



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3038

Introduced 2/16/2023, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

5 ILCS 810/10

720 ILCS 5/29B-7

720 ILCS 5/29B-12

725 ILCS 150/6

from Ch. 56 1/2, par. 1676

Amends the Seizure and Forfeiture Reporting Act. Requires each law enforcement entity that seizes, forfeits, or receives property under the Act to report specified information about the seizure and forfeiture of that property no later than 60 days after December 31 of the year in which the property is seized or forfeited. Provides that neither a law enforcement entity nor the Illinois State Police shall report the seizure, forfeiture, or receipt of property subject to reporting under federal law through equitable sharing agreements with the federal government. Provides that if a law enforcement entity does not seize, forfeit, or receive forfeiture funds during the reporting period, it shall file a null report. Makes changes concerning the information required in reports filed with the Illinois State Police under the Act. Provides that the Illinois State Police shall post annually on its website certain data. Provides that the Illinois State Police shall, within 120 days after the end of the calendar year, submit to the General Assembly, Attorney General, and Governor a written report summarizing activity in the State for the preceding year. Amends the Criminal Code of 2012. Provides that the Director's designee may sell or dispose of forfeited property. Amends the Drug Asset Forfeiture Procedure Act. Provides that the Director's designee may dispose of forfeited property.

LRB103 30289 DTM 56717 b

1 AN ACT concerning State government.

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

4 Section 5. The Seizure and Forfeiture Reporting Act is
5 amended by changing Sections 10 as follows:

6 (5 ILCS 810/10)

7 Sec. 10. Reporting by law enforcement entity ~~agency~~.

8 (a) Each law enforcement entity ~~agency~~ that seizes,
9 forfeits, or receives property subject to reporting under this
10 Act shall report the following information about each seizure
11 and forfeiture of property ~~seized or forfeited~~ under State law
12 to the Illinois State Police no later than 60 days after
13 December 31 of the year in which the property is seized or
14 forfeited. Neither a law enforcement entity nor the Illinois
15 State Police shall report the seizure, forfeiture, or receipt
16 of property that is subject to reporting under federal law
17 through equitable sharing agreements with the federal
18 government. If a law enforcement entity does not seize,
19 forfeit, or receive forfeiture funds during a reporting
20 period, it shall file a null report for the reporting period
21 with the Illinois State Police. The Illinois State Police
22 shall update or replace forms, establish processes, and assign
23 to the appropriate seizing, forfeiting, and receiving entities

1 responsibility for reporting the following information:

2 (1) the name of the law enforcement agency that seized
3 the property or the name of the lead agency if a state
4 multijurisdictional task force seizes the property;

5 (2) the date of the seizure;

6 (3) the type of property seized, including a building,
7 vehicle, boat, cash, negotiable security, or firearm,
8 except reporting is not required for seizures of
9 contraband including alcohol, gambling devices, drug
10 paraphernalia, and controlled substances;

11 (4) a description of the property seized and the
12 estimated value of the property and if the property is a
13 conveyance, the description shall include the make, model,
14 year, and vehicle identification number or serial number;
15 ~~and~~

16 (5) the location where the seizure occurred,
17 including: -

18 (A) the zip code of the location;

19 (B) a description of the type of location, such as
20 a home, business, or roadway;

21 (6) a description of the direction of traffic flow if
22 the seizure is made during a traffic stop on an interstate
23 or State highway;

24 (7) a citation to the statutory authority under which
25 the seizure or forfeiture was executed;

26 (8) a citation to the statutory authority of the

1 alleged criminal offense that led to the seizure, if any;

2 (9) a citation to the statutory authority for which
3 the accused person was arrested or charged, if any;

4 (10) the criminal case number, if any, and court in
5 which the case was filed;

6 (11) the accused person's race, sex, year of birth,
7 and residential zip code;

8 (12) a description of the outcome of the accused
9 person's criminal case, which specifies whether charges
10 were filed or dropped and whether the accused was
11 acquitted, entered a plea agreement, or was convicted;

12 (13) the forfeiture case number and the court in which
13 the case was filed;

14 (14) a description of whether the forfeiture was
15 completed as a judicial or nonjudicial proceeding and, if
16 judicial, whether it was a criminal proceeding or civil
17 proceeding.

18 (15) a description of claims filed by a property owner
19 or other interested party, if any, such as:

20 (A) a verified claim in a nonjudicial forfeiture
21 proceeding under Section 6 of the Drug Asset
22 Forfeiture Procedure Act, Section 29 of the Criminal
23 Code of 2012, or other statute to which these
24 reporting requirements apply;

25 (B) an answer asserting a claim for the property
26 in an action in rem under Section 9 of the Drug Asset

1 Forfeiture Procedure Act, Section 29 or 36 of the
2 Criminal Code of 2012, or other statute to which these
3 reporting requirements apply;

4 (C) a motion for an innocent owner hearing under
5 Section 9 of the Drug Asset Forfeiture Procedure Act,
6 Section 36 of the Criminal Code of 2012, or other
7 statute to which these reporting requirements apply;

8 (D) a petition to intervene under Section 2-408 of
9 the Code of Civil Procedure;

10 (E) a petition for remission under Section 36 of
11 the Criminal Code of 2012 or other statute to which
12 these reporting requirements apply;

13 (F) a claim for judicial review that is filed
14 under Section 124B-170 of the Criminal Code of 2012 or
15 other statute to which these reporting requirements
16 apply and that is filed after an order of forfeiture is
17 entered;

18 (G) a substantial hardship motion filed under
19 Section 36 of the Criminal Code of 2012; or

20 (H) any other claim contesting the forfeiture of
21 property under any provision for which reporting is
22 mandated under this Section.

23 (16) a description of whether the person that filed
24 the claim or petition is an accused person, innocent
25 owner, a creditor, or an otherwise interested party;

26 (17) a description of whether the petitioner filed for

1 a full or partial waiver of court fees;

2 (18) a description of the outcome of any judicial
3 forfeiture action, including the outcome of motions filed,
4 default judgments, judgments after a contested hearing;
5 settlements between the owner or other interested party
6 and the State's Attorney under Section 11 of the Drug
7 Asset Forfeiture Procedure Act, or other outcome;

8 (19) a description of whether the Attorney General
9 granted a petition for remission under Section 36 of the
10 Criminal Code of 2012 or other statute to which these
11 reporting requirements apply;

12 (20) the date the final forfeiture order was entered;

13 (21) a description of the disposition of the property,
14 including a statement regarding whether the property was
15 returned to the owner, partially returned to the owner,
16 sold, destroyed, retained by a law enforcement entity, or
17 was otherwise disposed;

18 (22) the date and location of the property
19 disposition; and

20 (23) the total value of forfeited property held by
21 each entity at the end of the reporting period.

22 The filing requirement shall be met upon filing Illinois
23 State Police Notice/Inventory of Seized Property (Form 4-64)
24 as amended, supplemented, or replaced to allow for the
25 reporting of elements required in this Section, with the
26 State's Attorney's Office in the county where the forfeiture

1 action is being commenced or with the Attorney General's
2 Office if the forfeiture action is being commenced by that
3 office, and the forwarding of said forms ~~Form 4-64~~ upon
4 approval of the State's Attorney's Office or the Attorney
5 General's Office to the Illinois State Police Asset Forfeiture
6 Section. ~~With regard to seizures for which Form 4-64 is not~~
7 ~~required to be filed, the filing requirement shall be met by~~
8 ~~the filing of an annual summary report with the Illinois State~~
9 ~~Police no later than 60 days after December 31 of that year.~~

10 (b) Each seizing law enforcement entity ~~agency~~, including
11 a drug task force or Metropolitan Enforcement Group (MEG)
12 unit, that receives proceeds from forfeitures subject to
13 reporting under this Act shall file an annual report with the
14 Illinois State Police no later than 60 days after December 31
15 of that year. If an entity did not seize, forfeit, receive, or
16 spend forfeiture funds during the reporting period, it shall
17 file a null report with the Illinois State Police. The format
18 of the report shall be developed by the Illinois State Police
19 and shall be completed by the law enforcement entity ~~agency~~.
20 The report shall include, at a minimum, the amount of funds and
21 other property distributed to the law enforcement entity
22 ~~agency~~ by the Illinois State Police, the amount of funds
23 expended by the law enforcement entity ~~agency~~, and the
24 category of expenditure, including:

- 25 (1) crime, gang, or abuse prevention or intervention
26 programs;

- 1 (2) compensation or services for crime victims;
- 2 (3) investigation and litigation expenses, including
3 expenses for forensics, witness protection, informant
4 fees, ~~and~~ controlled purchases of contraband, auditing,
5 court reporting, expert witnesses, attorneys, court fees,
6 discovery, court reporters, printing, postage, filing,
7 outside counsel, and awards to opposing parties;
- 8 (4) salaries, overtime, and benefits, as permitted by
9 law;
- 10 (5) ~~operating expenses, including but not limited to,~~
11 capital expenditures, including expenditures for ~~for~~
12 vehicles, firearms, equipment, computers, software,
13 hardware, appliances, canines, furniture, advanced
14 surveillance technology, including, but not limited to,
15 IMSI catchers ~~office supplies, postage, printing,~~
16 ~~membership fees paid to trade associations, and fees for~~
17 ~~professional services including auditing, court reporting,~~
18 ~~expert witnesses, and attorneys;~~
- 19 (6) travel, meals, entertainment, conferences,
20 training, and continuing education seminars; and
- 21 (7) operating expenses related to seized property,
22 including expenses for the storage, maintenance, repairs,
23 and return of seized property;
- 24 (8) administrative expenses, including expenses for
25 office supplies, postage, printing, utilities, and repairs
26 and maintenance of official vehicles and other equipment;

1 and

2 (9) ~~(7)~~ other expenditures of forfeiture proceeds.

3 (c) The Illinois State Police shall ~~establish and~~ maintain
4 on its official website a public case tracking system and
5 searchable database that ~~includes annual aggregate data for~~
6 ~~each law enforcement agency that~~ reports each seizure and
7 forfeiture seizures of property in a machine-readable format
8 under subsection (a) of this Section, by each law enforcement
9 agency that receives distributions of forfeiture proceeds
10 subject to reporting under this Act, or reports expenditures
11 under subsection (b) of this Section. ~~This aggregate data~~
12 ~~shall include, for each law enforcement agency:~~

13 (d) The Illinois State Police shall post annually on its
14 website aggregate data for each law enforcement agency
15 required to report under this Section. This annual aggregate
16 data shall include the following information for each law
17 enforcement agency or, if applicable, a null report:

18 (1) the total number of asset seizures reported by
19 each law enforcement agency during the calendar year;

20 (2) the monetary value of all currency or its
21 equivalent seized by the law enforcement agency during the
22 calendar year;

23 (3) the number of conveyances seized by the law
24 enforcement agency during the calendar year, and the
25 aggregate estimated value;

26 (4) the aggregate estimated value of all other

1 property seized by the law enforcement agency during the
2 calendar year;

3 (5) the monetary value of distributions by the
4 Illinois State Police of forfeited currency or auction
5 proceeds from forfeited property to the law enforcement
6 agency during the calendar year; and

7 (6) the total amount of the seizing law enforcement
8 agency's expenditures of forfeiture proceeds during the
9 calendar year, categorized as provided under subsection
10 (b) of this Section.

11 The database shall not provide names, addresses, phone
12 numbers, or other personally identifying information of owners
13 or interest holders, persons, business entities, covert office
14 locations, or business entities involved in the forfeiture
15 action and shall not disclose the vehicle identification
16 number or serial number of any conveyance.

17 (e) The Illinois State Police shall, 120 days after the
18 end of each calendar year, submit to the General Assembly,
19 Attorney General, and Governor a written report that
20 summarizes activity in the State for the preceding year and
21 includes the type, approximate value, and disposition of the
22 property seized and the amount of proceeds received and
23 expended at the State and local levels. The report shall
24 provide a categorized accounting of all proceeds expended. It
25 shall disaggregate, by agency, summary data on seizures,
26 forfeitures, and expenditures of forfeiture proceeds. The

1 Illinois State Police shall post the aggregate report on its
2 website.

3 (f) The Illinois State Police may include in its aggregate
4 report recommendations to improve statutes, rules, and
5 policies to better ensure that seizures, forfeitures, and
6 expenditures are conducted and reported in a manner that is
7 fair to crime victims, innocent property owners, secured
8 interest holders, law enforcement officials, citizens, and
9 taxpayers.

10 (g) ~~(d)~~ The Illinois State Police shall adopt rules to
11 administer the asset forfeiture program, including the
12 categories of authorized expenditures consistent with the
13 statutory guidelines for each of the included forfeiture
14 statutes, the use of forfeited funds, other expenditure
15 requirements, and the reporting of seizure and forfeiture
16 information. The Illinois State Police may adopt rules
17 necessary to implement this Act through the use of emergency
18 rulemaking under Section 5-45 of the Illinois Administrative
19 Procedure Act for a period not to exceed 180 days after the
20 effective date of this Act.

21 (h) ~~(e)~~ The Illinois State Police shall have authority and
22 oversight over all law enforcement agencies receiving
23 forfeited funds from the Illinois State Police. This authority
24 shall include enforcement of rules and regulations adopted by
25 the Illinois State Police and sanctions for violations of any
26 rules and regulations, including the withholding of

1 distributions of forfeiture proceeds from the law enforcement
2 agency in violation.

3 (i) ~~(f)~~ Upon application by a law enforcement agency to
4 the Illinois State Police, the reporting of a particular asset
5 forfeited under this Section may be delayed if the asset in
6 question was seized from a person who has become a
7 confidential informant under the agency's confidential
8 informant policy, or if the asset was seized as part of an
9 ongoing investigation. This delayed reporting shall be granted
10 by the Illinois State Police for a maximum period of 6 months
11 if the confidential informant is still providing cooperation
12 to law enforcement or the investigation is still ongoing,
13 after which the asset shall be reported as required under this
14 Act.

15 (j) ~~(g)~~ The Illinois State Police shall, on or before
16 January 1, 2024 ~~2019~~, establish and implement the requirements
17 of this Act. ~~To In order to~~ implement the reporting and public
18 database requirements under this Act, the Illinois State
19 Police Asset Forfeiture Section requires a one-time upgrade of
20 its information technology software and hardware. This
21 one-time upgrade shall be funded by a temporary allocation of
22 5% of all forfeited currency and 5% of the auction proceeds
23 from each forfeited asset, which are to be distributed after
24 the effective date of this Act. The Illinois State Police
25 shall transfer these funds at the time of distribution to a
26 separate fund established by the Illinois State Police. Moneys

1 deposited in this fund shall be accounted for and shall be used
2 only to pay for the actual one-time cost of purchasing and
3 installing the hardware and software required to comply with
4 this new reporting and public database requirement. Moneys
5 deposited in the fund shall not be subject to reappropriation,
6 reallocation, or redistribution for any other purpose. After
7 sufficient funds are transferred to the fund to cover the
8 actual one-time cost of purchasing and installing the hardware
9 and software required to comply with this new reporting and
10 public database requirement, no additional funds shall be
11 transferred to the fund for any purpose. At the completion of
12 the one-time upgrade of the information technology hardware
13 and software to comply with this new reporting and public
14 database requirement, any remaining funds in the fund shall be
15 returned to the participating agencies under the distribution
16 requirements of the statutes from which the funds were
17 transferred, and the fund shall no longer exist.

18 (k) ~~(h)~~ (1) The Illinois State Police, in consultation with
19 and subject to the approval of the Chief Procurement Officer,
20 may procure a single contract or multiple contracts to
21 implement this Act.

22 (2) A contract or contracts under this subsection (k) ~~(h)~~
23 are not subject to the Illinois Procurement Code, except for
24 Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of
25 that Code, provided that the Chief Procurement Officer may, in
26 writing with justification, waive any certification required

1 under Article 50 of the Illinois Procurement Code. The
2 provisions of this paragraph (2), other than this sentence,
3 are inoperative on and after July 1, 2019.

4 (Source: P.A. 102-538, eff. 8-20-21.)

5 Section 10. The Criminal Code of 2012 is amended by
6 changing Sections 29B-7 and 29B-12 as follows:

7 (720 ILCS 5/29B-7)

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

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

16 (1) place the property under seal;

17 (2) remove the property to a place designated by the
18 Director;

19 (3) keep the property in the possession of the seizing
20 agency;

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

1 (5) place the property under constructive seizure by
2 posting notice of pending forfeiture on it, by giving
3 notice of pending forfeiture to its owners and interest
4 holders, or by filing notice of pending forfeiture in any
5 appropriate public record relating to the property; or

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

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

16 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

17 (720 ILCS 5/29B-12)

18 Sec. 29B-12. Non-judicial forfeiture. If non-real
19 property that exceeds \$20,000 in value excluding the value of
20 any conveyance, or if real property is seized under the
21 provisions of this Article, the State's Attorney shall
22 institute judicial in rem forfeiture proceedings as described
23 in Section 29B-13 of this Article within 28 days from receipt
24 of notice of seizure from the seizing agency under Section
25 29B-8 of this Article. However, if non-real property that does

1 not exceed \$20,000 in value excluding the value of any
2 conveyance is seized, the following procedure shall be used:

3 (1) 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 after the receipt of notice of seizure from the
7 seizing agency, the State's Attorney shall cause notice of
8 pending forfeiture to be given to the owner of the
9 property and all known interest holders of the property in
10 accordance with Section 29B-10 of this Article.

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

17 (3) (A) Any person claiming an interest in property
18 that is the subject of notice under paragraph (1) of this
19 Section, must, in order to preserve any rights or claims
20 to the property, within 45 days after the effective date
21 of notice as described in Section 29B-10 of this Article,
22 file a verified claim with the State's Attorney expressing
23 his or her interest in the property. The claim shall set
24 forth:

25 (i) the caption of the proceedings as set forth on
26 the notice of pending forfeiture and the name of the

1 claimant;

2 (ii) the address at which the claimant will accept
3 mail;

4 (iii) the nature and extent of the claimant's
5 interest in the property;

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

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

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

13 (vii) all essential facts supporting each
14 assertion; and

15 (viii) the relief sought.

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

21 (4) If no claim is filed within the 28-day period as
22 described in paragraph (3) of this Section, the State's
23 Attorney shall declare the property forfeited and shall
24 promptly notify the owner and all known interest holders
25 of the property and the Director of the Illinois State
26 Police or the Director's designee of the declaration of

1 forfeiture and the Director shall dispose of the property
2 in accordance with law.

3 (Source: P.A. 102-538, eff. 8-20-21.)

4 Section 15. The Drug Asset Forfeiture Procedure Act is
5 amended by changing Section 6 as follows:

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

7 Sec. 6. Non-judicial forfeiture. If non-real property that
8 exceeds \$150,000 in value excluding the value of any
9 conveyance, or if real property is seized under the provisions
10 of the Illinois Controlled Substances Act, the Cannabis
11 Control Act, or the Methamphetamine Control and Community
12 Protection Act, the State's Attorney shall institute judicial
13 in rem forfeiture proceedings as described in Section 9 of
14 this Act within 28 days from receipt of notice of seizure from
15 the seizing agency under Section 5 of this Act. However, if
16 non-real property that does not exceed \$150,000 in value
17 excluding the value of any conveyance is seized, the following
18 procedure shall be used:

19 (A) If, after review of the facts surrounding the
20 seizure, the State's Attorney is of the opinion that the
21 seized property is subject to forfeiture, then, within 28
22 days of the receipt of notice of seizure from the seizing
23 agency, the State's Attorney shall cause notice of pending
24 forfeiture to be given to the owner of the property and all

1 known interest holders of the property in accordance with
2 Section 4 of this Act.

3 (B) The notice of pending forfeiture must include a
4 description of the property, the estimated value of the
5 property, the date and place of seizure, the conduct
6 giving rise to forfeiture or the violation of law alleged,
7 and a summary of procedures and procedural rights
8 applicable to the forfeiture action.

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

15 (i) the caption of the proceedings as set forth on
16 the notice of pending forfeiture and the name of the
17 claimant;

18 (ii) the address at which the claimant will accept
19 mail;

20 (iii) the nature and extent of the claimant's
21 interest in the property;

22 (iv) the date, identity of the transferor, and
23 circumstances of the claimant's acquisition of the
24 interest in the property;

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

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

3 (vii) all essential facts supporting each
4 assertion; and

5 (viii) the relief sought.

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

9 (D) If no claim is filed within the 45-day period as
10 described in subsection (C) of this Section, the State's
11 Attorney shall declare the property forfeited and shall
12 promptly notify the owner and all known interest holders
13 of the property and the Director of the Illinois State
14 Police of the declaration of forfeiture and the Director
15 or the Director's designee shall dispose of the property
16 in accordance with law.

17 (Source: P.A. 102-538, eff. 8-20-21.)