceedings shall be instituted
10 under the Drug Asset Forfeiture Procedure Act.

11 (c) Forfeiture under this Act is subject to an 8th
12 Amendment to the United States Constitution disproportionate
13 penalties analysis as provided under Section 9.5 of the Drug
14 Asset Forfeiture Procedure Act.

15 (c-1) With regard to possession of cannabis offenses only,
16 a sum of currency with a value of less than \$500 shall not be
17 subject to forfeiture under this Act. For all other offenses
18 under this Act, a sum of currency with a value of less than
19 \$100 shall not be subject to forfeiture under this Act. In
20 seizures of currency in excess of these amounts, this Section
21 shall not create an exemption for these amounts.

22 (d) (Blank).

23 (e) (Blank).

24 (f) (Blank).

25 (g) (Blank).

26 (h) Contraband, including cannabis possessed without

1 authorization under State or federal law, is not subject to
2 forfeiture. No property right exists in contraband. Contraband
3 is subject to seizure and shall be disposed of according to
4 State law.

5 (i) The changes made to this Section by Public Act 100-512
6 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
7 ~~100th General Assembly~~ only apply to property seized on and
8 after July 1, 2018.

9 (j) The changes made to this Section by Public Act 100-699
10 ~~this amendatory Act of the 100th General Assembly~~ are subject
11 to Section 4 of the Statute on Statutes.

12 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18;
13 100-699, eff. 8-3-18.)

14 Section 25. The Illinois Controlled Substances Act is
15 amended by changing Section 505 as follows:

16 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

17 Sec. 505. (a) The following are subject to forfeiture:

18 (1) (blank);

19 (2) all raw materials, products, and equipment of any
20 kind which are used, or intended for use, in manufacturing,
21 distributing, dispensing, administering or possessing any
22 substance in violation of this Act;

23 (3) all conveyances, including aircraft, vehicles, or
24 vessels, which are used, or intended for use, to transport,

1 or in any manner to facilitate the transportation, sale,
2 receipt, possession, or concealment of substances
3 manufactured, distributed, dispensed, or possessed in
4 violation of this Act, or property described in paragraph
5 (2) of this subsection (a), but:

6 (i) no conveyance used by any person as a common
7 carrier in the transaction of business as a common
8 carrier is subject to forfeiture under this Section
9 unless it appears that the owner or other person in
10 charge of the conveyance is a consenting party or privy
11 to a violation of this Act;

12 (ii) no conveyance is subject to forfeiture under
13 this Section by reason of any act or omission which the
14 owner proves to have been committed or omitted without
15 his or her knowledge or consent;

16 (iii) a forfeiture of a conveyance encumbered by a
17 bona fide security interest is subject to the interest
18 of the secured party if he or she neither had knowledge
19 of nor consented to the act or omission;

20 (4) all money, things of value, books, records, and
21 research products and materials including formulas,
22 microfilm, tapes, and data which are used, or intended to
23 be used, in violation of this Act;

24 (5) everything of value furnished, or intended to be
25 furnished, in exchange for a substance in violation of this
26 Act, all proceeds traceable to such an exchange, and all

1 moneys, negotiable instruments, and securities used, or
2 intended to be used, to commit or in any manner to
3 facilitate any violation of this Act;

4 (6) all real property, including any right, title, and
5 interest (including, but not limited to, any leasehold
6 interest or the beneficial interest in a land trust) in the
7 whole of any lot or tract of land and any appurtenances or
8 improvements, which is used or intended to be used, in any
9 manner or part, to commit, or in any manner to facilitate
10 the commission of, any violation or act that constitutes a
11 violation of Section 401 or 405 of this Act or that is the
12 proceeds of any violation or act that constitutes a
13 violation of Section 401 or 405 of this Act.

14 (b) Property subject to forfeiture under this Act may be
15 seized under the Drug Asset Forfeiture Procedure Act. In the
16 event of seizure, forfeiture proceedings shall be instituted
17 under the Drug Asset Forfeiture Procedure Act.

18 (c) Forfeiture under this Act is subject to an 8th
19 Amendment to the United States Constitution disproportionate
20 penalties analysis as provided under Section 9.5 of the Drug
21 Asset Forfeiture Procedure Act.

22 (d) With regard to possession of controlled substances
23 offenses only, a sum of currency with a value of less than \$500
24 shall not be subject to forfeiture under this Act. For all
25 other offenses under this Act, a sum of currency with a value
26 of less than \$100 shall not be subject to forfeiture under this

1 Act. In seizures of currency in excess of these amounts, this
2 Section shall not create an exemption for these amounts.

3 (d-5) For felony offenses involving possession of
4 controlled substances only, no property shall be subject to
5 forfeiture under this Act because of the possession of less
6 than 2 single unit doses of a controlled substance. This
7 exemption shall not apply in instances when the possessor, or
8 another person at the direction of the possessor, engaged in
9 the destruction of any amount of a controlled substance. The
10 amount of a single unit dose shall be the State's burden to
11 prove in its case in chief.

12 (e) If the Department of Financial and Professional
13 Regulation suspends or revokes a registration, all controlled
14 substances owned or possessed by the registrant at the time of
15 suspension or the effective date of the revocation order may be
16 placed under seal by the Director. No disposition may be made
17 of substances under seal until the time for taking an appeal
18 has elapsed or until all appeals have been concluded unless a
19 court, upon application therefor, orders the sale of perishable
20 substances and the deposit of the proceeds of the sale with the
21 court. Upon a suspension or revocation order becoming final,
22 all substances are subject to seizure and forfeiture under the
23 Drug Asset Forfeiture Procedure Act.

24 (f) (Blank).

25 (g) (Blank).

26 (h) (Blank).

1 (i) Contraband, including controlled substances possessed
2 without authorization under State or federal law, is not
3 subject to forfeiture. No property right exists in contraband.
4 Contraband is subject to seizure and shall be disposed of
5 according to State law.

6 (j) The changes made to this Section by Public Act 100-512
7 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
8 ~~100th General Assembly~~ only apply to property seized on and
9 after July 1, 2018.

10 (k) The changes made to this Section by Public Act 100-699
11 ~~this amendatory Act of the 100th General Assembly~~ are subject
12 to Section 4 of the Statute on Statutes.

13 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18;
14 100-699, eff. 8-3-18.)

15 Section 30. The Drug Asset Forfeiture Procedure Act is
16 amended by changing Sections 3.3, 4, 6, 9, and 13.4 as follows:

17 (725 ILCS 150/3.3)

18 Sec. 3.3. Safekeeping of seized property pending
19 disposition.

20 (a) Property seized under this Act is deemed to be in the
21 custody of the Director of State Police, subject only to the
22 order and judgments of the circuit court having jurisdiction
23 over the forfeiture proceedings and the decisions of the
24 State's Attorney under this Act.

1 (b) If property is seized under this Act, the seizing
2 agency shall promptly conduct an inventory of the seized
3 property and estimate the property's value, and shall forward a
4 copy of the inventory of seized property and the estimate of
5 the property's value to the Director of State Police. Upon
6 receiving notice of seizure, the Director of State Police may:

7 (1) place the property under seal;

8 (2) remove the property to a place designated by the
9 seizing agency;

10 (3) keep the property in the possession of the Director
11 of State Police;

12 (4) remove the property to a storage area for
13 safekeeping;

14 (5) place the property under constructive seizure by
15 posting notice of pending forfeiture on it, by giving
16 notice of pending forfeiture to its owners and interest
17 holders, or by filing notice of pending forfeiture in any
18 appropriate public record relating to the property; or

19 (6) provide for another agency or custodian, including
20 an owner, secured party, or lienholder, to take custody of
21 the property upon the terms and conditions set by the
22 seizing agency.

23 (c) The seizing agency is required to exercise ordinary
24 care to protect the seized property from negligent loss,
25 damage, or destruction.

26 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

1 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

2 Sec. 4. Notice to owner or interest holder. The first
3 attempted service of notice shall be commenced within 28 days
4 of the filing of the verified claim or the receipt of the
5 notice from the seizing agency by Illinois State Police
6 Notice/Inventory of Seized Property (Form 4-64), whichever
7 occurs sooner. A complaint for forfeiture or a notice of
8 pending forfeiture shall be served upon the property owner or
9 interest holder in the following manner:

10 (1) If the owner's or interest holder's name and
11 current address are known, then by either:

12 (A) personal service; or

13 (B) mailing a copy of the notice by certified mail,
14 return receipt requested, and first class mail to that
15 address.

16 (i) If notice is sent by certified mail and no
17 signed return receipt is received by the State's
18 Attorney within 28 days of mailing, and no
19 communication from the owner or interest holder is
20 received by the State's Attorney documenting
21 actual notice by said parties, then the State's
22 Attorney shall, within a reasonable period of
23 time, mail a second copy of the notice by certified
24 mail, return receipt requested, and first class
25 mail to that address.

1 (ii) If no signed return receipt is received by
2 the State's Attorney within 28 days of the second
3 attempt at service by certified mail, and no
4 communication from the owner or interest holder is
5 received by the State's Attorney documenting
6 actual notice by said parties, then the State's
7 Attorney shall have 60 days to attempt to serve the
8 notice by personal service, which also includes
9 substitute service by leaving a copy at the usual
10 place of abode, with some person of the family or a
11 person residing there, of the age of 13 years or
12 upwards. If, after 3 attempts at service in this
13 manner, no service of the notice is accomplished,
14 then the notice shall be posted in a conspicuous
15 manner at this address and service shall be made by
16 posting.

17 The attempts at service and the posting, if
18 required, shall be documented by the person
19 attempting service and said documentation shall be
20 made part of a return of service returned to the
21 State's Attorney.

22 The State's Attorney may utilize any Sheriff
23 or Deputy Sheriff, any peace officer, a private
24 process server or investigator, or any employee,
25 agent, or investigator of the State's Attorney's
26 Office to attempt service without seeking leave of

1 court.

2 After the procedures set forth are followed,
3 service shall be effective on an owner or interest
4 holder on the date of receipt by the State's
5 Attorney of a return receipt, or on the date of
6 receipt of a communication from an owner or
7 interest holder documenting actual notice,
8 whichever is first in time, or on the date of the
9 last act performed by the State's Attorney in
10 attempting personal service under subparagraph
11 (ii) above. If notice is to be shown by actual
12 notice from communication with a claimant, then
13 the State's Attorney shall file an affidavit
14 providing details of the communication, which may
15 be accepted as sufficient proof of service by the
16 court.

17 After a claimant files a verified claim with
18 the State's Attorney and provides an address at
19 which the claimant will accept service, the
20 complaint shall be served and notice shall be
21 perfected upon mailing of the complaint to the
22 claimant at the address the claimant provided via
23 certified mail, return receipt requested, and
24 first class mail. No return receipt need be
25 received, or any other attempts at service need be
26 made to comply with service and notice

1 requirements under this Act. This certified
2 mailing, return receipt requested, shall be proof
3 of service of the complaint on the claimant.

4 For purposes of notice under this Section, if a
5 person has been arrested for the conduct giving
6 rise to the forfeiture, then the address provided
7 to the arresting agency at the time of arrest shall
8 be deemed to be that person's known address.
9 Provided, however, if an owner or interest
10 holder's address changes prior to the effective
11 date of the notice of pending forfeiture, the owner
12 or interest holder shall promptly notify the
13 seizing agency of the change in address or, if the
14 owner or interest holder's address changes
15 subsequent to the effective date of the notice of
16 pending forfeiture, the owner or interest holder
17 shall promptly notify the State's Attorney of the
18 change in address; or if the property seized is a
19 conveyance, to the address reflected in the office
20 of the agency or official in which title to or
21 interest in the conveyance is required by law to be
22 recorded.

23 (2) If the owner's or interest holder's address is not
24 known, and is not on record, then notice shall be served by
25 publication for 3 successive weeks in a newspaper of
26 general circulation in the county in which the seizure

1 occurred.

2 (3) After a claimant files a verified claim with the
3 State's Attorney and provides an address at which the
4 claimant will accept service, the complaint shall be served
5 and notice shall be perfected upon mailing of the complaint
6 to the claimant at the address the claimant provided via
7 certified mail, return receipt requested, and first class
8 mail. No return receipt need be received or any other
9 attempts at service need be made to comply with service and
10 notice requirements under this Act. This certified
11 mailing, return receipt requested, shall be proof of
12 service of the complaint on the claimant.

13 (4) Notice to any business entity, corporation,
14 limited liability company, limited liability partnership,
15 or partnership shall be completed by a single mailing of a
16 copy of the notice by certified mail, return receipt
17 requested, and first class mail to that address. This
18 notice is complete regardless of the return of a signed
19 return receipt.

20 (5) Notice to a person whose address is not within the
21 State shall be completed by a single mailing of a copy of
22 the notice by certified mail, return receipt requested, and
23 first class mail to that address. This notice is complete
24 regardless of the return of a signed return receipt.

25 (6) Notice to a person whose address is not within the
26 United States shall be completed by a single mailing of a

1 copy of the notice by certified mail, return receipt
2 requested, and first class mail to that address. This
3 notice shall be complete regardless of the return of a
4 signed return receipt. If certified mail is not available
5 in the foreign country where the person has an address,
6 then notice shall proceed by publication under paragraph
7 (2) of this Section.

8 (7) Notice to any person whom the State's Attorney
9 reasonably should know is incarcerated within the State
10 shall also include the mailing a copy of the notice by
11 certified mail, return receipt requested, and first class
12 mail to the address of the detention facility with the
13 inmate's name clearly marked on the envelope.

14 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

15 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

16 Sec. 6. Non-judicial forfeiture. If non-real property that
17 exceeds \$150,000 in value excluding the value of any
18 conveyance, or if real property is seized under the provisions
19 of the Illinois Controlled Substances Act, the Cannabis Control
20 Act, or the Methamphetamine Control and Community Protection
21 Act, the State's Attorney shall institute judicial in rem
22 forfeiture proceedings as described in Section 9 of this Act
23 within 28 days from receipt of notice of seizure from the
24 seizing agency under Section 5 of this Act. However, if
25 non-real property that does not exceed \$150,000 in value

1 excluding the value of any conveyance is seized, the following
2 procedure shall be used:

3 (A) If, after review of the facts surrounding the
4 seizure, the State's Attorney is of the opinion that the
5 seized property is subject to forfeiture, then, within 28
6 days of the receipt of notice of seizure from the seizing
7 agency, the State's Attorney shall cause notice of pending
8 forfeiture to be given to the owner of the property and all
9 known interest holders of the property in accordance with
10 Section 4 of this Act.

11 (B) The notice of pending forfeiture must include a
12 description of the property, the estimated value of the
13 property, the date and place of seizure, the conduct giving
14 rise to forfeiture or the violation of law alleged, and a
15 summary of procedures and procedural rights applicable to
16 the forfeiture action.

17 (C) (1) Any person claiming an interest in property
18 which is the subject of notice under subsection (A) of this
19 Section may, within 45 days after the effective date of
20 notice as described in Section 4 of this Act, file a
21 verified claim with the State's Attorney expressing his or
22 her interest in the property. The claim must set forth:

23 (i) the caption of the proceedings as set forth on
24 the notice of pending forfeiture and the name of the
25 claimant;

26 (ii) the address at which the claimant will accept

1 mail;

2 (iii) the nature and extent of the claimant's
3 interest in the property;

4 (iv) the date, identity of the transferor, and
5 circumstances of the claimant's acquisition of the
6 interest in the property;

7 (v) the names and addresses of all other persons
8 known to have an interest in the property;

9 (vi) the specific provision of law relied on in
10 asserting the property is not subject to forfeiture;

11 (vii) all essential facts supporting each
12 assertion; and

13 (viii) the relief sought.

14 (2) If a claimant files the claim then the State's
15 Attorney shall institute judicial in rem forfeiture
16 proceedings within 28 days after receipt of the claim.

17 (D) If no claim is filed within the 45-day ~~45-day~~
18 period as described in subsection (C) of this Section, the
19 State's Attorney shall declare the property forfeited and
20 shall promptly notify the owner and all known interest
21 holders of the property and the Director of the Illinois
22 Department of State Police of the declaration of forfeiture
23 and the Director shall dispose of the property in
24 accordance with law.

25 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

1 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

2 Sec. 9. Judicial in rem procedures. If property seized
3 under the provisions of the Illinois Controlled Substances Act,
4 the Cannabis Control Act, or the Methamphetamine Control and
5 Community Protection Act is non-real property that exceeds
6 \$150,000 in value excluding the value of any conveyance, or is
7 real property, or a claimant has filed a claim under subsection
8 (C) of Section 6 of this Act, the following judicial in rem
9 procedures shall apply:

10 (A) If, after a review of the facts surrounding the
11 seizure, the State's Attorney is of the opinion that the
12 seized property is subject to forfeiture, the State's
13 Attorney shall institute judicial forfeiture proceedings
14 by filing a verified complaint for forfeiture in the
15 circuit court within whose jurisdiction the seizure
16 occurred, or within whose jurisdiction an act or omission
17 giving rise to the seizure occurred, subject to Supreme
18 Court Rule 187. The complaint for forfeiture shall be filed
19 as soon as practicable, but not later than 28 days after
20 the filing of a verified claim by a claimant if the
21 property was acted upon under a non-judicial forfeiture
22 action, or 28 days after the State's Attorney receives
23 notice from the seizing agency as provided under Section 5
24 of this Act, whichever occurs later. When authorized by
25 law, a forfeiture must be ordered by a court on an action
26 in rem brought by a State's Attorney under a verified

1 complaint for forfeiture.

2 (A-5) If the State's Attorney finds that the alleged
3 violation of law giving rise to the seizure was incurred
4 without willful negligence or without any intention on the
5 part of the owner of the property to violate the law or
6 finds the existence of mitigating circumstances to justify
7 remission of the forfeiture, the State's Attorney may cause
8 the law enforcement agency having custody of the property
9 to return the property to the owner within a reasonable
10 time not to exceed 7 days. The State's Attorney shall
11 exercise his or her discretion prior to or promptly after
12 the preliminary review under Section 3.5 of this Act.
13 Judicial in rem forfeiture proceedings under this Act shall
14 be subject to the Code of Civil Procedure and the rules of
15 evidence relating to civil actions.

16 (A-10) A complaint of forfeiture shall include:

- 17 (1) a description of the property seized;
18 (2) the date and place of seizure of the property;
19 (3) the name and address of the law enforcement
20 agency making the seizure; and
21 (4) the specific statutory and factual grounds for
22 the seizure.

23 The complaint shall be served upon the person from whom
24 the property was seized and all persons known or reasonably
25 believed by the State to claim an interest in the property,
26 as provided in Section 4 of this Act. The complaint shall

1 be accompanied by the following written notice:

2 "This is a civil court proceeding subject to the Code
3 of Civil Procedure. You received this Complaint of
4 Forfeiture because the State's Attorney's office has
5 brought a legal action seeking forfeiture of your
6 seized property. This complaint starts the court
7 process where the state seeks to prove that your
8 property should be forfeited and not returned to you.
9 This process is also your opportunity to try to prove
10 to a judge that you should get your property back. The
11 complaint lists the date, time, and location of your
12 first court date. You must appear in court on that day,
13 or you may lose the case automatically. You must also
14 file an appearance and answer. If you are unable to pay
15 the appearance fee, you may qualify to have the fee
16 waived. If there is a criminal case related to the
17 seizure of your property, your case may be set for
18 trial after the criminal case has been resolved. Before
19 trial, the judge may allow discovery, where the State
20 can ask you to respond in writing to questions and give
21 them certain documents, and you can make similar
22 requests of the State. The trial is your opportunity to
23 explain what happened when your property was seized and
24 why you should get the property back."

25 (B) The laws of evidence relating to civil actions
26 shall apply to all other proceedings under this Act except

1 that the parties shall be allowed to use, and the court
2 must receive and consider, all relevant hearsay evidence
3 that relates to evidentiary foundation, chain of custody,
4 business records, recordings, laboratory analysis,
5 laboratory reports, and the use of technology in the
6 investigation that resulted in the seizure of the property
7 that is subject to the forfeiture action.

8 (C) Only an owner of or interest holder in the property
9 may file an answer asserting a claim against the property
10 in the action in rem. For purposes of this Section, the
11 owner or interest holder shall be referred to as claimant.
12 A person not named in the forfeiture complaint who claims
13 to have an interest in the property may petition to
14 intervene as a claimant under Section 2-408 of the Code of
15 Civil Procedure.

16 (D) The answer must be signed by the owner or interest
17 holder under penalty of perjury and must set forth:

18 (i) the caption of the proceedings as set forth on
19 the notice of pending forfeiture and the name of the
20 claimant;

21 (ii) the address at which the claimant will accept
22 mail;

23 (iii) the nature and extent of the claimant's
24 interest in the property;

25 (iv) the date, identity of transferor, and
26 circumstances of the claimant's acquisition of the

1 interest in the property;

2 (v) the names and addresses of all other persons
3 known to have an interest in the property;

4 (vi) the specific provisions of Section 8 of this
5 Act relied on in asserting it is exempt from
6 forfeiture, if applicable;

7 (vii) all essential facts supporting each
8 assertion;

9 (viii) the precise relief sought; and

10 (ix) in a forfeiture action involving currency or
11 its equivalent, a claimant shall provide the State with
12 notice of the claimant's intent to allege that the
13 currency or its equivalent is not related to the
14 alleged factual basis for the forfeiture, and why.

15 (E) The answer must be filed with the court within 45
16 days after service of the civil in rem complaint.

17 (F) The trial shall be held within 60 days after filing
18 of the answer unless continued for good cause.

19 (G) The State, in its case in chief, shall show by a
20 preponderance of the evidence that the property is subject
21 to forfeiture; and at least one of the following:

22 (i) In the case of personal property, including
23 conveyances:

24 (a) that the claimant was legally accountable
25 for the conduct giving rise to the forfeiture;

26 (b) that the claimant knew or reasonably

1 should have known of the conduct giving rise to the
2 forfeiture;

3 (c) that the claimant knew or reasonably
4 should have known that the conduct giving rise to
5 the forfeiture was likely to occur;

6 (d) that the claimant held the property for the
7 benefit of, or as nominee for, any person whose
8 conduct gave rise to its forfeiture;

9 (e) that if the claimant acquired the interest
10 through any person engaging in any of the conduct
11 described above or conduct giving rise to the
12 forfeiture:

13 (1) the claimant did not acquire it as a
14 bona fide purchaser for value, or

15 (2) the claimant acquired the interest
16 under such circumstances that the claimant
17 reasonably should have known the property was
18 derived from, or used in, the conduct giving
19 rise to the forfeiture;

20 (f) that the claimant is not the true owner of
21 the property;

22 (g) that the claimant acquired the interest:

23 (1) before the commencement of the conduct
24 giving rise to the forfeiture and the person
25 whose conduct gave rise to the forfeiture did
26 not have authority to convey the interest to a

1 bona fide purchaser for value at the time of
2 the conduct; or

3 (2) after the commencement of the conduct
4 giving rise to the forfeiture and the owner or
5 interest holder acquired the interest as a
6 mortgagee, secured creditor, lienholder, or
7 bona fide purchaser for value without
8 knowledge of the conduct that gave rise to the
9 forfeiture, and without the knowledge of the
10 seizure of the property for forfeiture.

11 (ii) In the case of real property:

12 (a) that the claimant was legally accountable
13 for the conduct giving rise to the forfeiture;

14 (b) that the claimant solicited, conspired, or
15 attempted to commit the conduct giving rise to the
16 forfeiture; or

17 (c) that the claimant had acquired or stood to
18 acquire substantial proceeds from the conduct
19 giving rise to its forfeiture other than as an
20 interest holder in an arm's length transaction;

21 (d) that the claimant is not the true owner of
22 the property;

23 (e) that the claimant acquired the interest:

24 (1) before the commencement of the conduct
25 giving rise to the forfeiture and the person
26 whose conduct gave rise to the forfeiture did

1 not have authority to convey the interest to a
2 bona fide purchaser for value at the time of
3 the conduct; or

4 (2) after the commencement of the conduct
5 giving rise to the forfeiture and the owner or
6 interest holder acquired the interest as a
7 mortgagee, secured creditor, lienholder, or
8 bona fide purchaser for value without
9 knowledge of the conduct that gave rise to the
10 forfeiture, and before the filing in the office
11 of the recorder of deeds of the county in which
12 the real estate is located a notice of seizure
13 for forfeiture or a lis pendens notice.

14 (G-5) If the property that is the subject of the
15 forfeiture proceeding is currency or its equivalent, the
16 State, in its case in chief, shall show by a preponderance
17 of the evidence that the property is subject to forfeiture.
18 If the State makes that showing, the claimant shall have
19 the burden of production to set forth evidence that the
20 currency or its equivalent is not related to the alleged
21 factual basis of the forfeiture. After the production of
22 evidence, the State shall maintain the burden of proof to
23 overcome this assertion.

24 (G-10) Notwithstanding any other provision of this
25 Section, the State's burden of proof at the trial of the
26 forfeiture action shall be by clear and convincing evidence

1 if:

2 (1) a finding of not guilty is entered as to all
3 counts and all defendants in a criminal proceeding
4 relating to the conduct giving rise to the forfeiture
5 action; or

6 (2) the State receives an adverse finding at a
7 preliminary hearing and fails to secure an indictment
8 in a criminal proceeding related to the factual
9 allegations of the forfeiture action.

10 (H) If the State does not meet its burden of proof, the
11 court shall order the interest in the property returned or
12 conveyed to the claimant and shall order all other property
13 as to which the State does meet its burden of proof
14 forfeited to the State. If the State does meet its burden
15 of proof, the court shall order all property forfeited to
16 the State.

17 (I) A defendant convicted in any criminal proceeding is
18 precluded from later denying the essential allegations of
19 the criminal offense of which the defendant was convicted
20 in any proceeding under this Act regardless of the pendency
21 of an appeal from that conviction. However, evidence of the
22 pendency of an appeal is admissible.

23 (J) An acquittal or dismissal in a criminal proceeding
24 shall not preclude civil proceedings under this Act;
25 however, for good cause shown, on a motion by the State's
26 Attorney, the court may stay civil forfeiture proceedings

1 during the criminal trial for a related criminal indictment
2 or information alleging a violation of the Illinois
3 Controlled Substances Act, the Cannabis Control Act, or the
4 Methamphetamine Control and Community Protection Act. Such
5 a stay shall not be available pending an appeal. Property
6 subject to forfeiture under the Illinois Controlled
7 Substances Act, the Cannabis Control Act, or the
8 Methamphetamine Control and Community Protection Act shall
9 not be subject to return or release by a court exercising
10 jurisdiction over a criminal case involving the seizure of
11 such property unless such return or release is consented to
12 by the State's Attorney.

13 (K) Title to all property declared forfeited under this
14 Act vests in the State on the commission of the conduct
15 giving rise to forfeiture together with the proceeds of the
16 property after that time. Except as otherwise provided in
17 this Act, any such property or proceeds subsequently
18 transferred to any person remain subject to forfeiture
19 unless a person to whom the property was transferred makes
20 an appropriate claim under this Act and has the claim
21 adjudicated in the judicial in rem proceeding.

22 (L) A civil action under this Act must be commenced
23 within 5 years after the last conduct giving rise to
24 forfeiture became known or should have become known or 5
25 years after the forfeitable property is discovered,
26 whichever is later, excluding any time during which either

1 the property or claimant is out of the State or in
2 confinement or during which criminal proceedings relating
3 to the same conduct are in progress.

4 (M) No property shall be forfeited under this Act from
5 a person who, without actual or constructive notice that
6 the property was the subject of forfeiture proceedings,
7 obtained possession of the property as a bona fide
8 purchaser for value. A person who purports to transfer
9 property after receiving actual or constructive notice
10 that the property is subject to seizure or forfeiture is
11 guilty of contempt of court and shall be liable to the
12 State for a penalty in the amount of the fair market value
13 of the property.

14 (N) If property is ordered forfeited under this Act
15 from a claimant who held title to the property in joint
16 tenancy or tenancy in common with another claimant, the
17 court shall determine the amount of each owner's interest
18 in the property according to principles of property law.

19 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

20 (725 ILCS 150/13.4)

21 Sec. 13.4. Applicability; savings clause.

22 (a) The changes made to this Act by Public Act 100-512
23 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
24 ~~100th General Assembly~~ only apply to property seized on and
25 after July 1, 2018.

1 (b) The changes made to this Act by Public Act 100-699 ~~this~~
2 ~~amendatory Act of the 100th General Assembly~~ are subject to
3 Section 4 of the Statute on Statutes.

4 (Source: P.A. 100-699, eff. 8-3-18.)

5 Section 35. The Illinois Streetgang Terrorism Omnibus
6 Prevention Act is amended by changing Section 40 as follows:

7 (740 ILCS 147/40)

8 Sec. 40. Forfeiture.

9 (a) The following are subject to seizure and forfeiture:

10 (1) any property that is directly or indirectly used or
11 intended for use in any manner to facilitate streetgang
12 related activity; and

13 (2) any property constituting or derived from gross
14 profits or other proceeds obtained from streetgang related
15 activity.

16 (b) Property subject to forfeiture under this Section may
17 be seized under the procedures set forth in ~~under~~ Section
18 36-2.1 of the Criminal Code of 2012, except that actual
19 physical seizure of real property subject to forfeiture under
20 this Act requires the issuance of a seizure warrant. Nothing in
21 this Section prohibits the constructive seizure of real
22 property through the filing of a complaint for forfeiture in
23 circuit court and the recording of a lis pendens against the
24 real property without a hearing, warrant application, or

1 judicial approval.

2 (c) The State's Attorney may initiate forfeiture
3 proceedings under the procedures in Article 36 of the Criminal
4 Code of 2012. The State shall bear the burden of proving by a
5 preponderance of the evidence that the property was acquired
6 through a pattern of streetgang related activity.

7 (d) Property forfeited under this Section shall be disposed
8 of in accordance with Section 36-7 of Article 36 of the
9 Criminal Code of 2012 for the forfeiture of vehicles, vessels,
10 and aircraft.

11 (e) Within 60 days of the date of the seizure of contraband
12 under this Section, the State's Attorney shall initiate
13 forfeiture proceedings as provided in Article 36 of the
14 Criminal Code of 2012. An owner or person who has a lien on the
15 property may establish as a defense to the forfeiture of
16 property that is subject to forfeiture under this Section that
17 the owner or lienholder had no knowledge that the property was
18 acquired through a pattern of streetgang related activity.
19 Property that is forfeited under this Section shall be disposed
20 of as provided in Article 36 of the Criminal Code of 2012 for
21 the forfeiture of vehicles, vessels, and aircraft. The proceeds
22 of the disposition shall be paid to the Gang Violence Victims
23 and Witnesses Fund to be used to assist in the prosecution of
24 gang crimes.

25 (f) Property seized or forfeited under this Section is
26 subject to reporting under the Seizure and Forfeiture Reporting

1 Act.

2 (g) The changes made to this Section by Public Act 100-512
3 ~~100-0512~~ only apply to property seized on and after July 1,
4 2018.

5 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".