

HB5297



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5297

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 17528 RLC 66943 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,
26 together with administrative expenses, and for legal

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

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

9 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;
10 101-10, eff. 6-5-19.)