

# HB3257



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3257

by Rep. Dan Brady

### SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-7

725 ILCS 150/13.2

was 725 ILCS 150/17

Amends the Criminal Code of 2012 and the Drug Asset Forfeiture Procedure Act. Provides that forfeiture proceeds collected under those Acts distributed to the drug task force, metropolitan enforcement group, local, municipal, county, or State law enforcement agency or agencies that conducted or participated in the investigation resulting in the forfeiture may be used for costs associated with school resource officers.

LRB101 07625 SLF 52672 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Section 36-7 as follows:

6 (720 ILCS 5/36-7)

7 Sec. 36-7. Distribution of proceeds; selling or retaining  
8 seized property prohibited.

9 (a) Except as otherwise provided in this Section, the court  
10 shall order that property forfeited under this Article be  
11 delivered to the Department of State Police within 60 days.

12 (b) The Department of State Police or its designee shall  
13 dispose of all property at public auction and shall distribute  
14 the proceeds of the sale, together with any moneys forfeited or  
15 seized, under subsection (c) of this Section.

16 (c) All moneys and the sale proceeds of all other property  
17 forfeited and seized under this Act shall be distributed as  
18 follows:

19 (1) 65% shall be distributed to the drug task force,  
20 metropolitan enforcement group, local, municipal, county,  
21 or State law enforcement agency or agencies that conducted  
22 or participated in the investigation resulting in the  
23 forfeiture. The distribution shall bear a reasonable

1 relationship to the degree of direct participation of the  
2 law enforcement agency in the effort resulting in the  
3 forfeiture, taking into account the total value of the  
4 property forfeited and the total law enforcement effort  
5 with respect to the violation of the law upon which the  
6 forfeiture is based. Amounts distributed to the agency or  
7 agencies shall be used, at the discretion of the agency,  
8 for the enforcement of criminal laws; costs associated with  
9 school resource officers; ~~or for~~ public education in the  
10 community or schools in the prevention or detection of the  
11 abuse of drugs or alcohol; or for security cameras used for  
12 the prevention or detection of violence, except that  
13 amounts distributed to the Secretary of State shall be  
14 deposited into the Secretary of State Evidence Fund to be  
15 used as provided in Section 2-115 of the Illinois Vehicle  
16 Code.

17 Any local, municipal, or county law enforcement agency  
18 entitled to receive a monetary distribution of forfeiture  
19 proceeds may share those forfeiture proceeds pursuant to  
20 the terms of an intergovernmental agreement with a  
21 municipality that has a population in excess of 20,000 if:

22 (A) the receiving agency has entered into an  
23 intergovernmental agreement with the municipality to  
24 provide police services;

25 (B) the intergovernmental agreement for police  
26 services provides for consideration in an amount of not

1 less than \$1,000,000 per year;

2 (C) the seizure took place within the geographical  
3 limits of the municipality; and

4 (D) the funds are used only for the enforcement of  
5 criminal laws; costs associated with school resource  
6 officers; ~~for~~ public education in the community or  
7 schools in the prevention or detection of the abuse of  
8 drugs or alcohol; or for security cameras used for the  
9 prevention or detection of violence or the  
10 establishment of a municipal police force, including  
11 the training of officers, construction of a police  
12 station, the purchase of law enforcement equipment, or  
13 vehicles.

14 (2) 12.5% shall be distributed to the Office of the  
15 State's Attorney of the county in which the prosecution  
16 resulting in the forfeiture was instituted, deposited in a  
17 special fund in the county treasury and appropriated to the  
18 State's Attorney for use, at the discretion of the State's  
19 Attorney, in the enforcement of criminal laws; or for  
20 public education in the community or schools in the  
21 prevention or detection of the abuse of drugs or alcohol;  
22 or at the discretion of the State's Attorney, in addition  
23 to other authorized purposes, to make grants to local  
24 substance abuse treatment facilities and half-way houses.  
25 In counties over 3,000,000 population, 25% will be  
26 distributed to the Office of the State's Attorney for use,

1 at the discretion of the State's Attorney, in the  
2 enforcement of criminal laws; or for public education in  
3 the community or schools in the prevention or detection of  
4 the abuse of drugs or alcohol; or at the discretion of the  
5 State's Attorney, in addition to other authorized  
6 purposes, to make grants to local substance abuse treatment  
7 facilities and half-way houses. If the prosecution is  
8 undertaken solely by the Attorney General, the portion  
9 provided shall be distributed to the Attorney General for  
10 use in the enforcement of criminal laws governing cannabis  
11 and controlled substances or for public education in the  
12 community or schools in the prevention or detection of the  
13 abuse of drugs or alcohol.

14 12.5% shall be distributed to the Office of the State's  
15 Attorneys Appellate Prosecutor and shall be used at the  
16 discretion of the State's Attorneys Appellate Prosecutor  
17 for additional expenses incurred in the investigation,  
18 prosecution and appeal of cases arising in the enforcement  
19 of criminal laws; or for public education in the community  
20 or schools in the prevention or detection of the abuse of  
21 drugs or alcohol. The Office of the State's Attorneys  
22 Appellate Prosecutor shall not receive distribution from  
23 cases brought in counties with over 3,000,000 population.

24 (3) 10% shall be retained by the Department of State  
25 Police for expenses related to the administration and sale  
26 of seized and forfeited property.

1 (d) A law enforcement agency shall not retain forfeited  
2 property for its own use or transfer the property to any person  
3 or entity, except as provided under this Section. A law  
4 enforcement agency may apply in writing to the Director of  
5 State Police to request that forfeited property be awarded to  
6 the agency for a specifically articulated official law  
7 enforcement use in an investigation. The Director of State  
8 Police shall provide a written justification in each instance  
9 detailing the reasons why the forfeited property was placed  
10 into official use, and the justification shall be retained for  
11 a period of not less than 3 years.

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

13 Section 10. The Drug Asset Forfeiture Procedure Act is  
14 amended by changing Section 13.2 as follows:

15 (725 ILCS 150/13.2) (was 725 ILCS 150/17)

16 Sec. 13.2. Distribution of proceeds; selling or retaining  
17 seized property prohibited.

18 (a) Except as otherwise provided in this Section, the court  
19 shall order that property forfeited under this Act be delivered  
20 to the Department of State Police within 60 days.

21 (b) All moneys and the sale proceeds of all other property  
22 forfeited and seized under this Act shall be distributed as  
23 follows:

24 (1) (i) 65% shall be distributed to the metropolitan

1 enforcement group, local, municipal, county, or State law  
2 enforcement agency or agencies that conducted or  
3 participated in the investigation resulting in the  
4 forfeiture. The distribution shall bear a reasonable  
5 relationship to the degree of direct participation of the  
6 law enforcement agency in the effort resulting in the  
7 forfeiture, taking into account the total value of the  
8 property forfeited and the total law enforcement effort  
9 with respect to the violation of the law upon which the  
10 forfeiture is based. Amounts distributed to the agency or  
11 agencies shall be used for the enforcement of laws  
12 governing cannabis and controlled substances; costs  
13 associated with school resource officers; ~~for~~ public  
14 education in the community or schools in the prevention or  
15 detection of the abuse of drugs or alcohol; or for security  
16 cameras used for the prevention or detection of violence,  
17 except that amounts distributed to the Secretary of State  
18 shall be deposited into the Secretary of State Evidence  
19 Fund to be used as provided in Section 2-115 of the  
20 Illinois Vehicle Code.

21 (ii) Any local, municipal, or county law enforcement  
22 agency entitled to receive a monetary distribution of  
23 forfeiture proceeds may share those forfeiture proceeds  
24 pursuant to the terms of an intergovernmental agreement  
25 with a municipality that has a population in excess of  
26 20,000 if:

1 (A) the receiving agency has entered into an  
2 intergovernmental agreement with the municipality to  
3 provide police services;

4 (B) the intergovernmental agreement for police  
5 services provides for consideration in an amount of not  
6 less than \$1,000,000 per year;

7 (C) the seizure took place within the geographical  
8 limits of the municipality; and

9 (D) the funds are used only for the enforcement of  
10 laws governing cannabis and controlled substances;  
11 costs associated with school resource officers; for  
12 public education in the community or schools in the  
13 prevention or detection of the abuse of drugs or  
14 alcohol; or for security cameras used for the  
15 prevention or detection of violence or the  
16 establishment of a municipal police force, including  
17 the training of officers, construction of a police  
18 station, or the purchase of law enforcement equipment  
19 or vehicles.

20 (2) (i) 12.5% shall be distributed to the Office of the  
21 State's Attorney of the county in which the prosecution  
22 resulting in the forfeiture was instituted, deposited in a  
23 special fund in the county treasury and appropriated to the  
24 State's Attorney for use in the enforcement of laws  
25 governing cannabis and controlled substances; for public  
26 education in the community or schools in the prevention or



1 detection of the abuse of drugs or alcohol; or, at the  
2 discretion of the State's Attorney, in addition to other  
3 authorized purposes, to make grants to local substance  
4 abuse treatment facilities and half-way houses. 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 governing cannabis and  
8 controlled substances; for public education in the  
9 community or schools in the prevention or detection of the  
10 abuse of drugs or alcohol; or at the discretion of the  
11 State's Attorney, in addition to other authorized  
12 purposes, to make grants to local substance abuse treatment  
13 facilities and half-way houses. If the prosecution is  
14 undertaken solely by the Attorney General, the portion  
15 provided shall be distributed to the Attorney General for  
16 use in the enforcement of laws governing cannabis and  
17 controlled substances or for public education in the  
18 community or schools in the prevention or detection of the  
19 abuse of drugs or alcohol.

20 (ii) 12.5% shall be distributed to the Office of the  
21 State's Attorneys Appellate Prosecutor and deposited in  
22 the Narcotics Profit Forfeiture Fund of that office to be  
23 used for additional expenses incurred in the  
24 investigation, prosecution and appeal of cases arising  
25 under laws governing cannabis and controlled substances or  
26 for public education in the community or schools in the

1 prevention or detection of the abuse of drugs or alcohol.  
2 The Office of the State's Attorneys Appellate Prosecutor  
3 shall not receive distribution from cases brought in  
4 counties with over 3,000,000 population.

5 (3) 10% shall be retained by the Department of State  
6 Police for expenses related to the administration and sale  
7 of seized and forfeited property.

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