

HB5557



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5557

by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

725 ILCS 150/3.1

Amends the Drug Asset Forfeiture Procedure Act. Provides that actual physical seizure of real property subject to forfeiture under the Act requires the issuance of a seizure warrant and a criminal conviction (currently, only issuance of a seizure warrant).

LRB101 18226 RLC 67668 b

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 Drug Asset Forfeiture Procedure Act is
5 amended by changing Section 3.1 as follows:

6 (725 ILCS 150/3.1)

7 Sec. 3.1. Seizure.

8 (a) Actual physical seizure of real property subject to
9 forfeiture under this Act requires the issuance of a seizure
10 warrant and a criminal conviction. Nothing in this Section
11 prohibits the constructive seizure of real property through the
12 filing of a complaint for forfeiture in circuit court and the
13 recording of a lis pendens against the real property without a
14 hearing, warrant application, or judicial approval.

15 (b) Personal property subject to forfeiture under the
16 Illinois Controlled Substances Act, the Cannabis Control Act,
17 the Illinois Food, Drug and Cosmetic Act, or the
18 Methamphetamine Control and Community Protection Act may be
19 seized by the Director of State Police or any peace officer
20 upon process or seizure warrant issued by any court having
21 jurisdiction over the property.

22 (c) Personal property subject to forfeiture under the
23 Illinois Controlled Substances Act, the Cannabis Control Act,

1 the Illinois Food, Drug and Cosmetic Act, or the
2 Methamphetamine Control and Community Protection Act may be
3 seized by the Director of State Police or any peace officer
4 without process:

5 (1) if the seizure is incident to inspection under an
6 administrative inspection warrant;

7 (2) if the property subject to seizure has been the
8 subject of a prior judgment in favor of the State in a
9 criminal proceeding or in an injunction or forfeiture
10 proceeding based upon this Act;

11 (3) if there is probable cause to believe that the
12 property is directly or indirectly dangerous to health or
13 safety;

14 (4) if there is probable cause to believe that the
15 property is subject to forfeiture under the Illinois
16 Controlled Substances Act, the Cannabis Control Act, the
17 Illinois Food, Drug and Cosmetic Act, or the
18 Methamphetamine Control and Community Protection Act, and
19 the property is seized under circumstances in which a
20 warrantless seizure or arrest would be reasonable; or

21 (5) under the Code of Criminal Procedure of 1963.

22 (d) If a conveyance is seized under this Act, an
23 investigation shall be made by the law enforcement agency as to
24 any person whose right, title, interest, or lien is of record
25 in the office of the agency or official in which title to or
26 interest in the conveyance is required by law to be recorded.

1 (e) After seizure under this Section, notice shall be given
2 to all known interest holders that forfeiture proceedings,
3 including a preliminary review, may be instituted and the
4 proceedings may be instituted under this Act. Upon a showing of
5 good cause related to an ongoing investigation, the notice
6 required for a preliminary review under this Section may be
7 postponed.

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