



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 1325

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1325 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Humane Care for Animals Act is amended by  
5 changing Section 4.01 as follows:

6 (510 ILCS 70/4.01) (from Ch. 8, par. 704.01)

7 Sec. 4.01. Animals in entertainment. This Section does not  
8 apply when the only animals involved are dogs. (Section 26-5 of  
9 the Criminal Code of 1961, rather than this Section, applies  
10 when the only animals involved are dogs.)

11 (a) No person may own, capture, breed, train, or lease any  
12 animal which he or she knows or should know is intended for use  
13 in any show, exhibition, program, or other activity featuring  
14 or otherwise involving a fight between such animal and any  
15 other animal or human, or the intentional killing of any animal  
16 for the purpose of sport, wagering, or entertainment.

1 (b) No person shall promote, conduct, carry on, advertise,  
2 collect money for or in any other manner assist or aid in the  
3 presentation for purposes of sport, wagering, or  
4 entertainment, any show, exhibition, program, or other  
5 activity involving a fight between 2 or more animals or any  
6 animal and human, or the intentional killing of any animal.

7 (c) No person shall sell or offer for sale, ship,  
8 transport, or otherwise move, or deliver or receive any animal  
9 which he or she knows or should know has been captured, bred,  
10 or trained, or will be used, to fight another animal or human  
11 or be intentionally killed, for the purpose of sport, wagering,  
12 or entertainment.

13 (d) No person shall manufacture for sale, shipment,  
14 transportation or delivery any device or equipment which that  
15 person knows or should know is intended for use in any show,  
16 exhibition, program, or other activity featuring or otherwise  
17 involving a fight between 2 or more animals, or any human and  
18 animal, or the intentional killing of any animal for purposes  
19 of sport, wagering or entertainment.

20 (e) No person shall own, possess, sell or offer for sale,  
21 ship, transport, or otherwise move any equipment or device  
22 which such person knows or should know is intended for use in  
23 connection with any show, exhibition, program, or activity  
24 featuring or otherwise involving a fight between 2 or more  
25 animals, or any animal and human, or the intentional killing of  
26 any animal for purposes of sport, wagering or entertainment.

1 (f) No person shall make available any site, structure, or  
2 facility, whether enclosed or not, which he or she knows or  
3 should know is intended to be used for the purpose of  
4 conducting any show, exhibition, program, or other activity  
5 involving a fight between 2 or more animals, or any animal and  
6 human, or the intentional killing of any animal.

7 (g) No person shall attend or otherwise patronize any show,  
8 exhibition, program, or other activity featuring or otherwise  
9 involving a fight between 2 or more animals, or any animal and  
10 human, or the intentional killing of any animal for the  
11 purposes of sport, wagering or entertainment.

12 (h) (Blank).

13 (i) Any animals or equipment involved in a violation of  
14 this Section shall be immediately seized and impounded under  
15 Section 12 by the Department when located at any show,  
16 exhibition, program, or other activity featuring or otherwise  
17 involving an animal fight for the purposes of sport, wagering,  
18 or entertainment.

19 (j) Any vehicle or conveyance other than a common carrier  
20 that is used in violation of this Section shall be seized,  
21 held, and offered for sale at public auction by the sheriff's  
22 department of the proper jurisdiction, and the proceeds from  
23 the sale shall be remitted to the general fund of the county  
24 where the violation took place.

25 (k) Any veterinarian in this State who is presented with an  
26 animal for treatment of injuries or wounds resulting from

1 fighting where there is a reasonable possibility that the  
2 animal was engaged in or utilized for a fighting event for the  
3 purposes of sport, wagering, or entertainment shall file a  
4 report with the Department and cooperate by furnishing the  
5 owners' names, dates, and descriptions of the animal or animals  
6 involved. Any veterinarian who in good faith complies with the  
7 requirements of this subsection has immunity from any  
8 liability, civil, criminal, or otherwise, that may result from  
9 his or her actions. For the purposes of any proceedings, civil  
10 or criminal, the good faith of the veterinarian shall be  
11 rebuttably presumed.

12 (l) No person shall solicit a minor to violate this  
13 Section.

14 (m) The penalties for violations of this Section shall be  
15 as follows:

16 (1) A person convicted of violating subsection (a),  
17 (b), or (c) of this Section or any rule, regulation, or  
18 order of the Department pursuant thereto is guilty of a  
19 Class 4 felony for the first offense. A second or  
20 subsequent offense involving the violation of subsection  
21 (a), (b), or (c) of this Section or any rule, regulation,  
22 or order of the Department pursuant thereto is a Class 3  
23 felony.

24 (2) A person convicted of violating subsection (d),  
25 (e), or (f) of this Section or any rule, regulation, or  
26 order of the Department pursuant thereto is guilty of a

1 Class A misdemeanor for the first offense. A second or  
2 subsequent violation is a Class 4 felony.

3 (3) A person convicted of violating subsection (g) of  
4 this Section or any rule, regulation, or order of the  
5 Department pursuant thereto is guilty of a Class C  
6 misdemeanor.

7 (4) A person convicted of violating subsection (l) of  
8 this Section is guilty of a Class A misdemeanor.

9 (n) A person who commits a felony violation of this Section  
10 is subject to the property forfeiture provisions set forth in  
11 Article 124B of the Code of Criminal Procedure of 1963.

12 (Source: P.A. 95-331, eff. 8-21-07; 95-560, eff. 8-30-07.)

13 Section 10. The Criminal Code of 1961 is amended by  
14 changing Sections 10A-15, 11-17.1, 11-19.2, 11-20, 11-20.1,  
15 11-20.3, 16D-6, 17B-25, 26-5, and 29D-65 as follows:

16 (720 ILCS 5/10A-15)

17 Sec. 10A-15. Forfeiture of property ~~Forfeitures.~~ ~~(a)~~ A  
18 person who commits the offense of involuntary servitude,  
19 involuntary servitude of a minor, or trafficking of persons for  
20 forced labor or services under Section 10A-10 of this Code is  
21 subject to the property forfeiture provisions set forth in  
22 Article 124B of the Code of Criminal Procedure of 1963. ~~shall~~  
23 ~~forfeit to the State of Illinois any profits or proceeds and~~  
24 ~~any interest or property he or she has acquired or maintained~~

1 ~~in violation of Section 10A-10 of this Code that the sentencing~~  
2 ~~court determines, after a forfeiture hearing, to have been~~  
3 ~~acquired or maintained as a result of maintaining a person in~~  
4 ~~involuntary servitude or participating in trafficking in~~  
5 ~~persons for forced labor or services.~~

6 ~~(b) The court shall, upon petition by the Attorney General~~  
7 ~~or State's Attorney at any time following sentencing, conduct a~~  
8 ~~hearing to determine whether any property or property interest~~  
9 ~~is subject to forfeiture under this Section. At the forfeiture~~  
10 ~~hearing the people shall have the burden of establishing, by a~~  
11 ~~preponderance of the evidence, that property or property~~  
12 ~~interests are subject to forfeiture under this Section.~~

13 ~~(c) In any action brought by the People of the State of~~  
14 ~~Illinois under this Section, wherein any restraining order,~~  
15 ~~injunction, or prohibition or any other action in connection~~  
16 ~~with any property or interest subject to forfeiture under this~~  
17 ~~Section is sought, the circuit court presiding over the trial~~  
18 ~~of the person or persons charged with involuntary servitude,~~  
19 ~~involuntary servitude of a minor, or trafficking in persons for~~  
20 ~~forced labor or services shall first determine whether there is~~  
21 ~~probable cause to believe that the person or persons so charged~~  
22 ~~have committed the offense of involuntary servitude,~~  
23 ~~involuntary servitude of a minor, or trafficking in persons for~~  
24 ~~forced labor or services and whether the property or interest~~  
25 ~~is subject to forfeiture pursuant to this Section. In order to~~  
26 ~~make such a determination, prior to entering any such order,~~

1 ~~the court shall conduct a hearing without a jury, wherein the~~  
2 ~~People shall establish that there is: (i) probable cause that~~  
3 ~~the person or persons so charged have committed the offense of~~  
4 ~~involuntary servitude, involuntary servitude of a minor, or~~  
5 ~~trafficking in persons for forced labor or services and (ii)~~  
6 ~~probable cause that any property or interest may be subject to~~  
7 ~~forfeiture pursuant to this Section. The hearing may be~~  
8 ~~conducted simultaneously with a preliminary hearing, if the~~  
9 ~~prosecution is commenced by information or complaint, or by~~  
10 ~~motion of the People, at any stage in the proceedings. The~~  
11 ~~court may accept a finding of probable cause at a preliminary~~  
12 ~~hearing following the filing of an information charging the~~  
13 ~~offense of involuntary servitude, involuntary servitude of a~~  
14 ~~minor, or trafficking in persons for forced labor or services~~  
15 ~~or the return of an indictment by a grand jury charging the~~  
16 ~~offense of involuntary servitude, involuntary servitude of a~~  
17 ~~minor, or trafficking in persons for forced labor or services~~  
18 ~~as sufficient evidence of probable cause as provided in item~~  
19 ~~(i) of this subsection (c). Upon such a finding, the circuit~~  
20 ~~court shall enter such restraining order, injunction or~~  
21 ~~prohibition, or shall take such other action in connection with~~  
22 ~~any such property or other interest subject to forfeiture, as~~  
23 ~~is necessary to insure that such property is not removed from~~  
24 ~~the jurisdiction of the court, concealed, destroyed, or~~  
25 ~~otherwise disposed of by the owner of that property or interest~~  
26 ~~prior to a forfeiture hearing under this Section. The Attorney~~

1 ~~General or State's Attorney shall file a certified copy of the~~  
2 ~~restraining order, injunction, or other prohibition with the~~  
3 ~~recorder of deeds or registrar of titles of each county where~~  
4 ~~any such property of the defendant may be located. No such~~  
5 ~~injunction, restraining order, or other prohibition shall~~  
6 ~~affect the rights of any bona fide purchaser, mortgagee,~~  
7 ~~judgment creditor, or other lien holder arising prior to the~~  
8 ~~date of such filing. The court may, at any time, upon verified~~  
9 ~~petition by the defendant or an innocent owner or innocent bona~~  
10 ~~fide third party lien holder who neither had knowledge of, nor~~  
11 ~~consented to, the illegal act or omission, conduct a hearing to~~  
12 ~~release all or portions of any such property or interest that~~  
13 ~~the court previously determined to be subject to forfeiture or~~  
14 ~~subject to any restraining order, injunction, or prohibition or~~  
15 ~~other action. The court may release such property to the~~  
16 ~~defendant or innocent owner or innocent bona fide third party~~  
17 ~~lien holder who neither had knowledge of, nor consented to, the~~  
18 ~~illegal act or omission for good cause shown and within the~~  
19 ~~sound discretion of the court.~~

20 ~~(d) Upon conviction of a person of involuntary servitude,~~  
21 ~~involuntary servitude of a minor, or trafficking in persons for~~  
22 ~~forced labor or services, the court shall authorize the~~  
23 ~~Attorney General to seize all property or other interest~~  
24 ~~declared forfeited under this Section upon such terms and~~  
25 ~~conditions as the court shall deem proper.~~

26 ~~(e) All monies forfeited and the sale proceeds of all other~~



1 ~~property forfeited and seized under this Section shall be~~  
2 ~~distributed as follows:~~

3 ~~(1) one half shall be divided equally among all State~~  
4 ~~agencies and units of local government whose officers or~~  
5 ~~employees conducted the investigation that resulted in the~~  
6 ~~forfeiture; and~~

7 ~~(2) one half shall be deposited into the Violent Crime~~  
8 ~~Victims Assistance Fund and targeted to services for~~  
9 ~~victims of the offenses of involuntary servitude,~~  
10 ~~involuntary servitude of a minor, and trafficking of~~  
11 ~~persons for forced labor or services.~~

12 (Source: P.A. 94-9, eff. 1-1-06.)

13 (720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

14 Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

15 (a) Any person who knowingly violates any of the provisions  
16 of Section 11-17 of this Act commits keeping a place of  
17 juvenile prostitution when any prostitute in the place of  
18 prostitution is under 17 years of age.

19 (b) It is an affirmative defense to a charge of keeping a  
20 place of juvenile prostitution that the accused reasonably  
21 believed the person was of the age of 17 years or over at the  
22 time of the act giving rise to the charge.

23 (c) Sentence. Keeping a place of juvenile prostitution is a  
24 Class 1 felony. A person convicted of a second or subsequent  
25 violation of this Section is guilty of a Class X felony.

1 (d) Forfeiture. Any person convicted under this Section is  
2 subject to the property forfeiture provisions set forth in  
3 Article 124B of the Code of Criminal Procedure of 1963 ~~of~~  
4 ~~Section 11-20.1A of this Act.~~

5 (Source: P.A. 95-95, eff. 1-1-08.)

6 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

7 Sec. 11-19.2. Exploitation of a child.

8 (A) A person commits exploitation of a child when he or she  
9 confines a child under the age of 16 or a severely or  
10 profoundly mentally retarded person against his or her will by  
11 the infliction or threat of imminent infliction of great bodily  
12 harm, permanent disability or disfigurement or by  
13 administering to the child or severely or profoundly mentally  
14 retarded person without his or her consent or by threat or  
15 deception and for other than medical purposes, any alcoholic  
16 intoxicant or a drug as defined in the Illinois Controlled  
17 Substances Act or the Cannabis Control Act or methamphetamine  
18 as defined in the Methamphetamine Control and Community  
19 Protection Act and:

20 (1) compels the child or severely or profoundly  
21 mentally retarded person to become a prostitute; or

22 (2) arranges a situation in which the child or severely  
23 or profoundly mentally retarded person may practice  
24 prostitution; or

25 (3) receives any money, property, token, object, or

1 article or anything of value from the child or severely or  
2 profoundly mentally retarded person knowing it was  
3 obtained in whole or in part from the practice of  
4 prostitution.

5 (B) For purposes of this Section, administering drugs, as  
6 defined in subsection (A), or an alcoholic intoxicant to a  
7 child under the age of 13 or a severely or profoundly mentally  
8 retarded person shall be deemed to be without consent if such  
9 administering is done without the consent of the parents or  
10 legal guardian.

11 (C) Exploitation of a child is a Class X felony, for which  
12 the person shall be sentenced to a term of imprisonment of not  
13 less than 6 years and not more than 60 years.

14 (D) Any person convicted under this Section is subject to  
15 the property forfeiture provisions set forth in Article 124B of  
16 the Code of Criminal Procedure of 1963 ~~of Section 11-20.1A of~~  
17 ~~this Act.~~

18 (Source: P.A. 94-556, eff. 9-11-05; 95-640, eff. 6-1-08.)

19 (720 ILCS 5/11-20) (from Ch. 38, par. 11-20)  
20 Sec. 11-20. Obscenity.

21 (a) Elements of the Offense. A person commits obscenity  
22 when, with knowledge of the nature or content thereof, or  
23 recklessly failing to exercise reasonable inspection which  
24 would have disclosed the nature or content thereof, he:

25 (1) Sells, delivers or provides, or offers or agrees to

1 sell, deliver or provide any obscene writing, picture,  
2 record or other representation or embodiment of the  
3 obscene; or

4 (2) Presents or directs an obscene play, dance or other  
5 performance or participates directly in that portion  
6 thereof which makes it obscene; or

7 (3) Publishes, exhibits or otherwise makes available  
8 anything obscene; or

9 (4) Performs an obscene act or otherwise presents an  
10 obscene exhibition of his body for gain; or

11 (5) Creates, buys, procures or possesses obscene  
12 matter or material with intent to disseminate it in  
13 violation of this Section, or of the penal laws or  
14 regulations of any other jurisdiction; or

15 (6) Advertises or otherwise promotes the sale of  
16 material represented or held out by him to be obscene,  
17 whether or not it is obscene.

18 (b) Obscene Defined.

19 Any material or performance is obscene if: (1) the average  
20 person, applying contemporary adult community standards, would  
21 find that, taken as a whole, it appeals to the prurient  
22 interest; and (2) the average person, applying contemporary  
23 adult community standards, would find that it depicts or  
24 describes, in a patently offensive way, ultimate sexual acts or  
25 sadomasochistic sexual acts, whether normal or perverted,  
26 actual or simulated, or masturbation, excretory functions or

1 lewd exhibition of the genitals; and (3) taken as a whole, it  
2 lacks serious literary, artistic, political or scientific  
3 value.

4 (c) Interpretation of Evidence.

5 Obscenity shall be judged with reference to ordinary  
6 adults, except that it shall be judged with reference to  
7 children or other specially susceptible audiences if it appears  
8 from the character of the material or the circumstances of its  
9 dissemination to be specially designed for or directed to such  
10 an audience.

11 Where circumstances of production, presentation, sale,  
12 dissemination, distribution, or publicity indicate that  
13 material is being commercially exploited for the sake of its  
14 prurient appeal, such evidence is probative with respect to the  
15 nature of the matter and can justify the conclusion that the  
16 matter is lacking in serious literary, artistic, political or  
17 scientific value.

18 In any prosecution for an offense under this Section  
19 evidence shall be admissible to show:

20 (1) The character of the audience for which the  
21 material was designed or to which it was directed;

22 (2) What the predominant appeal of the material would  
23 be for ordinary adults or a special audience, and what  
24 effect, if any, it would probably have on the behavior of  
25 such people;

26 (3) The artistic, literary, scientific, educational or

1 other merits of the material, or absence thereof;

2 (4) The degree, if any, of public acceptance of the  
3 material in this State;

4 (5) Appeal to prurient interest, or absence thereof, in  
5 advertising or other promotion of the material;

6 (6) Purpose of the author, creator, publisher or  
7 disseminator.

8 (d) Sentence.

9 Obscenity is a Class A misdemeanor. A second or subsequent  
10 offense is a Class 4 felony.

11 (e) Prima Facie Evidence.

12 The creation, purchase, procurement or possession of a  
13 mold, engraved plate or other embodiment of obscenity specially  
14 adapted for reproducing multiple copies, or the possession of  
15 more than 3 copies of obscene material shall be prima facie  
16 evidence of an intent to disseminate.

17 (f) Affirmative Defenses.

18 It shall be an affirmative defense to obscenity that the  
19 dissemination:

20 (1) Was not for gain and was made to personal associates  
21 other than children under 18 years of age;

22 (2) Was to institutions or individuals having scientific or  
23 other special justification for possession of such material.

24 (g) Forfeiture of property. A person who has been convicted  
25 previously of the offense of obscenity and who is convicted of  
26 a second or subsequent offense of obscenity is subject to the

1 property forfeiture provisions set forth in Article 124B of the  
2 Code of Criminal Procedure of 1963.+

3 ~~(1) Legislative Declaration. Obscenity is a far-reaching~~  
4 ~~and extremely profitable crime. This crime persists despite the~~  
5 ~~threat of prosecution and successful prosecution because~~  
6 ~~existing sanctions do not effectively reach the money and other~~  
7 ~~assets generated by it. It is therefore necessary to supplement~~  
8 ~~existing sanctions by mandating forfeiture of money and other~~  
9 ~~assets generated by this crime. Forfeiture diminishes the~~  
10 ~~financial incentives which encourage and sustain obscenity and~~  
11 ~~secures for the State, local government and prosecutors a~~  
12 ~~resource for prosecuting these crimes.~~

13 ~~(2) Definitions.~~

14 ~~(i) "Person" means an individual, partnership, private~~  
15 ~~corporation, public, municipal, governmental or~~  
16 ~~quasi municipal corporation, unincorporated association,~~  
17 ~~trustee or receiver.~~

18 ~~(ii) "Property" means:~~

19 ~~(a) real estate, including things growing on, affixed to~~  
20 ~~and found in land, and any kind of interest therein; and~~

21 ~~(b) tangible and intangible personal property, including~~  
22 ~~rights, privileges, interests, claims and securities.~~

23 ~~(3) Forfeiture of Property. Any person who has been~~  
24 ~~convicted previously of the offense of obscenity and who shall~~  
25 ~~be convicted of a second or subsequent offense of obscenity~~  
26 ~~shall forfeit to the State of Illinois:~~

1       ~~(i) Any property constituting or derived from any proceeds~~  
2 ~~such person obtained, directly or indirectly, as a result of~~  
3 ~~such offense; and~~

4       ~~(ii) Any of the person's property used in any manner,~~  
5 ~~wholly or in part, to commit such offense.~~

6       ~~(4) Forfeiture Hearing. At any time following a second or~~  
7 ~~subsequent conviction for obscenity, the court shall, upon~~  
8 ~~petition by the Attorney General or the State's Attorney,~~  
9 ~~conduct a hearing to determine whether there is any property~~  
10 ~~that is subject to forfeiture as provided hereunder. At the~~  
11 ~~forfeiture hearing the People shall have the burden of~~  
12 ~~establishing by preponderance of the evidence that such~~  
13 ~~property is subject to forfeiture.~~

14       ~~(5) Prior Restraint.~~

15       ~~Nothing in this subsection shall be construed as~~  
16 ~~authorizing the prior restraint of any showing, performance or~~  
17 ~~exhibition of allegedly obscene films, plays or other~~  
18 ~~presentations or of any sale or distribution of allegedly~~  
19 ~~obscene materials.~~

20       ~~(6) Seizure, Sale and Distribution of the Property.~~

21       ~~(i) Upon a determination under subparagraph (4) that there~~  
22 ~~is property subject to forfeiture, the court shall authorize~~  
23 ~~the Attorney General or the State's Attorney, except as~~  
24 ~~provided in this Section, to seize all property declared~~  
25 ~~forfeited upon terms and conditions as the court shall deem~~  
26 ~~proper.~~



1       ~~(ii) The Attorney General or State's Attorney is authorized~~  
2 ~~to sell all property forfeited and seized pursuant to this~~  
3 ~~Article, and, after the deduction of all requisite expenses of~~  
4 ~~administration and sale, shall distribute the proceeds of such~~  
5 ~~sale, along with any moneys forfeited or seized, in accordance~~  
6 ~~with subparagraph (iii) hereof. If the Attorney General or~~  
7 ~~State's Attorney believes any such property describes, depicts~~  
8 ~~or portrays any of the acts or activities described in~~  
9 ~~subsection (b) of this Section, he shall apply to the court for~~  
10 ~~an order to destroy such property, and if the court determines~~  
11 ~~the property describes, depicts or portrays such acts it shall~~  
12 ~~order the Attorney General or State's Attorney to destroy such~~  
13 ~~property.~~

14       ~~(iii) All monies and the sale proceeds of all other~~  
15 ~~property forfeited and seized pursuant hereto shall be~~  
16 ~~distributed as follows:~~

17       ~~(a) Fifty percent shall be distributed to the unit of local~~  
18 ~~government whose officers or employees conducted the~~  
19 ~~investigation into and caused the arrest or arrests and~~  
20 ~~prosecution leading to the forfeiture, or, if the~~  
21 ~~investigations, arrest or arrests and prosecution leading to~~  
22 ~~the forfeiture were undertaken by the sheriff, this portion~~  
23 ~~shall be distributed to the county for deposit in a special~~  
24 ~~fund in the county treasury appropriated to the sheriff.~~  
25 ~~Amounts distributed to the county for the sheriff or to the~~  
26 ~~units of local government hereunder shall be used for~~

1 ~~enforcement of laws or ordinances governing obscenity and child~~  
2 ~~pornography. In the event, however, that the investigation,~~  
3 ~~arrest or arrests and prosecution leading to the forfeiture~~  
4 ~~were undertaken solely by a State agency, the portion provided~~  
5 ~~hereunder shall be paid into the State treasury to be used for~~  
6 ~~enforcement of laws governing obscenity and child pornography.~~

7 ~~(b) Twenty five percent shall be distributed to the county~~  
8 ~~in which the prosecution resulting in the forfeiture was~~  
9 ~~instituted, deposited in a special fund in the county treasury~~  
10 ~~and appropriated to the State's Attorney for use in the~~  
11 ~~enforcement of laws governing obscenity and child pornography.~~

12 ~~(c) Twenty five percent shall be distributed to the Office~~  
13 ~~of the State's Attorneys Appellate Prosecutor and deposited in~~  
14 ~~the Obscenity Profits Forfeiture Fund, which is hereby created~~  
15 ~~in the State Treasury, to be used by the Office of the State's~~  
16 ~~Attorneys Appellate Prosecutor for additional expenses~~  
17 ~~incurred in prosecuting appeals arising under Sections 11-20~~  
18 ~~and 11-20.1 of the Criminal Code of 1961. Any amounts remaining~~  
19 ~~in the Fund after all additional expenses have been paid shall~~  
20 ~~be used by the Office to reduce the participating county~~  
21 ~~contributions to the Office on a pro-rated basis as determined~~  
22 ~~by the board of governors of the Office of the State's~~  
23 ~~Attorneys Appellate Prosecutor based on the populations of the~~  
24 ~~participating counties.~~

25 ~~(7) Construction of subsection (g).~~

26 ~~It shall be the intent of the General Assembly that this~~

1 ~~subsection be liberally construed so as to effect its purposes.~~  
2 ~~The forfeiture of property and other remedies hereunder shall~~  
3 ~~be considered to be in addition, and not exclusive of any~~  
4 ~~sentence or other remedy provided by law. Subsection (g) of~~  
5 ~~this Section shall not apply to any property of a public~~  
6 ~~library or any property of a library operated by an institution~~  
7 ~~accredited by a generally recognized accrediting agency.~~

8 (Source: P.A. 85-1014.)

9 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

10 Sec. 11-20.1. Child pornography.

11 (a) A person commits the offense of child pornography who:

12 (1) films, videotapes, photographs, or otherwise  
13 depicts or portrays by means of any similar visual medium  
14 or reproduction or depicts by computer any child whom he  
15 knows or reasonably should know to be under the age of 18  
16 or any severely or profoundly mentally retarded person  
17 where such child or severely or profoundly mentally  
18 retarded person is:

19 (i) actually or by simulation engaged in any act of  
20 sexual penetration or sexual conduct with any person or  
21 animal; or

22 (ii) actually or by simulation engaged in any act  
23 of sexual penetration or sexual conduct involving the  
24 sex organs of the child or severely or profoundly  
25 mentally retarded person and the mouth, anus, or sex

1 organs of another person or animal; or which involves  
2 the mouth, anus or sex organs of the child or severely  
3 or profoundly mentally retarded person and the sex  
4 organs of another person or animal; or

5 (iii) actually or by simulation engaged in any act  
6 of masturbation; or

7 (iv) actually or by simulation portrayed as being  
8 the object of, or otherwise engaged in, any act of lewd  
9 fondling, touching, or caressing involving another  
10 person or animal; or

11 (v) actually or by simulation engaged in any act of  
12 excretion or urination within a sexual context; or

13 (vi) actually or by simulation portrayed or  
14 depicted as bound, fettered, or subject to sadistic,  
15 masochistic, or sadomasochistic abuse in any sexual  
16 context; or

17 (vii) depicted or portrayed in any pose, posture or  
18 setting involving a lewd exhibition of the unclothed or  
19 transparently clothed genitals, pubic area, buttocks,  
20 or, if such person is female, a fully or partially  
21 developed breast of the child or other person; or

22 (2) with the knowledge of the nature or content  
23 thereof, reproduces, disseminates, offers to disseminate,  
24 exhibits or possesses with intent to disseminate any film,  
25 videotape, photograph or other similar visual reproduction  
26 or depiction by computer of any child or severely or

1 profoundly mentally retarded person whom the person knows  
2 or reasonably should know to be under the age of 18 or to  
3 be a severely or profoundly mentally retarded person,  
4 engaged in any activity described in subparagraphs (i)  
5 through (vii) of paragraph (1) of this subsection; or

6 (3) with knowledge of the subject matter or theme  
7 thereof, produces any stage play, live performance, film,  
8 videotape or other similar visual portrayal or depiction by  
9 computer which includes a child whom the person knows or  
10 reasonably should know to be under the age of 18 or a  
11 severely or profoundly mentally retarded person engaged in  
12 any activity described in subparagraphs (i) through (vii)  
13 of paragraph (1) of this subsection; or

14 (4) solicits, uses, persuades, induces, entices, or  
15 coerces any child whom he knows or reasonably should know  
16 to be under the age of 18 or a severely or profoundly  
17 mentally retarded person to appear in any stage play, live  
18 presentation, film, videotape, photograph or other similar  
19 visual reproduction or depiction by computer in which the  
20 child or severely or profoundly mentally retarded person is  
21 or will be depicted, actually or by simulation, in any act,  
22 pose or setting described in subparagraphs (i) through  
23 (vii) of paragraph (1) of this subsection; or

24 (5) is a parent, step-parent, legal guardian or other  
25 person having care or custody of a child whom the person  
26 knows or reasonably should know to be under the age of 18

1 or a severely or profoundly mentally retarded person and  
2 who knowingly permits, induces, promotes, or arranges for  
3 such child or severely or profoundly mentally retarded  
4 person to appear in any stage play, live performance, film,  
5 videotape, photograph or other similar visual  
6 presentation, portrayal or simulation or depiction by  
7 computer of any act or activity described in subparagraphs  
8 (i) through (vii) of paragraph (1) of this subsection; or

9 (6) with knowledge of the nature or content thereof,  
10 possesses any film, videotape, photograph or other similar  
11 visual reproduction or depiction by computer of any child  
12 or severely or profoundly mentally retarded person whom the  
13 person knows or reasonably should know to be under the age  
14 of 18 or to be a severely or profoundly mentally retarded  
15 person, engaged in any activity described in subparagraphs  
16 (i) through (vii) of paragraph (1) of this subsection; or

17 (7) solicits, uses, persuades, induces, entices, or  
18 coerces a person to provide a child under the age of 18 or  
19 a severely or profoundly mentally retarded person to appear  
20 in any videotape, photograph, film, stage play, live  
21 presentation, or other similar visual reproduction or  
22 depiction by computer in which the child or severely or  
23 profoundly mentally retarded person will be depicted,  
24 actually or by simulation, in any act, pose, or setting  
25 described in subparagraphs (i) through (vii) of paragraph  
26 (1) of this subsection.

1 (b) (1) It shall be an affirmative defense to a charge of  
2 child pornography that the defendant reasonably believed,  
3 under all of the circumstances, that the child was 18 years  
4 of age or older or that the person was not a severely or  
5 profoundly mentally retarded person but only where, prior  
6 to the act or acts giving rise to a prosecution under this  
7 Section, he took some affirmative action or made a bonafide  
8 inquiry designed to ascertain whether the child was 18  
9 years of age or older or that the person was not a severely  
10 or profoundly mentally retarded person and his reliance  
11 upon the information so obtained was clearly reasonable.

12 (2) (Blank).

13 (3) The charge of child pornography shall not apply to  
14 the performance of official duties by law enforcement or  
15 prosecuting officers or persons employed by law  
16 enforcement or prosecuting agencies, court personnel or  
17 attorneys, nor to bonafide treatment or professional  
18 education programs conducted by licensed physicians,  
19 psychologists or social workers.

20 (4) Possession by the defendant of more than one of the  
21 same film, videotape or visual reproduction or depiction by  
22 computer in which child pornography is depicted shall raise  
23 a rebuttable presumption that the defendant possessed such  
24 materials with the intent to disseminate them.

25 (5) The charge of child pornography does not apply to a  
26 person who does not voluntarily possess a film, videotape,

1 or visual reproduction or depiction by computer in which  
2 child pornography is depicted. Possession is voluntary if  
3 the defendant knowingly procures or receives a film,  
4 videotape, or visual reproduction or depiction for a  
5 sufficient time to be able to terminate his or her  
6 possession.

7 (c) Violation of paragraph (1), (4), (5), or (7) of  
8 subsection (a) is a Class 1 felony with a mandatory minimum  
9 fine of \$2,000 and a maximum fine of \$100,000. Violation of  
10 paragraph (3) of subsection (a) is a Class 1 felony with a  
11 mandatory minimum fine of \$1500 and a maximum fine of \$100,000.  
12 Violation of paragraph (2) of subsection (a) is a Class 1  
13 felony with a mandatory minimum fine of \$1000 and a maximum  
14 fine of \$100,000. Violation of paragraph (6) of subsection (a)  
15 is a Class 3 felony with a mandatory minimum fine of \$1000 and  
16 a maximum fine of \$100,000.

17 (d) If a person is convicted of a second or subsequent  
18 violation of this Section within 10 years of a prior  
19 conviction, the court shall order a presentence psychiatric  
20 examination of the person. The examiner shall report to the  
21 court whether treatment of the person is necessary.

22 (e) Any film, videotape, photograph or other similar visual  
23 reproduction or depiction by computer which includes a child  
24 under the age of 18 or a severely or profoundly mentally  
25 retarded person engaged in any activity described in  
26 subparagraphs (i) through (vii) or paragraph 1 of subsection



1 (a), and any material or equipment used or intended for use in  
2 photographing, filming, printing, producing, reproducing,  
3 manufacturing, projecting, exhibiting, depiction by computer,  
4 or disseminating such material shall be seized and forfeited in  
5 the manner, method and procedure provided by Section 36-1 of  
6 this Code for the seizure and forfeiture of vessels, vehicles  
7 and aircraft.

8 In addition, any person convicted under this Section is  
9 subject to the property forfeiture provisions set forth in  
10 Article 124B of the Code of Criminal Procedure of 1963.

11 (e-5) Upon the conclusion of a case brought under this  
12 Section, the court shall seal all evidence depicting a victim  
13 or witness that is sexually explicit. The evidence may be  
14 unsealed and viewed, on a motion of the party seeking to unseal  
15 and view the evidence, only for good cause shown and in the  
16 discretion of the court. The motion must expressly set forth  
17 the purpose for viewing the material. The State's attorney and  
18 the victim, if possible, shall be provided reasonable notice of  
19 the hearing on the motion to unseal the evidence. Any person  
20 entitled to notice of a hearing under this subsection (e-5) may  
21 object to the motion.

22 (f) Definitions. For the purposes of this Section:

23 (1) "Disseminate" means (i) to sell, distribute,  
24 exchange or transfer possession, whether with or without  
25 consideration or (ii) to make a depiction by computer  
26 available for distribution or downloading through the

1 facilities of any telecommunications network or through  
2 any other means of transferring computer programs or data  
3 to a computer.

4 (2) "Produce" means to direct, promote, advertise,  
5 publish, manufacture, issue, present or show.

6 (3) "Reproduce" means to make a duplication or copy.

7 (4) "Depict by computer" means to generate or create,  
8 or cause to be created or generated, a computer program or  
9 data that, after being processed by a computer either alone  
10 or in conjunction with one or more computer programs,  
11 results in a visual depiction on a computer monitor,  
12 screen, or display.

13 (5) "Depiction by computer" means a computer program or  
14 data that, after being processed by a computer either alone  
15 or in conjunction with one or more computer programs,  
16 results in a visual depiction on a computer monitor,  
17 screen, or display.

18 (6) "Computer", "computer program", and "data" have  
19 the meanings ascribed to them in Section 16D-2 of this  
20 Code.

21 (7) "Child" includes a film, videotape, photograph, or  
22 other similar visual medium or reproduction or depiction by  
23 computer that is, or appears to be, that of a person,  
24 either in part, or in total, under the age of 18,  
25 regardless of the method by which the film, videotape,  
26 photograph, or other similar visual medium or reproduction

1 or depiction by computer is created, adopted, or modified  
2 to appear as such. "Child" also includes a film, videotape,  
3 photograph, or other similar visual medium or reproduction  
4 or depiction by computer that is advertised, promoted,  
5 presented, described, or distributed in such a manner that  
6 conveys the impression that the film, videotape,  
7 photograph, or other similar visual medium or reproduction  
8 or depiction by computer is of a person under the age of  
9 18.

10 (8) "Sexual penetration" and "sexual conduct" have the  
11 meanings ascribed to them in Section 12-12 of this Code.

12 (g) Re-enactment; findings; purposes.

13 (1) The General Assembly finds and declares that:

14 (i) Section 50-5 of Public Act 88-680, effective  
15 January 1, 1995, contained provisions amending the  
16 child pornography statute, Section 11-20.1 of the  
17 Criminal Code of 1961. Section 50-5 also contained  
18 other provisions.

19 (ii) In addition, Public Act 88-680 was entitled  
20 "AN ACT to create a Safe Neighborhoods Law". (A)  
21 Article 5 was entitled JUVENILE JUSTICE and amended the  
22 Juvenile Court Act of 1987. (B) Article 15 was entitled  
23 GANGS and amended various provisions of the Criminal  
24 Code of 1961 and the Unified Code of Corrections. (C)  
25 Article 20 was entitled ALCOHOL ABUSE and amended  
26 various provisions of the Illinois Vehicle Code. (D)

1 Article 25 was entitled DRUG ABUSE and amended the  
2 Cannabis Control Act and the Illinois Controlled  
3 Substances Act. (E) Article 30 was entitled FIREARMS  
4 and amended the Criminal Code of 1961 and the Code of  
5 Criminal Procedure of 1963. (F) Article 35 amended the  
6 Criminal Code of 1961, the Rights of Crime Victims and  
7 Witnesses Act, and the Unified Code of Corrections. (G)  
8 Article 40 amended the Criminal Code of 1961 to  
9 increase the penalty for compelling organization  
10 membership of persons. (H) Article 45 created the  
11 Secure Residential Youth Care Facility Licensing Act  
12 and amended the State Finance Act, the Juvenile Court  
13 Act of 1987, the Unified Code of Corrections, and the  
14 Private Correctional Facility Moratorium Act. (I)  
15 Article 50 amended the WIC Vendor Management Act, the  
16 Firearm Owners Identification Card Act, the Juvenile  
17 Court Act of 1987, the Criminal Code of 1961, the  
18 Wrongs to Children Act, and the Unified Code of  
19 Corrections.

20 (iii) On September 22, 1998, the Third District  
21 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
22 ruled that Public Act 88-680 violates the single  
23 subject clause of the Illinois Constitution (Article  
24 IV, Section 8 (d)) and was unconstitutional in its  
25 entirety. As of the time this amendatory Act of 1999  
26 was prepared, *People v. Dainty* was still subject to

1 appeal.

2 (iv) Child pornography is a vital concern to the  
3 people of this State and the validity of future  
4 prosecutions under the child pornography statute of  
5 the Criminal Code of 1961 is in grave doubt.

6 (2) It is the purpose of this amendatory Act of 1999 to  
7 prevent or minimize any problems relating to prosecutions  
8 for child pornography that may result from challenges to  
9 the constitutional validity of Public Act 88-680 by  
10 re-enacting the Section relating to child pornography that  
11 was included in Public Act 88-680.

12 (3) This amendatory Act of 1999 re-enacts Section  
13 11-20.1 of the Criminal Code of 1961, as it has been  
14 amended. This re-enactment is intended to remove any  
15 question as to the validity or content of that Section; it  
16 is not intended to supersede any other Public Act that  
17 amends the text of the Section as set forth in this  
18 amendatory Act of 1999. The material is shown as existing  
19 text (i.e., without underscoring) because, as of the time  
20 this amendatory Act of 1999 was prepared, People v. Dainty  
21 was subject to appeal to the Illinois Supreme Court.

22 (4) The re-enactment by this amendatory Act of 1999 of  
23 Section 11-20.1 of the Criminal Code of 1961 relating to  
24 child pornography that was amended by Public Act 88-680 is  
25 not intended, and shall not be construed, to imply that  
26 Public Act 88-680 is invalid or to limit or impair any

1 legal argument concerning whether those provisions were  
2 substantially re-enacted by other Public Acts.

3 (Source: P.A. 94-366, eff. 7-29-05.)

4 (720 ILCS 5/11-20.3)

5 Sec. 11-20.3. Aggravated child pornography.

6 (a) A person commits the offense of aggravated child  
7 pornography who:

8 (1) films, videotapes, photographs, or otherwise  
9 depicts or portrays by means of any similar visual medium  
10 or reproduction or depicts by computer any child whom he or  
11 she knows or reasonably should know to be under the age of  
12 13 years where such child is:

13 (i) actually or by simulation engaged in any act of  
14 sexual penetration or sexual conduct with any person or  
15 animal; or

16 (ii) actually or by simulation engaged in any act  
17 of sexual penetration or sexual conduct involving the  
18 sex organs of the child and the mouth, anus, or sex  
19 organs of another person or animal; or which involves  
20 the mouth, anus or sex organs of the child and the sex  
21 organs of another person or animal; or

22 (iii) actually or by simulation engaged in any act  
23 of masturbation; or

24 (iv) actually or by simulation portrayed as being  
25 the object of, or otherwise engaged in, any act of lewd

1           fondling, touching, or caressing involving another  
2           person or animal; or

3           (v) actually or by simulation engaged in any act of  
4           excretion or urination within a sexual context; or

5           (vi) actually or by simulation portrayed or  
6           depicted as bound, fettered, or subject to sadistic,  
7           masochistic, or sadomasochistic abuse in any sexual  
8           context; or

9           (vii) depicted or portrayed in any pose, posture or  
10          setting involving a lewd exhibition of the unclothed or  
11          transparently clothed genitals, pubic area, buttocks,  
12          or, if such person is female, a fully or partially  
13          developed breast of the child or other person; or

14          (2) with the knowledge of the nature or content  
15          thereof, reproduces, disseminates, offers to disseminate,  
16          exhibits or possesses with intent to disseminate any film,  
17          videotape, photograph or other similar visual reproduction  
18          or depiction by computer of any child whom the person knows  
19          or reasonably should know to be under the age of 13 engaged  
20          in any activity described in subparagraphs (i) through  
21          (vii) of paragraph (1) of this subsection; or

22          (3) with knowledge of the subject matter or theme  
23          thereof, produces any stage play, live performance, film,  
24          videotape or other similar visual portrayal or depiction by  
25          computer which includes a child whom the person knows or  
26          reasonably should know to be under the age of 13 engaged in

1 any activity described in subparagraphs (i) through (vii)  
2 of paragraph (1) of this subsection; or

3 (4) solicits, uses, persuades, induces, entices, or  
4 coerces any child whom he or she knows or reasonably should  
5 know to be under the age of 13 to appear in any stage play,  
6 live presentation, film, videotape, photograph or other  
7 similar visual reproduction or depiction by computer in  
8 which the child or severely or profoundly mentally retarded  
9 person is or will be depicted, actually or by simulation,  
10 in any act, pose or setting described in subparagraphs (i)  
11 through (vii) of paragraph (1) of this subsection; or

12 (5) is a parent, step-parent, legal guardian or other  
13 person having care or custody of a child whom the person  
14 knows or reasonably should know to be under the age of 13  
15 and who knowingly permits, induces, promotes, or arranges  
16 for such child to appear in any stage play, live  
17 performance, film, videotape, photograph or other similar  
18 visual presentation, portrayal or simulation or depiction  
19 by computer of any act or activity described in  
20 subparagraphs (i) through (vii) of paragraph (1) of this  
21 subsection; or

22 (6) with knowledge of the nature or content thereof,  
23 possesses any film, videotape, photograph or other similar  
24 visual reproduction or depiction by computer of any child  
25 whom the person knows or reasonably should know to be under  
26 the age of 13 engaged in any activity described in



1           subparagraphs (i) through (vii) of paragraph (1) of this  
2           subsection; or

3           (7) solicits, or knowingly uses, persuades, induces,  
4           entices, or coerces a person to provide a child under the  
5           age of 13 to appear in any videotape, photograph, film,  
6           stage play, live presentation, or other similar visual  
7           reproduction or depiction by computer in which the child  
8           will be depicted, actually or by simulation, in any act,  
9           pose, or setting described in subparagraphs (i) through  
10          (vii) of paragraph (1) of this subsection.

11          (b)(1) It shall be an affirmative defense to a charge of  
12          aggravated child pornography that the defendant reasonably  
13          believed, under all of the circumstances, that the child was 13  
14          years of age or older, but only where, prior to the act or acts  
15          giving rise to a prosecution under this Section, he or she took  
16          some affirmative action or made a bonafide inquiry designed to  
17          ascertain whether the child was 13 years of age or older and  
18          his or her reliance upon the information so obtained was  
19          clearly reasonable.

20          (2) The charge of aggravated child pornography shall not  
21          apply to the performance of official duties by law enforcement  
22          or prosecuting officers or persons employed by law enforcement  
23          or prosecuting agencies, court personnel or attorneys, nor to  
24          bonafide treatment or professional education programs  
25          conducted by licensed physicians, psychologists or social  
26          workers.

1           (3) If the defendant possessed more than 3 of the same  
2 film, videotape or visual reproduction or depiction by computer  
3 in which aggravated child pornography is depicted, then the  
4 trier of fact may infer that the defendant possessed such  
5 materials with the intent to disseminate them.

6           (4) The charge of aggravated child pornography does not  
7 apply to a person who does not voluntarily possess a film,  
8 videotape, or visual reproduction or depiction by computer in  
9 which aggravated child pornography is depicted. Possession is  
10 voluntary if the defendant knowingly procures or receives a  
11 film, videotape, or visual reproduction or depiction for a  
12 sufficient time to be able to terminate his or her possession.

13           (c) Sentence: (1) A person who commits a violation of  
14 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is  
15 guilty of a Class X felony with a mandatory minimum fine of  
16 \$2,000 and a maximum fine of \$100,000.

17           (2) A person who commits a violation of paragraph (6) of  
18 subsection (a) is guilty of a Class 2 felony with a mandatory  
19 minimum fine of \$1000 and a maximum fine of \$100,000.

20           (3) A person who commits a violation of paragraph (1), (2),  
21 (3), (4), (5), or (7) of subsection (a) where the defendant has  
22 previously been convicted under the laws of this State or any  
23 other state of the offense of child pornography, aggravated  
24 child pornography, aggravated criminal sexual abuse,  
25 aggravated criminal sexual assault, predatory criminal sexual  
26 assault of a child, or any of the offenses formerly known as

1 rape, deviate sexual assault, indecent liberties with a child,  
2 or aggravated indecent liberties with a child where the victim  
3 was under the age of 18 years or an offense that is  
4 substantially equivalent to those offenses, is guilty of a  
5 Class X felony for which the person shall be sentenced to a  
6 term of imprisonment of not less than 9 years with a mandatory  
7 minimum fine of \$2,000 and a maximum fine of \$100,000.

8 (4) A person who commits a violation of paragraph (6) of  
9 subsection (a) where the defendant has previously been  
10 convicted under the laws of this State or any other state of  
11 the offense of child pornography, aggravated child  
12 pornography, aggravated criminal sexual abuse, aggravated  
13 criminal sexual assault, predatory criminal sexual assault of a  
14 child, or any of the offenses formerly known as rape, deviate  
15 sexual assault, indecent liberties with a child, or aggravated  
16 indecent liberties with a child where the victim was under the  
17 age of 18 years or an offense that is substantially equivalent  
18 to those offenses, is guilty of a Class 1 felony with a  
19 mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

20 (d) If a person is convicted of a second or subsequent  
21 violation of this Section within 10 years of a prior  
22 conviction, the court shall order a presentence psychiatric  
23 examination of the person. The examiner shall report to the  
24 court whether treatment of the person is necessary.

25 (e) Any film, videotape, photograph or other similar visual  
26 reproduction or depiction by computer which includes a child

1 under the age of 13 engaged in any activity described in  
2 subparagraphs (i) through (vii) of paragraph (1) of subsection  
3 (a), and any material or equipment used or intended for use in  
4 photographing, filming, printing, producing, reproducing,  
5 manufacturing, projecting, exhibiting, depiction by computer,  
6 or disseminating such material shall be seized and forfeited in  
7 the manner, method and procedure provided by Section 36-1 of  
8 this Code for the seizure and forfeiture of vessels, vehicles  
9 and aircraft.

10 In addition, any person convicted under this Section is  
11 subject to the property forfeiture provisions set forth in  
12 Article 124B of the Code of Criminal Procedure of 1963.

13 (e-5) Upon the conclusion of a case brought under this  
14 Section, the court shall seal all evidence depicting a victim  
15 or witness that is sexually explicit. The evidence may be  
16 unsealed and viewed, on a motion of the party seeking to unseal  
17 and view the evidence, only for good cause shown and in the  
18 discretion of the court. The motion must expressly set forth  
19 the purpose for viewing the material. The State's attorney and  
20 the victim, if possible, shall be provided reasonable notice of  
21 the hearing on the motion to unseal the evidence. Any person  
22 entitled to notice of a hearing under this subsection (e-5) may  
23 object to the motion.

24 (f) Definitions. For the purposes of this Section:

25 (1) "Disseminate" means (i) to sell, distribute,  
26 exchange or transfer possession, whether with or without

1 consideration or (ii) to make a depiction by computer  
2 available for distribution or downloading through the  
3 facilities of any telecommunications network or through  
4 any other means of transferring computer programs or data  
5 to a computer.

6 (2) "Produce" means to direct, promote, advertise,  
7 publish, manufacture, issue, present or show.

8 (3) "Reproduce" means to make a duplication or copy.

9 (4) "Depict by computer" means to generate or create,  
10 or cause to be created or generated, a computer program or  
11 data that, after being processed by a computer either alone  
12 or in conjunction with one or more computer programs,  
13 results in a visual depiction on a computer monitor,  
14 screen, or display.

15 (5) "Depiction by computer" means a computer program or  
16 data that, after being processed by a computer either alone  
17 or in conjunction with one or more computer programs,  
18 results in a visual depiction on a computer monitor,  
19 screen, or display.

20 (6) "Computer", "computer program", and "data" have  
21 the meanings ascribed to them in Section 16D-2 of this  
22 Code.

23 (7) For the purposes of this Section, "child" means a  
24 person, either in part or in total, under the age of 13,  
25 regardless of the method by which the film, videotape,  
26 photograph, or other similar visual medium or reproduction

1 or depiction by computer is created, adopted, or modified  
2 to appear as such.

3 (8) "Sexual penetration" and "sexual conduct" have the  
4 meanings ascribed to them in Section 12-12 of this Code.

5 (g) When a charge of aggravated child pornography is  
6 brought, the age of the child is an element of the offense to  
7 be resolved by the trier of fact as either exceeding or not  
8 exceeding the age in question. The trier of fact can rely on  
9 its own everyday observations and common experiences in making  
10 this determination.

11 (Source: P.A. 95-579, eff. 6-1-08.)

12 (720 ILCS 5/16D-6) (from Ch. 38, par. 16D-6)

13 Sec. 16D-6. Forfeiture of property. ~~1.~~ Any person who  
14 commits the offense of computer fraud as set forth in Section  
15 16D-5 is subject to the property forfeiture provisions set  
16 forth in Article 124B of the Code of Criminal Procedure of  
17 1963. ~~shall forfeit, according to the provisions of this~~  
18 ~~Section, any monies, profits or proceeds, and any interest or~~  
19 ~~property which the sentencing court determines he has acquired~~  
20 ~~or maintained, directly or indirectly, in whole or in part, as~~  
21 ~~a result of such offense. Such person shall also forfeit any~~  
22 ~~interest in, security, claim against, or contractual right of~~  
23 ~~any kind which affords him a source of influence over any~~  
24 ~~enterprise which he has established, operated, controlled,~~  
25 ~~conducted or participated in conducting, where his~~

1 ~~relationship to or connection with any such thing or activity~~  
2 ~~directly or indirectly, in whole or in part, is traceable to~~  
3 ~~any item or benefit which he has obtained or acquired through~~  
4 ~~computer fraud.~~

5 ~~Proceedings instituted pursuant to this Section shall be~~  
6 ~~subject to and conducted in accordance with the following~~  
7 ~~procedures:~~

8 ~~(a) The sentencing court shall, upon petition by the~~  
9 ~~prosecuting agency, whether it is the Attorney General or a~~  
10 ~~State's Attorney, at any time following sentencing, conduct a~~  
11 ~~hearing to determine whether any property or property interest~~  
12 ~~is subject to forfeiture under this Section. At the forfeiture~~  
13 ~~hearing the People of the State of Illinois shall have the~~  
14 ~~burden of establishing, by a preponderance of the evidence,~~  
15 ~~that the property or property interests are subject to such~~  
16 ~~forfeiture.~~

17 ~~(b) In any action brought by the People of the State of~~  
18 ~~Illinois under this Section, the circuit courts of Illinois~~  
19 ~~shall have jurisdiction to enter such restraining orders,~~  
20 ~~injunctions or prohibitions, or to take such other action in~~  
21 ~~connection with any real, personal, or mixed property or other~~  
22 ~~interest subject to forfeiture, as they shall consider proper.~~

23 ~~(c) In any action brought by the People of the State of~~  
24 ~~Illinois under this Section, wherein any restraining order,~~  
25 ~~injunction or prohibition or any other action in connection~~  
26 ~~with any property or interest subject to forfeiture under this~~

1 ~~Section is sought, the circuit court presiding over the trial~~  
2 ~~of the person or persons charged with computer fraud shall~~  
3 ~~first determine whether there is probable cause to believe that~~  
4 ~~the person or persons so charged have committed the offense of~~  
5 ~~computer fraud and whether the property or interest is subject~~  
6 ~~to forfeiture pursuant to this Section. In order to make this~~  
7 ~~determination, prior to entering any such order, the court~~  
8 ~~shall conduct a hearing without a jury, where the People shall~~  
9 ~~establish: (1) probable cause that the person or persons so~~  
10 ~~charged have committed the offense of computer fraud, and (2)~~  
11 ~~probable cause that any property or interest may be subject to~~  
12 ~~forfeiture pursuant to this Section. Such hearing may be~~  
13 ~~conducted simultaneously with a preliminary hearing if the~~  
14 ~~prosecution is commenced by information or complaint, or by~~  
15 ~~motion of the People at any stage in the proceedings. The court~~  
16 ~~may enter a finding of probable cause at a preliminary hearing~~  
17 ~~following the filing of an information charging the offense of~~  
18 ~~computer fraud or the return of an indictment by a grand jury~~  
19 ~~charging the offense of computer fraud as sufficient evidence~~  
20 ~~of probable cause for purposes of this Section. Upon such a~~  
21 ~~finding, the circuit court shall enter such restraining order,~~  
22 ~~injunction or prohibition, or shall take such other action in~~  
23 ~~connection with any such property or other interest subject to~~  
24 ~~forfeiture under this Section as is necessary to insure that~~  
25 ~~such property is not removed from the jurisdiction of the~~  
26 ~~court, concealed, destroyed or otherwise disposed of by the~~



1 ~~owner or holder of that property or interest prior to a~~  
2 ~~forfeiture hearing under this Section. The Attorney General or~~  
3 ~~State's Attorney shall file a certified copy of such~~  
4 ~~restraining order, injunction or other prohibition with the~~  
5 ~~recorder of deeds or registrar of titles of each county where~~  
6 ~~any such property of the defendant may be located. No such~~  
7 ~~injunction, restraining order or other prohibition shall~~  
8 ~~affect the rights of any bona fide purchaser, mortgagee,~~  
9 ~~judgment creditor or other lienholder arising prior to the date~~  
10 ~~of such filing. The court may, at any time, upon verified~~  
11 ~~petition by the defendant, conduct a hearing to release all or~~  
12 ~~portions of any such property or interest which the court~~  
13 ~~previously determined to be subject to forfeiture or subject to~~  
14 ~~any restraining order, injunction, prohibition or other~~  
15 ~~action. The court may release such property to the defendant~~  
16 ~~for good cause shown and within the sound discretion of the~~  
17 ~~court.~~

18 ~~(d) Upon conviction of a person under Section 16D-5, the~~  
19 ~~court shall authorize the Attorney General to seize and sell~~  
20 ~~all property or other interest declared forfeited under this~~  
21 ~~Act, unless such property is required by law to be destroyed or~~  
22 ~~is harmful to the public. The court may order the Attorney~~  
23 ~~General to segregate funds from the proceeds of such sale~~  
24 ~~sufficient: (1) to satisfy any order of restitution, as the~~  
25 ~~court may deem appropriate; (2) to satisfy any legal right,~~  
26 ~~title, or interest which the court deems superior to any right,~~

1 ~~title, or interest of the defendant at the time of the~~  
2 ~~commission of the acts which gave rise to forfeiture under this~~  
3 ~~Section; or (3) to satisfy any bona fide purchaser for value of~~  
4 ~~the right, title, or interest in the property who was without~~  
5 ~~reasonable notice that the property was subject to forfeiture.~~  
6 ~~Following the entry of an order of forfeiture, the Attorney~~  
7 ~~General shall publish notice of the order and his intent to~~  
8 ~~dispose of the property. Within the 30 days following such~~  
9 ~~publication, any person may petition the court to adjudicate~~  
10 ~~the validity of his alleged interest in the property.~~

11 ~~After the deduction of all requisite expenses of~~  
12 ~~administration and sale, the Attorney General shall distribute~~  
13 ~~the proceeds of such sale, along with any moneys forfeited or~~  
14 ~~seized as follows:~~

15 ~~(1) 50% shall be distributed to the unit of local~~  
16 ~~government whose officers or employees conducted the~~  
17 ~~investigation into computer fraud and caused the arrest or~~  
18 ~~arrests and prosecution leading to the forfeiture. Amounts~~  
19 ~~distributed to units of local government shall be used for~~  
20 ~~training or enforcement purposes relating to detection,~~  
21 ~~investigation or prosecution of financial crimes, including~~  
22 ~~computer fraud. In the event, however, that the investigation,~~  
23 ~~arrest or arrests and prosecution leading to the forfeiture~~  
24 ~~were undertaken solely by a State agency, the portion provided~~  
25 ~~hereunder shall be paid into the State Police Services Fund of~~  
26 ~~the Illinois Department of State Police to be used for training~~

1 ~~or enforcement purposes relating to detection, investigation~~  
2 ~~or prosecution of financial crimes, including computer fraud.~~

3 ~~(2) 50% shall be distributed to the county in which the~~  
4 ~~prosecution and petition for forfeiture resulting in the~~  
5 ~~forfeiture was instituted by the State's Attorney, and~~  
6 ~~deposited in a special fund in the county treasury and~~  
7 ~~appropriated to the State's Attorney for use in training or~~  
8 ~~enforcement purposes relating to detection, investigation or~~  
9 ~~prosecution of financial crimes, including computer fraud.~~

10 ~~Where a prosecution and petition for forfeiture resulting in~~  
11 ~~the forfeiture has been maintained by the Attorney General, 50%~~  
12 ~~of the proceeds shall be paid into the Attorney General's~~  
13 ~~Financial Crime Prevention Fund. Where the Attorney General and~~  
14 ~~the State's Attorney have participated jointly in any part of~~  
15 ~~the proceedings, 25% of the proceeds forfeited shall be paid to~~  
16 ~~the county in which the prosecution and petition for forfeiture~~  
17 ~~resulting in the forfeiture occurred, and 25% shall be paid to~~  
18 ~~the Attorney General's Financial Crime Prevention Fund to be~~  
19 ~~used for the purposes as stated in this subsection.~~

20 ~~2. Where any person commits a felony under any provision of~~  
21 ~~this Code or another statute and the instrumentality used in~~  
22 ~~the commission of the offense, or in connection with or in~~  
23 ~~furtherance of a scheme or design to commit the offense, is a~~  
24 ~~computer owned by the defendant or if the defendant is a minor,~~  
25 ~~owned by his or her parents or legal guardian, the computer~~  
26 ~~shall be subject to the provisions of this Section. However, in~~

1 ~~no case shall a computer, or any part thereof, be subject to~~  
2 ~~the provisions of the Section if the computer accessed in the~~  
3 ~~commission of the offense is owned or leased by the victim or~~  
4 ~~an innocent third party at the time of the commission of the~~  
5 ~~offense or if the rights of creditors, lienholders, or any~~  
6 ~~person having a security interest in the computer at the time~~  
7 ~~of the commission of the offense shall be adversely affected.~~

8 (Source: P.A. 85-1042.)

9 (720 ILCS 5/17B-25)

10 Sec. 17B-25. Seizure and forfeiture of property  
11 Forfeiture.

12 (a) A person who commits a felony violation of this Article  
13 is subject to the property forfeiture provisions set forth in  
14 Article 124B of the Code of Criminal Procedure of 1963. ~~shall~~  
15 ~~forfeit, according to this Section, (i) any moneys, profits, or~~  
16 ~~proceeds the person acquired, in whole or in part, as a result~~  
17 ~~of committing the violation and (ii) any property or interest~~  
18 ~~in property that the sentencing court determines the person~~  
19 ~~acquired, in whole or in part, as a result of committing the~~  
20 ~~violation or the person maintained or used, in whole or in~~  
21 ~~part, to facilitate, directly or indirectly, the commission of~~  
22 ~~the violation. The person shall forfeit any interest in,~~  
23 ~~securities of claim against, or contractual right of any kind~~  
24 ~~that affords the person a source of influence over, any~~  
25 ~~enterprise that the person has established, operated,~~

1 ~~controlled, conducted, or participated in conducting, if the~~  
2 ~~person's relationship to or connection with the interest,~~  
3 ~~security of claim, or contractual right, directly or~~  
4 ~~indirectly, in whole or in part, is traceable to any thing or~~  
5 ~~benefit that the person has obtained or acquired as a result of~~  
6 ~~a felony violation of this Article.~~

7 (b) (Blank). ~~The following items are subject to forfeiture:~~

8 ~~(1) All moneys, things of value, books, records, and~~  
9 ~~research products and materials that are used or intended~~  
10 ~~to be used in committing a felony violation of this~~  
11 ~~Article.~~

12 ~~(2) Everything of value furnished, or intended to be~~  
13 ~~furnished, in exchange for a substance in violation of this~~  
14 ~~Article, all proceeds traceable to that exchange, and all~~  
15 ~~moneys, negotiable instruments, and securities used or~~  
16 ~~intended to be used to commit or in any manner to~~  
17 ~~facilitate the commission of a felony violation of this~~  
18 ~~Article.~~

19 ~~(3) All real property, including any right, title, and~~  
20 ~~interest (including, but not limited to, any leasehold~~  
21 ~~interest or the beneficial interest in a land trust) in the~~  
22 ~~whole of any lot or tract of land and any appurtenances or~~  
23 ~~improvements, that is used or intended to be used, in any~~  
24 ~~manner or part, to commit or in any manner to facilitate~~  
25 ~~the commission of a felony violation of this Article or~~  
26 ~~that is the proceeds of any act that constitutes a felony~~

1 ~~violation of this Article.~~

2 (c) Property subject to forfeiture under this Article may  
3 be seized by the Director of State Police or any local law  
4 enforcement agency upon process or seizure warrant issued by  
5 any court having jurisdiction over the property. The Director  
6 or a local law enforcement agency may seize property under this  
7 Section without process under any of the following  
8 circumstances:

9 (1) If the seizure is incident to inspection under an  
10 administrative inspection warrant.

11 (2) If the property subject to seizure has been the  
12 subject of a prior judgment in favor of the State in a  
13 criminal proceeding or in an injunction or forfeiture  
14 proceeding under ~~this~~ Article 124B of the Code of Criminal  
15 Procedure of 1963.

16 (3) If there is probable cause to believe that the  
17 property is directly or indirectly dangerous to health or  
18 safety.

19 (4) If there is probable cause to believe that the  
20 property is subject to forfeiture under this Article and  
21 Article 124B of the Code of Criminal Procedure of 1963 and  
22 the property is seized under circumstances in which a  
23 warrantless seizure or arrest would be reasonable.

24 (5) In accordance with the Code of Criminal Procedure  
25 of 1963.

26 (d) (Blank). ~~Proceedings instituted pursuant to this~~

1 ~~Section shall be subject to and conducted in accordance with~~  
2 ~~the procedures set forth in this subsection.~~

3 ~~The sentencing court, on petition by the Attorney General~~  
4 ~~or State's Attorney at any time following sentencing of the~~  
5 ~~defendant, shall conduct a hearing to determine whether any~~  
6 ~~property or property interest of the defendant is subject to~~  
7 ~~forfeiture under this Section. At the forfeiture hearing the~~  
8 ~~People have the burden of establishing, by a preponderance of~~  
9 ~~the evidence, that the property or property interest is subject~~  
10 ~~to forfeiture.~~

11 ~~In an action brought by the People of the State of Illinois~~  
12 ~~under this Section, in which a restraining order, injunction,~~  
13 ~~prohibition, or other action in connection with any property or~~  
14 ~~interest subject to forfeiture under this Section is sought,~~  
15 ~~the circuit court presiding over the trial of the person~~  
16 ~~charged with a felony violation of this Article shall first~~  
17 ~~determine whether there is probable cause to believe that the~~  
18 ~~person so charged has committed an offense under this Article~~  
19 ~~and whether the property or interest is subject to forfeiture~~  
20 ~~under this Section. To make that determination, before entering~~  
21 ~~an order in connection with that property or interest, the~~  
22 ~~court shall conduct a hearing without a jury, at which the~~  
23 ~~People must establish that there is (i) probable cause that the~~  
24 ~~person charged committed a felony offense under this Article~~  
25 ~~and (ii) probable cause that property or interest may be~~  
26 ~~subject to forfeiture under this Section. The hearing may be~~

1 ~~conducted simultaneously with a preliminary hearing, if the~~  
2 ~~prosecution is commenced by information or complaint, or by~~  
3 ~~motion of the People at any stage in the proceedings. The court~~  
4 ~~may accept, at a preliminary hearing, (i) the filing of an~~  
5 ~~information charging that the defendant committed a felony~~  
6 ~~offense under this Article (ii) the return of an indictment by~~  
7 ~~a grand jury charging that the defendant committed a felony~~  
8 ~~offense under this Article as sufficient evidence of probable~~  
9 ~~cause that the person committed the offense.~~

10 ~~Upon making finding of probable cause, the circuit court~~  
11 ~~shall enter a restraining order, injunction, or prohibition or~~  
12 ~~shall take other action in connection with the property or~~  
13 ~~other interest subject to forfeiture under this Article as is~~  
14 ~~necessary to insure that the property is not removed from the~~  
15 ~~jurisdiction of the court, concealed, destroyed, or otherwise~~  
16 ~~disposed of by the owner of that property or interest before a~~  
17 ~~forfeiture hearing under this subsection. The Attorney General~~  
18 ~~or State's Attorney shall file a certified copy of the~~  
19 ~~restraining order, injunction, or other prohibition with the~~  
20 ~~recorder or registrar of titles of each county in which the~~  
21 ~~property may be located. No injunction, restraining order, or~~  
22 ~~other prohibition issued under this Section shall affect the~~  
23 ~~rights of any bonafide purchaser, mortgagee, judgment~~  
24 ~~creditor, or other lien holder that arose before the date the~~  
25 ~~certified copy is filed.~~

26 ~~The court may at any time, on verified petition by the~~



1 ~~defendant, conduct a hearing to determine whether all or any~~  
2 ~~portion of the property or interest, which the court previously~~  
3 ~~determined to be subject to forfeiture or subject to any~~  
4 ~~restraining order, injunction, prohibition, or other action,~~  
5 ~~should be released. The court may in its discretion release the~~  
6 ~~property to the defendant for good cause shown.~~

7 ~~Upon conviction of a person for a felony violation of this~~  
8 ~~Article, the court shall authorize the Director or State Police~~  
9 ~~to seize any property or other interest declared forfeited~~  
10 ~~under this Section on terms and conditions the court deems~~  
11 ~~proper.~~

12 (e) (Blank). ~~Property taken or detained under this Section~~  
13 ~~shall not be subject to replevin, but is deemed to be in the~~  
14 ~~custody of the Director subject only to the order and judgments~~  
15 ~~of the circuit court having jurisdiction over the forfeiture~~  
16 ~~proceedings and the decisions of the Attorney General or~~  
17 ~~State's Attorney under this Article. When property is seized~~  
18 ~~under this Article, the seizing agency shall promptly conduct~~  
19 ~~an inventory of the seized property and estimate the property's~~  
20 ~~value and shall forward a copy of the estimate of the~~  
21 ~~property's value to the Director of State Police. Upon~~  
22 ~~receiving the notice of seizure, the Director may do any of the~~  
23 ~~following:~~

24 ~~(1) Place the property under seal.~~

25 ~~(2) Remove the property to a place designated by the~~

26 ~~Director.~~

1           ~~(3) Keep the property in the possession of the seizing~~  
2           ~~agency.~~

3           ~~(4) Remove the property to a storage area for~~  
4           ~~safekeeping or, if the property is a negotiable instrument~~  
5           ~~or money and is not needed for evidentiary purposes,~~  
6           ~~deposit it in an interest bearing account.~~

7           ~~(5) Place the property under constructive seizure by~~  
8           ~~posting notice of the pending forfeiture on it, by giving~~  
9           ~~notice of the pending forfeiture to its owners and interest~~  
10          ~~holders, or by filing a notice of the pending forfeiture in~~  
11          ~~any appropriate public record relating to the property.~~

12          ~~(6) Provide for another agency or custodian, including~~  
13          ~~an owner, secured party, or lienholder, to take custody of~~  
14          ~~the property on terms and conditions set by the Director.~~

15          (f) (Blank). ~~When property is forfeited under this Article~~  
16          ~~the Director of State Police shall sell the property unless the~~  
17          ~~property is required by law to be destroyed or is harmful to~~  
18          ~~the public. The Director shall distribute the proceeds of the~~  
19          ~~sale, together with any moneys forfeited or seized, in~~  
20          ~~accordance with subsection (g). On the application of the~~  
21          ~~seizing agency or prosecutor who was responsible for the~~  
22          ~~investigation, arrest, and prosecution that lead to the~~  
23          ~~forfeiture, however, the Director may return any item of~~  
24          ~~forfeited property to the seizing agency or prosecutor for~~  
25          ~~official use in the enforcement of laws relating to this~~  
26          ~~Article if the agency or prosecutor can demonstrate that the~~

1 ~~item requested would be useful to the agency or prosecutor in~~  
2 ~~their enforcement efforts. When any real property returned to~~  
3 ~~the seizing agency is sold by the agency or its unit of~~  
4 ~~government, the proceeds of the sale shall be delivered to the~~  
5 ~~Director and distributed in accordance with subsection (g).~~

6 (g) (Blank). ~~Except as provided in subsection (f), all~~  
7 ~~moneys from penalties and the proceeds of sale of all property~~  
8 ~~forfeited and seized under this Article shall be distributed to~~  
9 ~~the WIC program administered by the Illinois Department of~~  
10 ~~Human Services.~~

11 (Source: P.A. 91-155, eff. 7-16-99.)

12 (720 ILCS 5/26-5)

13 Sec. 26-5. Dog fighting. (For other provisions that may  
14 apply to dog fighting, see the Humane Care for Animals Act. For  
15 provisions similar to this Section that apply to animals other  
16 than dogs, see in particular Section 4.01 of the Humane Care  
17 for Animals Act.)

18 (a) No person may own, capture, breed, train, or lease any  
19 dog which he or she knows is intended for use in any show,  
20 exhibition, program, or other activity featuring or otherwise  
21 involving a fight between the dog and any other animal or  
22 human, or the intentional killing of any dog for the purpose of  
23 sport, wagering, or entertainment.

24 (b) No person may promote, conduct, carry on, advertise,  
25 collect money for or in any other manner assist or aid in the

1 presentation for purposes of sport, wagering, or entertainment  
2 of any show, exhibition, program, or other activity involving a  
3 fight between 2 or more dogs or any dog and human, or the  
4 intentional killing of any dog.

5 (c) No person may sell or offer for sale, ship, transport,  
6 or otherwise move, or deliver or receive any dog which he or  
7 she knows has been captured, bred, or trained, or will be used,  
8 to fight another dog or human or be intentionally killed for  
9 purposes of sport, wagering, or entertainment.

10 (c-5) No person may solicit a minor to violate this  
11 Section.

12 (d) No person may manufacture for sale, shipment,  
13 transportation, or delivery any device or equipment which he or  
14 she knows or should know is intended for use in any show,  
15 exhibition, program, or other activity featuring or otherwise  
16 involving a fight between 2 or more dogs, or any human and dog,  
17 or the intentional killing of any dog for purposes of sport,  
18 wagering, or entertainment.

19 (e) No person may own, possess, sell or offer for sale,  
20 ship, transport, or otherwise move any equipment or device  
21 which he or she knows or should know is intended for use in  
22 connection with any show, exhibition, program, or activity  
23 featuring or otherwise involving a fight between 2 or more  
24 dogs, or any dog and human, or the intentional killing of any  
25 dog for purposes of sport, wagering or entertainment.

26 (f) No person may knowingly make available any site,

1 structure, or facility, whether enclosed or not, that he or she  
2 knows is intended to be used for the purpose of conducting any  
3 show, exhibition, program, or other activity involving a fight  
4 between 2 or more dogs, or any dog and human, or the  
5 intentional killing of any dog or knowingly manufacture,  
6 distribute, or deliver fittings to be used in a fight between 2  
7 or more dogs or a dog and human.

8 (g) No person may attend or otherwise patronize any show,  
9 exhibition, program, or other activity featuring or otherwise  
10 involving a fight between 2 or more dogs, or any dog and human,  
11 or the intentional killing of any dog for purposes of sport,  
12 wagering, or entertainment.

13 (h) No person may tie or attach or fasten any live animal  
14 to any machine or device propelled by any power for the purpose  
15 of causing the animal to be pursued by a dog or dogs. This  
16 subsection (h) applies only when the dog is intended to be used  
17 in a dog fight.

18 (i) Penalties for violations of this Section shall be as  
19 follows:

20 (1) Any person convicted of violating subsection (a),  
21 (b), or (c) of this Section is guilty of a Class 4 felony  
22 for a first violation and a Class 3 felony for a second or  
23 subsequent violation, and may be fined an amount not to  
24 exceed \$50,000.

25 (1.5) A person who knowingly owns a dog for fighting  
26 purposes or for producing a fight between 2 or more dogs or

1 a dog and human or who knowingly offers for sale or sells a  
2 dog bred for fighting is guilty of a Class 3 felony and may  
3 be fined an amount not to exceed \$50,000, if the dog  
4 participates in a dogfight and any of the following factors  
5 is present:

6 (i) the dogfight is performed in the presence of a  
7 person under 18 years of age;

8 (ii) the dogfight is performed for the purpose of  
9 or in the presence of illegal wagering activity; or

10 (iii) the dogfight is performed in furtherance of  
11 streetgang related activity as defined in Section 10 of  
12 the Illinois Streetgang Terrorism Omnibus Prevention  
13 Act.

14 (1.7) A person convicted of violating subsection (c-5)  
15 of this Section is guilty of a Class 4 felony.

16 (2) Any person convicted of violating subsection (d) or  
17 (e) of this Section is guilty of a Class A misdemeanor for  
18 a first violation. A second or subsequent violation of  
19 subsection (d) or (e) of this Section is a Class 3 felony.

20 (2.5) Any person convicted of violating subsection (f)  
21 of this Section is guilty of a Class 4 felony.

22 (3) Any person convicted of violating subsection (g) of  
23 this Section is guilty of a Class A misdemeanor for a first  
24 violation. A second or subsequent violation of subsection  
25 (g) of this Section is a Class 4 felony. If a person under  
26 13 years of age is present at any show, exhibition,

1 program, or other activity prohibited in subsection (g),  
2 the parent, legal guardian, or other person who is 18 years  
3 of age or older who brings that person under 13 years of  
4 age to that show, exhibition, program, or other activity is  
5 guilty of a Class 4 felony for a first violation and a  
6 Class 3 felony for a second or subsequent violation.

7 (i-5) A person who commits a felony violation of this  
8 Section is subject to the property forfeiture provisions set  
9 forth in Article 124B of the Code of Criminal Procedure of  
10 1963.

11 (j) Any dog or equipment involved in a violation of this  
12 Section shall be immediately seized and impounded under Section  
13 12 of the Humane Care for Animals Act when located at any show,  
14 exhibition, program, or other activity featuring or otherwise  
15 involving a dog fight for the purposes of sport, wagering, or  
16 entertainment.

17 (k) Any vehicle or conveyance other than a common carrier  
18 that is used in violation of this Section shall be seized,  
19 held, and offered for sale at public auction by the sheriff's  
20 department of the proper jurisdiction, and the proceeds from  
21 the sale shall be remitted to the general fund of the county  
22 where the violation took place.

23 (l) Any veterinarian in this State who is presented with a  
24 dog for treatment of injuries or wounds resulting from fighting  
25 where there is a reasonable possibility that the dog was  
26 engaged in or utilized for a fighting event for the purposes of

1 sport, wagering, or entertainment shall file a report with the  
2 Department of Agriculture and cooperate by furnishing the  
3 owners' names, dates, and descriptions of the dog or dogs  
4 involved. Any veterinarian who in good faith complies with the  
5 requirements of this subsection has immunity from any  
6 liability, civil, criminal, or otherwise, that may result from  
7 his or her actions. For the purposes of any proceedings, civil  
8 or criminal, the good faith of the veterinarian shall be  
9 rebuttably presumed.

10 (m) In addition to any other penalty provided by law, upon  
11 conviction for violating this Section, the court may order that  
12 the convicted person and persons dwelling in the same household  
13 as the convicted person who conspired, aided, or abetted in the  
14 unlawful act that was the basis of the conviction, or who knew  
15 or should have known of the unlawful act, may not own, harbor,  
16 or have custody or control of any dog or other animal for a  
17 period of time that the court deems reasonable.

18 (n) A violation of subsection (a) of this Section may be  
19 inferred from evidence that the accused possessed any device or  
20 equipment described in subsection (d), (e), or (h) of this  
21 Section, and also possessed any dog.

22 (o) When no longer required for investigations or court  
23 proceedings relating to the events described or depicted  
24 therein, evidence relating to convictions for violations of  
25 this Section shall be retained and made available for use in  
26 training peace officers in detecting and identifying



1 violations of this Section. Such evidence shall be made  
2 available upon request to other law enforcement agencies and to  
3 schools certified under the Illinois Police Training Act.

4 (Source: P.A. 94-820, eff. 1-1-07.)

5 (720 ILCS 5/29D-65)

6 Sec. 29D-65. Forfeiture of property acquired in connection  
7 with a violation of this Article; property freeze or seizure  
8 ~~Asset freeze, seizure, and forfeiture.~~

9 (a) If there is probable cause to believe that a person  
10 used, is using, is about to use, or is intending to use  
11 property in a way that would violate this Article, then that  
12 person's assets may be frozen or seized pursuant to Part 800 of  
13 Article 124B of the Code of Criminal Procedure of 1963. ~~Asset~~  
14 ~~freeze, seizure, and forfeiture in connection with a violation~~  
15 ~~of this Article.~~

16 ~~(1) Whenever it appears that there is probable cause to~~  
17 ~~believe that any person used, is using, is about to use, or~~  
18 ~~is intending to use property in any way that constitutes or~~  
19 ~~would constitute a violation of this Article, the Attorney~~  
20 ~~General or any State's Attorney may make an ex parte~~  
21 ~~application to the circuit court to freeze or seize all the~~  
22 ~~assets of that person and, upon a showing of probable cause~~  
23 ~~in the ex parte hearing, the circuit court shall issue an~~  
24 ~~order to freeze or seize all assets of that person. A copy~~  
25 ~~of the freeze or seize order shall be served upon the~~

1 ~~person whose assets have been frozen or seized and that~~  
2 ~~person or any person claiming an interest in the property~~  
3 ~~may, at any time within 30 days of service, file a motion~~  
4 ~~to release his or her assets. Within 10 days that person is~~  
5 ~~entitled to a hearing. In any proceeding to release assets,~~  
6 ~~the burden of proof shall be by a preponderance of evidence~~  
7 ~~and shall be on the State to show that the person used, was~~  
8 ~~using, is about to use, or is intending to use any property~~  
9 ~~in any way that constitutes or would constitute a violation~~  
10 ~~of this Article. If the court finds that any property was~~  
11 ~~being used, is about to be used, or is intended to be used~~  
12 ~~in violation of or in any way that would constitute a~~  
13 ~~violation of this Article, the court shall order such~~  
14 ~~property frozen or held until further order of the court.~~  
15 ~~Any property so ordered held or frozen shall be subject to~~  
16 ~~forfeiture under the following procedure. Upon the request~~  
17 ~~of the defendant, the court may release frozen or seized~~  
18 ~~assets sufficient to pay attorney's fees for~~  
19 ~~representation of the defendant at a hearing conducted~~  
20 ~~under this Section.~~

21 ~~(2) If, within 60 days after any seizure or asset~~  
22 ~~freeze under subparagraph (1) of this Section, a person~~  
23 ~~having any property interest in the seized or frozen~~  
24 ~~property is charged with an offense, the court which~~  
25 ~~renders judgment upon the charge shall, within 30 days~~  
26 ~~after the judgment, conduct a forfeiture hearing to~~

1 ~~determine whether the property was used, about to be used,~~  
2 ~~or intended to be used in violation of this Article or in~~  
3 ~~connection with any violation of this Article, or was~~  
4 ~~integrally related to any violation or intended violation~~  
5 ~~of this Article. The hearing shall be commenced by a~~  
6 ~~written petition by the State, including material~~  
7 ~~allegations of fact, the name and address of every person~~  
8 ~~determined by the State to have any property interest in~~  
9 ~~the seized or frozen property, a representation that~~  
10 ~~written notice of the date, time, and place of the hearing~~  
11 ~~has been mailed to every such person by certified mail at~~  
12 ~~least 10 days before the date, and a request for~~  
13 ~~forfeiture. Every such person may appear as a party and~~  
14 ~~present evidence at the hearing. The quantum of proof~~  
15 ~~required shall be preponderance of the evidence, and the~~  
16 ~~burden of proof shall be on the State. If the court~~  
17 ~~determines that the seized or frozen property was used,~~  
18 ~~about to be used, or intended to be used in violation of~~  
19 ~~this Article or in connection with any violation of this~~  
20 ~~Article, or was integrally related to any violation or~~  
21 ~~intended violation of this Article, an order of forfeiture~~  
22 ~~and disposition of the seized or frozen money and property~~  
23 ~~shall be entered. All property forfeited may be liquidated~~  
24 ~~and the resultant money together with any money forfeited~~  
25 ~~shall be allocated among the participating law enforcement~~  
26 ~~agencies in such proportions as may be determined to be~~

1 ~~equitable by the court entering the forfeiture order, any~~  
2 ~~such property so forfeited shall be received by the State's~~  
3 ~~Attorney or Attorney General and upon liquidation shall be~~  
4 ~~allocated among the participating law enforcement agencies~~  
5 ~~in such proportions as may be determined equitable by the~~  
6 ~~court entering the forfeiture order.~~

7 ~~(3) If a seizure or asset freeze under subparagraph (1)~~  
8 ~~of this subsection (a) is not followed by a charge under~~  
9 ~~this Article within 60 days, or if the prosecution of the~~  
10 ~~charge is permanently terminated or indefinitely~~  
11 ~~discontinued without any judgment of conviction or a~~  
12 ~~judgment of acquittal is entered, the State's Attorney or~~  
13 ~~Attorney General shall immediately commence an in rem~~  
14 ~~proceeding for the forfeiture of any seized money or other~~  
15 ~~things of value, or both, in the circuit court and any~~  
16 ~~person having any property interest in the money or~~  
17 ~~property may commence separate civil proceedings in the~~  
18 ~~manner provided by law. Any property so forfeited shall be~~  
19 ~~allocated among the participating law enforcement agencies~~  
20 ~~in such proportions as may be determined to be equitable by~~  
21 ~~the court entering the forfeiture order.~~

22 ~~(b) Forfeiture of property acquired in connection with a~~  
23 ~~violation of this Article.~~

24 ~~(1)~~ Any person who commits any offense under this  
25 Article is subject to the property forfeiture provisions  
26 set forth in Article 124B of the Code of Criminal Procedure

1 ~~of 1963. shall forfeit, according to the provisions of this~~  
2 ~~Section, any moneys, profits, or proceeds, and any interest~~  
3 ~~or property in which the sentencing court determines he or~~  
4 ~~she has acquired or maintained, directly or indirectly, in~~  
5 ~~whole or in part, as a result of, or used, was about to be~~  
6 ~~used, or was intended to be used in connection with the~~  
7 ~~offense. The person shall also forfeit any interest in,~~  
8 ~~security, claim against, or contractual right of any kind~~  
9 ~~which affords the person a source of influence over any~~  
10 ~~enterprise which he or she has established, operated,~~  
11 ~~controlled, conducted, or participated in conducting,~~  
12 ~~where his or her relationship to or connection with any~~  
13 ~~such thing or activity directly or indirectly, in whole or~~  
14 ~~in part, is traceable to any item or benefit which he or~~  
15 ~~she has obtained or acquired through an offense under this~~  
16 ~~Article or which he or she used, about to use, or intended~~  
17 ~~to use in connection with any offense under this Article.~~  
18 Forfeiture under this subsection ~~Section~~ may be pursued in  
19 addition to or in lieu of proceeding under ~~subsection (a)~~  
20 ~~of this~~ Section 124B-805 (property freeze or seizure; ex  
21 parte proceeding) of the Code of Criminal Procedure of  
22 1963.

23 ~~(2) Proceedings instituted under this subsection shall~~  
24 ~~be subject to and conducted in accordance with the~~  
25 ~~following procedures:~~

26 ~~(A) The sentencing court shall, upon petition by~~

1 ~~the prosecuting agency, whether it is the Attorney~~  
2 ~~General or the State's Attorney, at any time following~~  
3 ~~sentencing, conduct a hearing to determine whether any~~  
4 ~~property or property interest is subject to forfeiture~~  
5 ~~under this subsection. At the forfeiture hearing the~~  
6 ~~People of the State of Illinois shall have the burden~~  
7 ~~of establishing, by a preponderance of the evidence,~~  
8 ~~that the property or property interests are subject to~~  
9 ~~forfeiture.~~

10 ~~(B) In any action brought by the People of the~~  
11 ~~State of Illinois under this Section, the court shall~~  
12 ~~have jurisdiction to enter such restraining orders,~~  
13 ~~injunctions, or prohibitions, or to take such other~~  
14 ~~action in connection with any real, personal, or mixed~~  
15 ~~property, or other interest, subject to forfeiture, as~~  
16 ~~it shall consider proper.~~

17 ~~(C) In any action brought by the People of the~~  
18 ~~State of Illinois under this subsection in which any~~  
19 ~~restraining order, injunction, or prohibition or any~~  
20 ~~other action in connection with any property or~~  
21 ~~interest subject to forfeiture under this subsection~~  
22 ~~is sought, the circuit court presiding over the trial~~  
23 ~~of the person or persons charged with a violation under~~  
24 ~~this Article shall first determine whether there is~~  
25 ~~probable cause to believe that the person or persons so~~  
26 ~~charged have committed an offense under this Article~~

1 ~~and whether the property or interest is subject to~~  
2 ~~forfeiture under this subsection. In order to make this~~  
3 ~~determination, prior to entering any such order, the~~  
4 ~~court shall conduct a hearing without a jury in which~~  
5 ~~the People shall establish: (i) probable cause that the~~  
6 ~~person or persons so charged have committed an offense~~  
7 ~~under this Article; and (ii) probable cause that any~~  
8 ~~property or interest may be subject to forfeiture under~~  
9 ~~this subsection. The hearing may be conducted~~  
10 ~~simultaneously with a preliminary hearing if the~~  
11 ~~prosecution is commenced by information, or by motion~~  
12 ~~of the People at any stage in the proceedings. The~~  
13 ~~court may enter a finding of probable cause at a~~  
14 ~~preliminary hearing following the filing of~~  
15 ~~information charging a violation of this Article or the~~  
16 ~~return of an indictment by a grand jury charging an~~  
17 ~~offense under this Article as sufficient probable~~  
18 ~~cause for purposes of this subsection. Upon such a~~  
19 ~~finding, the circuit court shall enter such~~  
20 ~~restraining order, injunction, or prohibition or shall~~  
21 ~~take such other action in connection with any such~~  
22 ~~property or other interest subject to forfeiture under~~  
23 ~~this subsection as is necessary to ensure that the~~  
24 ~~property is not removed from the jurisdiction of the~~  
25 ~~court, concealed, destroyed, or otherwise disposed of~~  
26 ~~by the owner or holder of that property or interest~~

1 ~~prior to a forfeiture hearing under this subsection.~~  
2 ~~The Attorney General or State's Attorney shall file a~~  
3 ~~certified copy of the restraining order, injunction,~~  
4 ~~or other prohibition with the recorder of deeds or~~  
5 ~~registrar of titles of each county where any such~~  
6 ~~property of the defendant may be located. No such~~  
7 ~~injunction, restraining order, or other prohibition~~  
8 ~~shall affect the rights of any bona fide purchaser,~~  
9 ~~mortgagee, judgment creditor, or other lien holder~~  
10 ~~arising prior to the date of such filing. The court~~  
11 ~~may, at any time, upon verified petition by the~~  
12 ~~defendant, conduct a hearing to release all or portions~~  
13 ~~of any such property or interest which the court~~  
14 ~~previously determined to be subject to forfeiture or~~  
15 ~~subject to any restraining order, injunction,~~  
16 ~~prohibition, or other action. The court may release the~~  
17 ~~property to the defendant for good cause shown and~~  
18 ~~within the sound discretion of the court.~~

19 ~~(D) Upon a conviction of a person under this~~  
20 ~~Article, the court shall authorize the Attorney~~  
21 ~~General or State's Attorney to seize and sell all~~  
22 ~~property or other interest declared forfeited under~~  
23 ~~this Article, unless the property is required by law to~~  
24 ~~be destroyed or is harmful to the public. The court may~~  
25 ~~order the Attorney General or State's Attorney to~~  
26 ~~segregate funds from the proceeds of the sale~~



1 ~~sufficient: (1) to satisfy any order of restitution, as~~  
2 ~~the court may deem appropriate; (2) to satisfy any~~  
3 ~~legal right, title, or interest which the court deems~~  
4 ~~superior to any right, title, or interest of the~~  
5 ~~defendant at the time of the commission of the acts~~  
6 ~~which gave rise to forfeiture under this subsection; or~~  
7 ~~(3) to satisfy any bona fide purchaser for value of the~~  
8 ~~right, title, or interest in the property who was~~  
9 ~~without reasonable notice that the property was~~  
10 ~~subject to forfeiture. Following the entry of an order~~  
11 ~~of forfeiture, the Attorney General or State's~~  
12 ~~Attorney shall publish notice of the order and his or~~  
13 ~~her intent to dispose of the property. Within 30 days~~  
14 ~~following the publication, any person may petition the~~  
15 ~~court to adjudicate the validity of his or her alleged~~  
16 ~~interest in the property. After the deduction of all~~  
17 ~~requisite expenses of administration and sale, the~~  
18 ~~Attorney General or State's Attorney shall distribute~~  
19 ~~the proceeds of the sale, along with any moneys~~  
20 ~~forfeited or seized, among participating law~~  
21 ~~enforcement agencies in such equitable portions as the~~  
22 ~~court shall determine.~~

23 ~~(E) No judge shall release any property or money~~  
24 ~~seized under subdivision (A) or (B) for the payment of~~  
25 ~~attorney's fees of any person claiming an interest in~~  
26 ~~such money or property.~~

1       ~~(c) Exemptions from forfeiture. A property interest is~~  
2 ~~exempt from forfeiture under this Section if its owner or~~  
3 ~~interest holder establishes by a preponderance of evidence that~~  
4 ~~the owner or interest holder:~~

5           ~~(A) (i) in the case of personal property, is not legally~~  
6 ~~accountable for the conduct giving rise to the forfeiture,~~  
7 ~~did not acquiesce in it, and did not know and could not~~  
8 ~~reasonably have known of the conduct or that the conduct~~  
9 ~~was likely to occur, or~~

10           ~~(ii) in the case of real property, is not legally~~  
11 ~~accountable for the conduct giving rise to the forfeiture,~~  
12 ~~or did not solicit, conspire, or attempt to commit the~~  
13 ~~conduct giving rise to the forfeiture; and~~

14           ~~(B) had not acquired and did not stand to acquire~~  
15 ~~substantial proceeds from the conduct giving rise to its~~  
16 ~~forfeiture other than as an interest holder in an arms~~  
17 ~~length commercial transaction; and~~

18           ~~(C) with respect to conveyances, did not hold the~~  
19 ~~property jointly or in common with a person whose conduct~~  
20 ~~gave rise to the forfeiture; and~~

21           ~~(D) does not hold the property for the benefit of or as~~  
22 ~~nominee for any person whose conduct gave rise to its~~  
23 ~~forfeiture, and, if the owner or interest holder acquired~~  
24 ~~the interest through any such person, the owner or interest~~  
25 ~~holder acquired it as a bona fide purchaser for value~~  
26 ~~without knowingly taking part in the conduct giving rise to~~

1 ~~the forfeiture; and~~

2 ~~(E) that the owner or interest holder acquired the~~  
3 ~~interest:~~

4 ~~(i) before the commencement of the conduct giving~~  
5 ~~rise to its forfeiture and the person whose conduct~~  
6 ~~gave rise to its forfeiture did not have the authority~~  
7 ~~to convey the interest to a bona fide purchaser for~~  
8 ~~value at the time of the conduct; or~~

9 ~~(ii) after the commencement of the conduct giving~~  
10 ~~rise to its forfeiture, and the owner or interest~~  
11 ~~holder acquired the interest as a mortgagee, secured~~  
12 ~~creditor, lien holder, or bona fide purchaser for value~~  
13 ~~without knowledge of the conduct which gave rise to the~~  
14 ~~forfeiture; and~~

15 ~~(a) in the case of personal property, without~~  
16 ~~knowledge of the seizure of the property for~~  
17 ~~forfeiture; or~~

18 ~~(b) in the case of real estate, before the~~  
19 ~~filing in the office of the Recorder of Deeds of~~  
20 ~~the county in which the real estate is located of a~~  
21 ~~notice of seizure for forfeiture or a lis pendens~~  
22 ~~notice.~~

23 (Source: P.A. 92-854, eff. 12-5-02.)

24 (720 ILCS 5/11-20.1A rep.)

25 (720 ILCS 5/37.5-5 rep.)

1 (720 ILCS 5/37.5-10 rep.)

2 (720 ILCS 5/37.5-15 rep.)

3 (720 ILCS 5/37.5-20 rep.)

4 (720 ILCS 5/37.5-25 rep.)

5 (720 ILCS 5/37.5-30 rep.)

6 (720 ILCS 5/37.5-35 rep.)

7 (720 ILCS 5/37.5-40 rep.)

8 (720 ILCS 5/37.5-45 rep.)

9 Section 11. The Criminal Code of 1961 is amended by  
10 repealing Sections 11-20.1A, 37.5-5, 37.5-10, 37.5-15,  
11 37.5-20, 37.5-25, 37.5-30, 37.5-35, 37.5-40, and 37.5-45.

12 Section 15. The Code of Criminal Procedure of 1963 is  
13 amended by adding Article 124B as follows:

14 (725 ILCS 5/Art. 124B heading new)

15 ARTICLE 124B. FORFEITURE

16 (725 ILCS 5/Art. 124B Pt. 5 heading new)

17 Part 5. General Provisions

18 (725 ILCS 5/124B-5 new)

19 Sec. 124B-5. Purpose and scope. The purpose of this Article  
20 is to set forth in one place the provisions relating to  
21 forfeiture of property in connection with violations of certain  
22 criminal statutes. Part 100 of this Article sets forth standard

1 provisions that apply to these forfeiture proceedings. In Parts  
2 300 and following, for each type of criminal violation, this  
3 Article sets forth (i) provisions that apply to forfeiture only  
4 in connection with that type of violation and (ii) by means of  
5 incorporation by reference, the standard forfeiture provisions  
6 that apply to that type of violation.

7 (725 ILCS 5/124B-10 new)

8 Sec. 124B-10. Applicability; offenses. This Article  
9 applies to forfeiture of property in connection with the  
10 following:

11 (1) A violation of Section 10A-10 of the Criminal Code  
12 of 1961 (involuntary servitude; involuntary servitude of a  
13 minor; trafficking of persons for forced labor or  
14 services).

15 (2) A violation of Section 11-17.1 of the Criminal Code  
16 of 1961 (keeping a place of juvenile prostitution).

17 (3) A violation of Section 11-19.2 of the Criminal Code  
18 of 1961 (exploitation of a child).

19 (4) A violation of Section 11-20 of the Criminal Code  
20 of 1961 (obscenity).

21 (5) A second or subsequent violation of Section 11-20.1  
22 of the Criminal Code of 1961 (child pornography).

23 (6) A violation of Section 11-20.3 of the Criminal Code  
24 of 1961 (aggravated child pornography).

25 (7) A violation of Section 16D-5 of the Criminal Code

1 of 1961 (computer fraud).

2 (8) A felony violation of Article 17B of the Criminal  
3 Code of 1961 (WIC fraud).

4 (9) A felony violation of Section 26-5 of the Criminal  
5 Code of 1961 (dog fighting).

6 (10) A violation of Article 29D of the Criminal Code of  
7 1961 (terrorism).

8 (11) A felony violation of Section 4.01 of the Humane  
9 Care for Animals Act (animals in entertainment).

10 (725 ILCS 5/124B-15 new)

11 Sec. 124B-15. Applicability; actions. This Article applies  
12 to actions pending on the effective date of this amendatory Act  
13 of the 96th General Assembly as well as actions commenced on or  
14 after that date.

15 (725 ILCS 5/Art. 124B Pt. 100 heading new)

16 Part 100. Standard Forfeiture Provisions

17 (725 ILCS 5/124B-100 new)

18 Sec. 124B-100. Definition; "offense". For purposes of this  
19 Article, "offense" is defined as follows:

20 (1) In the case of forfeiture authorized under Section  
21 10A-15 of the Criminal Code of 1961, "offense" means the  
22 offense of involuntary servitude, involuntary servitude of  
23 a minor, or trafficking of persons for forced labor or

1 services in violation of Section 10A-10 of that Code.

2 (2) In the case of forfeiture authorized under Section  
3 11-17.1 of the Criminal Code of 1961, "offense" means the  
4 offense of keeping a place of juvenile prostitution in  
5 violation of Section 11-17.1 of that Code.

6 (3) In the case of forfeiture authorized under Section  
7 11-19.2 of the Criminal Code of 1961, "offense" means the  
8 offense of exploitation of a child in violation of Section  
9 11-19.2 of that Code.

10 (4) In the case of forfeiture authorized under Section  
11 11-20 of the Criminal Code of 1961, "offense" means the  
12 offense of obscenity in violation of that Section.

13 (5) In the case of forfeiture authorized under Section  
14 11-20.1 of the Criminal Code of 1961, "offense" means the  
15 offense of child pornography in violation of Section  
16 11-20.1 of that Code.

17 (6) In the case of forfeiture authorized under Section  
18 11-20.3 of the Criminal Code of 1961, "offense" means the  
19 offense of aggravated child pornography in violation of  
20 Section 11-20.3 of that Code.

21 (7) In the case of forfeiture authorized under Section  
22 16D-6 of the Criminal Code of 1961, "offense" means the  
23 offense of computer fraud in violation of Section 16D-5 of  
24 that Code.

25 (8) In the case of forfeiture authorized under Section  
26 17B-25 of the Criminal Code of 1961, "offense" means any

1 felony violation of Article 17B of that Code.

2 (9) In the case of forfeiture authorized under Section  
3 29D-65 of the Criminal Code of 1961, "offense" means any  
4 offense under Article 29D of that Code.

5 (10) In the case of forfeiture authorized under Section  
6 4.01 of the Humane Care for Animals Act or Section 26-5 of  
7 the Criminal Code of 1961, "offense" means any felony  
8 offense under either of those Sections.

9 (725 ILCS 5/124B-105 new)

10 Sec. 124B-105. Definition; "conveyance". In this Article,  
11 "conveyance" means a vehicle, vessel, or aircraft.

12 (725 ILCS 5/124B-110 new)

13 Sec. 124B-110. Definition; "owner". In this Article,  
14 "owner" means a person with an ownership interest in the  
15 specific property sought to be forfeited, including a  
16 leasehold, lien, mortgage, recorded security interest, or  
17 valid assignment of an ownership interest. "Owner" does not  
18 include any of the following:

19 (1) A person with only a general unsecured interest in,  
20 or claim against, the property or estate of another.

21 (2) A bailee, unless the bailor is identified and the  
22 bailee shows a colorable legitimate interest in the  
23 property seized.

24 (3) A nominee who exercises no dominion or control over



1           the property.

2           (725 ILCS 5/124B-115 new)

3           Sec. 124B-115. Definition; "person". In this Article,  
4           "person" means any individual, corporation, partnership, firm,  
5           organization, or association.

6           (725 ILCS 5/124B-120 new)

7           Sec. 124B-120. Definition; "property". In this Article,  
8           "property" means:

9                   (1) Real property, including, without limitation,  
10                   land, fixtures or improvements on land, and anything  
11                   growing on or found in land.

12                   (2) Tangible or intangible personal property,  
13                   including, without limitation, rights, privileges,  
14                   interests, claims, securities, and money.

15           "Property" includes any leasehold or possessory interest  
16           and, in the case of real property, includes a beneficial  
17           interest in a land trust.

18           (725 ILCS 5/124B-125 new)

19           Sec. 124B-125. Real property exempt from forfeiture.

20           (a) An interest in real property is exempt from forfeiture  
21           under this Article if its owner or interest holder establishes  
22           by a preponderance of evidence that he or she meets all of the  
23           following requirements:

1           (1) He or she is not legally accountable for the  
2           conduct giving rise to the forfeiture, or did not solicit,  
3           conspire, or attempt to commit the conduct giving rise to  
4           the forfeiture.

5           (2) He or she had not acquired and did not stand to  
6           acquire substantial proceeds from the conduct giving rise  
7           to the forfeiture other than as an interest holder in an  
8           arms-length commercial transaction.

9           (3) He or she does not hold the property for the  
10           benefit of or as a nominee for any person whose conduct  
11           gave rise to the forfeiture, and, if he or she acquired the  
12           interest through any such person, he or she acquired it as  
13           a bona fide purchaser for value without knowingly taking  
14           part in the conduct giving rise to the forfeiture.

15           (4) He or she acquired the interest before a notice of  
16           seizure for forfeiture or a lis pendens notice with respect  
17           to the property was filed in the office of the recorder of  
18           deeds of the county in which the property is located and  
19           either:

20           (A) acquired the interest before the commencement  
21           of the conduct giving rise to the forfeiture, and the  
22           person whose conduct gave rise to the forfeiture did  
23           not have the authority to convey the interest to a bona  
24           fide purchaser for value at the time of the conduct; or

25           (B) acquired the interest after the commencement  
26           of the conduct giving rise to the forfeiture, and he or

1           she acquired the interest as a mortgagee, secured  
2           creditor, lienholder, or bona fide purchaser for value  
3           without knowledge of the conduct that gave rise to the  
4           forfeiture.

5           (5) With respect to a property interest in existence at  
6           the time the illegal conduct giving rise to the forfeiture  
7           took place, he or she either:

8                   (A) did not know of the conduct giving rise to the  
9                   forfeiture; or

10                   (B) upon learning of the conduct giving rise to the  
11                   forfeiture, did all that reasonably could be expected  
12                   under the circumstances to terminate that use of the  
13                   property.

14           (7) The property is not a type of property, possession  
15           of which is otherwise in violation of law.

16           (b) For purposes of paragraph (5) of subsection (a), ways  
17           in which a person may show that he or she did all that  
18           reasonably could be expected include demonstrating that he or  
19           she, to the extent permitted by law, did either of the  
20           following:

21                   (1) Gave timely notice to an appropriate law  
22                   enforcement agency of information that led the person to  
23                   know that the conduct giving rise to a forfeiture would  
24                   occur or had occurred.

25                   (2) In a timely fashion revoked or made a good faith  
26                   attempt to revoke permission for those engaging in the

1       conduct to use the property or took reasonable actions in  
2       consultation with a law enforcement agency to discourage or  
3       prevent the illegal use of the property.

4       A person is not required by this subsection (b) to take  
5       steps that the person reasonably believes would be likely to  
6       subject any person (other than the person whose conduct gave  
7       rise to the forfeiture) to physical danger.

8       (725 ILCS 5/124B-130 new)

9       Sec. 124B-130. Personal property exempt from forfeiture.

10       (a) An interest in personal property is exempt from  
11       forfeiture under this Article if its owner or interest holder  
12       establishes by a preponderance of evidence that he or she meets  
13       all of the following requirements:

14               (1) He or she is not legally accountable for the  
15               conduct giving rise to the forfeiture, did not acquiesce in  
16               it, and did not know and could not reasonably have known of  
17               the conduct or that the conduct was likely to occur.

18               (2) He or she had not acquired and did not stand to  
19               acquire substantial proceeds from the conduct giving rise  
20               to the forfeiture other than as an interest holder in an  
21               arms-length commercial transaction.

22               (3) He or she does not hold the property for the  
23               benefit of or as a nominee for any person whose conduct  
24               gave rise to the forfeiture, and, if he or she acquired the  
25               interest through any such person, he or she acquired it as

1 a bona fide purchaser for value without knowingly taking  
2 part in the conduct giving rise to the forfeiture.

3 (4) He or she acquired the interest without knowledge  
4 of the seizure of the property for forfeiture and either:

5 (A) acquired the interest before the commencement  
6 of the conduct giving rise to the forfeiture, and the  
7 person whose conduct gave rise to the forfeiture did  
8 not have the authority to convey the interest to a bona  
9 fide purchaser for value at the time of the conduct; or

10 (B) acquired the interest after the commencement  
11 of the conduct giving rise to the forfeiture, and he or  
12 she acquired the interest as a mortgagee, secured  
13 creditor, lienholder, or bona fide purchaser for value  
14 without knowledge of the conduct that gave rise to the  
15 forfeiture.

16 (5) With respect to a property interest in existence at  
17 the time the illegal conduct giving rise to the forfeiture  
18 took place, he or she either:

19 (A) did not know of the conduct giving rise to the  
20 forfeiture; or

21 (B) upon learning of the conduct giving rise to the  
22 forfeiture, did all that reasonably could be expected  
23 under the circumstances to terminate that use of the  
24 property.

25 (6) With respect to conveyances, he or she did not hold  
26 the property jointly or in common with a person whose

1 conduct gave rise to the forfeiture.

2 (7) The property is not a type of property, possession  
3 of which is otherwise in violation of law.

4 (b) For purposes of paragraph (5) of subsection (a), ways  
5 in which a person may show that he or she did all that  
6 reasonably could be expected include demonstrating that he or  
7 she, to the extent permitted by law, did either of the  
8 following:

9 (1) Gave timely notice to an appropriate law  
10 enforcement agency of information that led the person to  
11 know that the conduct giving rise to a forfeiture would  
12 occur or had occurred.

13 (2) In a timely fashion revoked or made a good faith  
14 attempt to revoke permission for those engaging in the  
15 conduct to use the property or took reasonable actions in  
16 consultation with a law enforcement agency to discourage or  
17 prevent the illegal use of the property.

18 A person is not required by this subsection (b) to take  
19 steps that the person reasonably believes would be likely to  
20 subject any person (other than the person whose conduct gave  
21 rise to the forfeiture) to physical danger.

22 (725 ILCS 5/124B-135 new)

23 Sec. 124B-135. Burden of proof of exemption. It is not  
24 necessary for the State to negate any exemption in this Article  
25 in any complaint or other pleading or in any trial, hearing, or

1 other proceeding under this Article. The burden of proof of any  
2 exemption is upon the person claiming the exemption.

3 (725 ILCS 5/124B-140 new)

4 Sec. 124B-140. Court order with respect to innocent owner.  
5 If the court determines, in accordance with Sections 124B-125  
6 through 124B-135, that an innocent owner has a partial interest  
7 in property otherwise subject to forfeiture, or a joint tenancy  
8 or tenancy by the entirety in that property, the court may  
9 enter an appropriate order doing any of the following:

10 (1) Severing and releasing the property.

11 (2) Transferring the property to the State with a  
12 provision that the State compensate the innocent owner to  
13 the extent of his or her ownership interest once a final  
14 order of forfeiture has been entered and the property has  
15 been reduced to liquid assets.

16 (3) Permitting the innocent owner to retain the  
17 property subject to a lien in favor of the State to the  
18 extent of the forfeitable interest in the property.

19 (725 ILCS 5/124B-145 new)

20 Sec. 124B-145. Property constituting attorney's fees;  
21 forfeiture not applicable. Nothing in this Article applies to  
22 property that constitutes reasonable bona fide attorney's fees  
23 paid to an attorney for services rendered or to be rendered in  
24 a forfeiture proceeding under this Article, or in a criminal

1 proceeding relating directly to a forfeiture proceeding under  
2 this Article, if (i) the property was paid before its seizure  
3 and before the issuance of any seizure warrant or court order  
4 prohibiting transfer of the property and (ii) the attorney, at  
5 the time he or she received the property, did not know that it  
6 was property subject to forfeiture under this Article.

7 (725 ILCS 5/124B-150 new)

8 Sec. 124B-150. Protective order; probable cause.

9 (a) Upon application of the State, the circuit court  
10 presiding over the trial of the person or persons charged with  
11 the offense giving rise to forfeiture may enter a restraining  
12 order or injunction, or take other appropriate action, to  
13 preserve the availability of property for forfeiture under this  
14 Article. Before entering such an order or taking such action,  
15 the court shall first determine the following:

16 (1) Whether there is probable cause to believe that the  
17 person or persons so charged have committed the offense.

18 (2) Whether the property is subject to forfeiture under  
19 this Article.

20 (b) In order to make the determinations of probable cause  
21 required under subsection (a), the court shall conduct a  
22 hearing without a jury. In that hearing, the State must  
23 establish both of the following:

24 (1) There is probable cause that the person or persons  
25 charged have committed the offense.



1           (2) There is probable cause that property may be  
2           subject to forfeiture under this Article.

3           (c) The court may conduct the hearing under subsection (b)  
4           simultaneously with a preliminary hearing if the prosecution is  
5           commenced by information or complaint. The court may conduct  
6           the hearing under subsection (b) at any stage in the criminal  
7           proceedings upon the State's motion.

8           (d) The court may accept a finding of probable cause at a  
9           preliminary hearing following the filing of an information  
10           charging the offense or following the return of an indictment  
11           by a grand jury charging the offense as sufficient evidence of  
12           probable cause as required under paragraph (1) of subsection  
13           (b).

14           (e) Upon making a finding of probable cause as required  
15           under this Section, the circuit court shall enter a restraining  
16           order or injunction, or take other appropriate action, as  
17           necessary to ensure that the property is not removed from the  
18           court's jurisdiction and is not concealed, destroyed, or  
19           otherwise disposed of by the property owner or interest holder  
20           before a forfeiture hearing under this Article.

21           (f) The Attorney General or State's Attorney shall file a  
22           certified copy of the restraining order, injunction, or other  
23           prohibition with the recorder of deeds or registrar of titles  
24           of each county where any property of the defendant subject to  
25           forfeiture is located.

1 (725 ILCS 5/124B-155 new)

2 Sec. 124B-155. Rights of certain parties unaffected by  
3 protective order; release of property.

4 (a) A restraining order or injunction entered, or other  
5 action taken, by the court under Section 124B-150 does not  
6 affect the rights of any bona fide purchaser, mortgagee,  
7 judgment creditor, or other lienholder that arose before the  
8 date on which a certified copy of the restraining order,  
9 injunction, or other prohibition was filed in accordance with  
10 subsection (f) of Section 124B-150.

11 (b) At any time, upon verified petition by the defendant or  
12 by an innocent owner or innocent bona fide third party  
13 lienholder who neither had knowledge of, nor consented to, the  
14 illegal act or omission, the court may conduct a hearing to  
15 release all or portions of any property that the court  
16 previously determined to be subject to forfeiture or subject to  
17 any restraining order, injunction, or other action. For good  
18 cause shown and in the court's sound discretion, the court may  
19 release the property to the defendant or innocent owner or  
20 innocent bona fide third party lienholder who neither had  
21 knowledge of, nor consented to, the illegal act or omission.

22 (725 ILCS 5/124B-160 new)

23 Sec. 124B-160. Petition for forfeiture; forfeiture  
24 hearing; burden of proof.

25 (a) The Attorney General or State's Attorney may file a

1 petition for forfeiture of property in connection with an  
2 offense as defined in this Article, and, within a reasonable  
3 time after sentencing, the court shall conduct a hearing to  
4 determine whether any property is subject to forfeiture under  
5 this Article. Every person with any property interest in the  
6 property alleged to be subject to forfeiture may appear as a  
7 party and present evidence at the hearing.

8 (b) At the forfeiture hearing, the State has the burden of  
9 establishing, by a preponderance of the evidence, that the  
10 property is subject to forfeiture under this Article.

11 (725 ILCS 5/124B-165 new)

12 Sec. 124B-165. Order of forfeiture; sale of forfeited  
13 property; publication of notice; challenge to forfeiture.

14 (a) Upon the court's determination that property is subject  
15 to forfeiture, the court shall enter an order of forfeiture  
16 with respect to the property at issue. Except as provided in  
17 Section 124B-705, the order shall authorize the Attorney  
18 General or State's Attorney to seize all property declared  
19 forfeited under this Article (if the property has not already  
20 been seized) upon terms and conditions the court deems proper.  
21 The Attorney General or State's Attorney may then sell the  
22 forfeited property unless the court determines that the  
23 property is required by law to be destroyed or is harmful to  
24 the public.

25 (b) Following the entry of the order of forfeiture, the

1 Attorney General or State's Attorney shall cause publication of  
2 notice of the order and his or her intent to dispose of the  
3 property. Publication shall be in a newspaper of general  
4 circulation in the county where the property was seized, for a  
5 period of 3 successive weeks.

6 (c) Within 30 days after the publication, any person may  
7 petition the court to adjudicate the validity of his or her  
8 interest in the property and whether the interest is protected  
9 under this Article.

10 (725 ILCS 5/124B-170 new)

11 Sec. 124B-170. Judicial review.

12 (a) Within 30 days after publication of the notice under  
13 Section 124B-165, any person claiming an interest in the  
14 property declared forfeited may file a verified claim with the  
15 court expressing his or her interest in the property. The claim  
16 must set forth the following:

17 (1) The caption of the proceedings as set forth in the  
18 notice of order of forfeiture.

19 (2) The claimant's name and address.

20 (3) The nature and extent of the claimant's interest in  
21 the property.

22 (4) The circumstances of the claimant's acquisition of  
23 the interest in the property, including the date of the  
24 transfer and the identity of the transferor.

25 (5) The names and addresses of all other persons known

1 by the claimant to have an interest in the property.

2 (6) The specific provision of law relied on in  
3 asserting that the property is not subject to forfeiture.

4 (7) All essential facts supporting each assertion.

5 (8) The relief sought by the claimant.

6 (b) The claim must be accompanied by a cost bond in the  
7 form of a cashier's check payable to the clerk of the court in  
8 the amount of 10% of the reasonable value of the property as  
9 alleged by the Attorney General or State's Attorney or the  
10 amount of \$100, whichever is greater, conditioned upon the  
11 claimant's payment, in the case of forfeiture, of all costs and  
12 expenses of the proceeding under this Section.

13 (c) Upon the filing of a claim and cost bond as provided in  
14 this Section, the court shall determine whether the property is  
15 subject to forfeiture in accordance with this Article. If none  
16 of the seized property is declared forfeited in a proceeding  
17 under this Section, then, unless the court orders otherwise,  
18 the clerk of the court shall return to the claimant 90% of the  
19 amount deposited with the clerk as a cost bond under this  
20 Section. If any of the seized property is declared forfeited in  
21 a proceeding under this Section, then the clerk of the court  
22 shall transfer 90% of the amount deposited with the clerk as a  
23 cost bond under this Section to the prosecuting authority. In  
24 either case, the clerk shall retain the remaining 10% of the  
25 amount deposited as costs for the proceeding under this  
26 Section.

1 (725 ILCS 5/124B-175 new)

2 Sec. 124B-175. Distribution of forfeited moneys and  
3 proceeds from sale of forfeited property. All moneys forfeited  
4 under this Article, together with the proceeds from the sale of  
5 all property forfeited under this Article, shall be distributed  
6 as set forth in this Article.

7 (725 ILCS 5/124B-180 new)

8 Sec. 124B-180. Segregation of moneys from sale proceeds for  
9 certain purposes. Before any distribution under Section  
10 124B-175 or as otherwise prescribed by law, the court may order  
11 the Attorney General or State's Attorney to segregate moneys  
12 from the proceeds of the sale sufficient to do any of the  
13 following:

14 (1) Satisfy any order of restitution, as the court may  
15 deem appropriate.

16 (2) Satisfy any legal right, title, or interest that  
17 the court deems superior to any right, title, or interest  
18 of the defendant at the time of the commission of the acts  
19 that gave rise to forfeiture under this Article.

20 (3) Satisfy any bona fide purchaser for value of the  
21 right, title, or interest in the property who was without  
22 reasonable notice that the property was subject to  
23 forfeiture.

1 (725 ILCS 5/124B-190 new)

2 Sec. 124B-190. Construction. It is the intent of the  
3 General Assembly that the forfeiture provisions of this Article  
4 be liberally construed so as to effect their purpose. The  
5 forfeiture of property and other remedies under this Article  
6 shall be considered to be in addition to, and not exclusive of,  
7 any sentence or other remedy provided by law.

8 (725 ILCS 5/Art. 124B Pt. 300 heading new)

9 Part 300. Forfeiture; Involuntary Servitude  
10 and Trafficking of Persons

11 (725 ILCS 5/124B-300 new)

12 Sec. 124B-300. Persons and property subject to forfeiture.  
13 A person who commits the offense of involuntary servitude,  
14 involuntary servitude of a minor, or trafficking of persons for  
15 forced labor or services under Section 10A-10 of the Criminal  
16 Code of 1961 shall forfeit to the State of Illinois any profits  
17 or proceeds and any property he or she has acquired or  
18 maintained in violation of Section 10A-10 of the Criminal Code  
19 of 1961 that the sentencing court determines, after a  
20 forfeiture hearing under this Article, to have been acquired or  
21 maintained as a result of maintaining a person in involuntary  
22 servitude or participating in trafficking of persons for forced  
23 labor or services.

1 (725 ILCS 5/124B-305 new)

2 Sec. 124B-305. Distribution of property and sale proceeds.  
3 All moneys and the sale proceeds of all other property  
4 forfeited and seized under this Part 300 shall be distributed  
5 as follows:

6 (1) 50% shall be divided equally between all State  
7 agencies and units of local government whose officers or  
8 employees conducted the investigation that resulted in the  
9 forfeiture.

10 (2) 50% shall be deposited into the Violent Crime  
11 Victims Assistance Fund and targeted to services for  
12 victims of the offenses of involuntary servitude,  
13 involuntary servitude of a minor, and trafficking of  
14 persons for forced labor or services.

15 (725 ILCS 5/124B-310 new)

16 Sec. 124B-310. Standard forfeiture provisions incorporated  
17 by reference. All of the provisions of Part 100 of this Article  
18 are incorporated by reference into this Part 300.

19 (725 ILCS 5/Art. 124B Pt. 400 heading new)

20 Part 400. Obscenity

21 (725 ILCS 5/124B-400 new)

22 Sec. 124B-400. Legislative declaration. Obscenity is a  
23 far-reaching and extremely profitable crime. This crime



1 persists despite the threat of prosecution and successful  
2 prosecution because existing sanctions do not effectively  
3 reach the money and other assets generated by it. It is  
4 therefore necessary to supplement existing sanctions by  
5 mandating forfeiture of money and other assets generated by  
6 this crime. Forfeiture diminishes the financial incentives  
7 that encourage and sustain obscenity and secures for the State,  
8 local government, and prosecutors a resource for prosecuting  
9 these crimes.

10 (725 ILCS 5/124B-405 new)

11 Sec. 124B-405. Persons and property subject to forfeiture.  
12 A person who has been convicted previously of the offense of  
13 obscenity under Section 11-20 of the Criminal Code of 1961 and  
14 who is convicted of a second or subsequent offense of obscenity  
15 under that Section shall forfeit the following to the State of  
16 Illinois:

17 (1) Any property constituting or derived from any  
18 proceeds that the person obtained, directly or indirectly,  
19 as a result of the offense.

20 (2) Any of the person's property used in any manner,  
21 wholly or in part, to commit the offense.

22 (725 ILCS 5/124B-410 new)

23 Sec. 124B-410. No prior restraint. Nothing in this Part 400  
24 shall be construed as authorizing the prior restraint of any

1 showing, performance, or exhibition of allegedly obscene  
2 films, plays, or other presentations or of any sale or  
3 distribution of allegedly obscene materials.

4 (725 ILCS 5/124B-415 new)

5 Sec. 124B-415. Order to destroy property. If the Attorney  
6 General or State's Attorney believes any property forfeited and  
7 seized under this Part 400 describes, depicts, or portrays any  
8 of the acts or activities described in subsection (b) of  
9 Section 11-20 of the Criminal Code of 1961, the Attorney  
10 General or State's Attorney shall apply to the court for an  
11 order to destroy that property. If the court determines that  
12 the property describes, depicts, or portrays such acts or  
13 activities it shall order the Attorney General or State's  
14 Attorney to destroy the property.

15 (725 ILCS 5/124B-420 new)

16 Sec. 124B-420. Distribution of property and sale proceeds.  
17 (a) All moneys and the sale proceeds of all other property  
18 forfeited and seized under this Part 400 shall be distributed  
19 as follows:

20 (1) 50% shall be distributed to the unit of local  
21 government whose officers or employees conducted the  
22 investigation into the offense and caused the arrest or  
23 arrests and prosecution leading to the forfeiture, except  
24 that if the investigation, arrest or arrests, and

1 prosecution leading to the forfeiture were undertaken by  
2 the sheriff, this portion shall be distributed to the  
3 county for deposit into a special fund in the county  
4 treasury appropriated to the sheriff. Amounts distributed  
5 to the county for the sheriff or to units of local  
6 government under this paragraph shall be used for  
7 enforcement of laws or ordinances governing obscenity and  
8 child pornography. If the investigation, arrest or  
9 arrests, and prosecution leading to the forfeiture were  
10 undertaken solely by a State agency, however, the portion  
11 designated in this paragraph shall be paid into the State  
12 treasury to be used for enforcement of laws governing  
13 obscenity and child pornography.

14 (2) 25% shall be distributed to the county in which the  
15 prosecution resulting in the forfeiture was instituted,  
16 deposited into a special fund in the county treasury, and  
17 appropriated to the State's Attorney for use in the  
18 enforcement of laws governing obscenity and child  
19 pornography.

20 (3) 25% shall be distributed to the Office of the  
21 State's Attorneys Appellate Prosecutor and deposited into  
22 the Obscenity Profits Forfeiture Fund, which is hereby  
23 created in the State Treasury, to be used by the Office of  
24 the State's Attorneys Appellate Prosecutor for additional  
25 expenses incurred in prosecuting appeals arising under  
26 Sections 11-20, 11-20.1, and 11-20.3 of the Criminal Code

1       of 1961. Any amounts remaining in the Fund after all  
2       additional expenses have been paid shall be used by the  
3       Office to reduce the participating county contributions to  
4       the Office on a pro-rated basis as determined by the board  
5       of governors of the Office of the State's Attorneys  
6       Appellate Prosecutor based on the populations of the  
7       participating counties.

8       (b) Before any distribution under subsection (a), the  
9       Attorney General or State's Attorney shall retain from the  
10      forfeited moneys or sale proceeds, or both, sufficient moneys  
11      to cover expenses related to the administration and sale of the  
12      forfeited property.

13           (725 ILCS 5/124B-425 new)

14      Sec. 124B-425. Forfeiture provisions not applicable to  
15      libraries. This Part 400 does not apply to any property of a  
16      public library or any property of a library operated by an  
17      institution accredited by a generally recognized accrediting  
18      agency.

19           (725 ILCS 5/124B-430 new)

20      Sec. 124B-430. Standard forfeiture provisions incorporated  
21      by reference. All of the provisions of Part 100 of this Article  
22      are incorporated by reference into this Part 400.

23           (725 ILCS 5/Art. 124B Pt. 500 heading new)

1                    Part 500. Other Sex Offenses

2                    (725 ILCS 5/124B-500 new)

3                    Sec. 124B-500. Persons and property subject to forfeiture.

4                    A person who commits the offense of keeping a place of juvenile  
5                    prostitution, exploitation of a child, child pornography, or  
6                    aggravated child pornography under Section 11-17.1, 11-19.2,  
7                    11-20.1, or 11-20.3 of the Criminal Code of 1961 shall forfeit  
8                    the following property to the State of Illinois:

9                    (1) Any profits or proceeds and any property the person  
10                    has acquired or maintained in violation of Section 11-17.1,  
11                    11-19.2, 11-20.1, or 11-20.3 of the Criminal Code of 1961  
12                    that the sentencing court determines, after a forfeiture  
13                    hearing under this Article, to have been acquired or  
14                    maintained as a result of keeping a place of juvenile  
15                    prostitution, exploitation of a child, child pornography,  
16                    or aggravated child pornography.

17                    (2) Any interest in, securities of, claim against, or  
18                    property or contractual right of any kind affording a  
19                    source of influence over any enterprise that the person has  
20                    established, operated, controlled, or conducted in  
21                    violation of Section 11-17.1, 11-19.2, 11-20.1, or 11-20.3  
22                    of the Criminal Code of 1961 that the sentencing court  
23                    determines, after a forfeiture hearing under this Article,  
24                    to have been acquired or maintained as a result of keeping  
25                    a place of juvenile prostitution, exploitation of a child,

1 child pornography, or aggravated child pornography.

2 (3) Any computer that contains a depiction of child  
3 pornography in any encoded or decoded format in violation  
4 of Section 11-20.1 or 11-20.3 of the Criminal Code of 1961.  
5 For purposes of this paragraph (3), "computer" has the  
6 meaning ascribed to it in Section 16D-2 of the Criminal  
7 Code of 1961.

8 (725 ILCS 5/124B-505 new)

9 Sec. 124B-505. Distribution of property and sale proceeds.

10 (a) All moneys and the sale proceeds of all other property  
11 forfeited and seized under this Part 500 shall be distributed  
12 as follows:

13 (1) One-half shall be divided equally between all State  
14 agencies and units of local government whose officers or  
15 employees conducted the investigation that resulted in the  
16 forfeiture.

17 (2) One-half shall be deposited into the Violent Crime  
18 Victims Assistance Fund.

19 (b) Before any distribution under subsection (a), the  
20 Attorney General or State's Attorney shall retain from the  
21 forfeited moneys or sale proceeds, or both, sufficient moneys  
22 to cover expenses related to the administration and sale of the  
23 forfeited property.

24 (725 ILCS 5/124B-510 new)

1       Sec. 124B-510. Standard forfeiture provisions incorporated  
2 by reference. All of the provisions of Part 100 of this Article  
3 are incorporated by reference into this Part 500.

4           (725 ILCS 5/Art. 124B Pt. 600 heading new)

5                   Part 600. Computer Crime

6           (725 ILCS 5/124B-600 new)

7       Sec. 124B-600. Persons and property subject to forfeiture.  
8 A person who commits the offense of computer fraud as set forth  
9 in Section 16D-5 of the Criminal Code of 1961 shall forfeit any  
10 property that the sentencing court determines, after a  
11 forfeiture hearing under this Article, the person has acquired  
12 or maintained, directly or indirectly, in whole or in part, as  
13 a result of that offense. The person shall also forfeit any  
14 interest in, securities of, claim against, or contractual right  
15 of any kind that affords the person a source of influence over  
16 any enterprise that the person has established, operated,  
17 controlled, conducted, or participated in conducting, if the  
18 person's relationship to or connection with any such thing or  
19 activity directly or indirectly, in whole or in part, is  
20 traceable to any item or benefit that the person has obtained  
21 or acquired through computer fraud.

22           (725 ILCS 5/124B-605 new)

23       Sec. 124B-605. Distribution of property and sale proceeds.

1       (a) All moneys and the sale proceeds of all other property  
2 forfeited and seized under this Part 600 shall be distributed  
3 as follows:

4       (1) 50% shall be distributed to the unit of local  
5 government whose officers or employees conducted the  
6 investigation into computer fraud and caused the arrest or  
7 arrests and prosecution leading to the forfeiture. Amounts  
8 distributed to units of local government shall be used for  
9 training or enforcement purposes relating to detection,  
10 investigation, or prosecution of financial crimes,  
11 including computer fraud. If, however, the investigation,  
12 arrest or arrests, and prosecution leading to the  
13 forfeiture were undertaken solely by a State agency, the  
14 portion provided under this paragraph (1) shall be paid  
15 into the State Police Services Fund of the Illinois  
16 Department of State Police to be used for training or  
17 enforcement purposes relating to detection, investigation,  
18 or prosecution of financial crimes, including computer  
19 fraud.

20       (2) 50% shall be distributed to the county in which the  
21 prosecution and petition for forfeiture resulting in the  
22 forfeiture was instituted by the State's Attorney and shall  
23 be deposited into a special fund in the county treasury and  
24 appropriated to the State's Attorney for use in training or  
25 enforcement purposes relating to detection, investigation,  
26 or prosecution of financial crimes, including computer



1 fraud. If a prosecution and petition for forfeiture  
2 resulting in the forfeiture has been maintained by the  
3 Attorney General, 50% of the proceeds shall be paid into  
4 the Attorney General's Financial Crime Prevention Fund. If  
5 the Attorney General and the State's Attorney have  
6 participated jointly in any part of the proceedings, 25% of  
7 the proceeds forfeited shall be paid to the county in which  
8 the prosecution and petition for forfeiture resulting in  
9 the forfeiture occurred, and 25% shall be paid into the  
10 Attorney General's Financial Crime Prevention Fund to be  
11 used for the purposes stated in this paragraph (2).

12 (b) Before any distribution under subsection (a), the  
13 Attorney General or State's Attorney shall retain from the  
14 forfeited moneys or sale proceeds, or both, sufficient moneys  
15 to cover expenses related to the administration and sale of the  
16 forfeited property.

17 (725 ILCS 5/124B-610 new)

18 Sec. 124B-610. Computer used in commission of felony;  
19 forfeiture. If a person commits a felony under any provision of  
20 the Criminal Code of 1961 or another statute and the  
21 instrumentality used in the commission of the offense, or in  
22 connection with or in furtherance of a scheme or design to  
23 commit the offense, is a computer owned by the defendant (or,  
24 if the defendant is a minor, owned by the minor's parent or  
25 legal guardian), the computer is subject to forfeiture under

1 this Article. A computer, or any part of a computer, is not  
2 subject to forfeiture under this Article, however, under either  
3 of the following circumstances:

4 (1) The computer accessed in the commission of the  
5 offense was owned or leased by the victim or an innocent  
6 third party at the time the offense was committed.

7 (2) The rights of a creditor, lienholder, or person  
8 having a security interest in the computer at the time the  
9 offense was committed will be adversely affected.

10 (725 ILCS 5/124B-615 new)

11 Sec. 124B-615. Standard forfeiture provisions incorporated  
12 by reference. All of the provisions of Part 100 of this Article  
13 are incorporated by reference into this Part 600.

14 (725 ILCS 5/Art. 124B Pt. 700 heading new)

15 Part 700. WIC Fraud

16 (725 ILCS 5/124B-700 new)

17 Sec. 124B-700. Persons and property subject to forfeiture.  
18 A person who commits a felony violation of Article 17B of the  
19 Criminal Code of 1961 shall forfeit any property that the  
20 sentencing court determines, after a forfeiture hearing under  
21 this Article, (i) the person has acquired, in whole or in part,  
22 as a result of committing the violation or (ii) the person has  
23 maintained or used, in whole or in part, to facilitate,

1 directly or indirectly, the commission of the violation. The  
2 person shall also forfeit any interest in, securities of, claim  
3 against, or contractual right of any kind that affords the  
4 person a source of influence over any enterprise that the  
5 person has established, operated, controlled, conducted, or  
6 participated in conducting, if the person's relationship to or  
7 connection with any such thing or activity directly or  
8 indirectly, in whole or in part, is traceable to any item or  
9 benefit that the person has obtained or acquired as a result of  
10 a felony violation of Article 17B of the Criminal Code of 1961.  
11 Property subject to forfeiture under this Part 700 includes the  
12 following:

13 (1) All moneys, things of value, books, records, and  
14 research products and materials that are used or intended  
15 to be used in committing a felony violation of Article 17B  
16 of the Criminal Code of 1961.

17 (2) Everything of value furnished, or intended to be  
18 furnished, in exchange for a substance in violation of  
19 Article 17B of the Criminal Code of 1961; all proceeds  
20 traceable to that exchange; and all moneys, negotiable  
21 instruments, and securities used or intended to be used to  
22 commit or in any manner to facilitate the commission of a  
23 felony violation of Article 17B of the Criminal Code of  
24 1961.

25 (3) All real property, including any right, title, and  
26 interest (including, but not limited to, any leasehold

1 interest or the beneficial interest in a land trust) in the  
2 whole of any lot or tract of land and any appurtenances or  
3 improvements, that is used or intended to be used, in any  
4 manner or part, to commit or in any manner to facilitate  
5 the commission of a felony violation of Article 17B of the  
6 Criminal Code of 1961 or that is the proceeds of any act  
7 that constitutes a felony violation of Article 17B of the  
8 Criminal Code of 1961.

9 (725 ILCS 5/124B-705 new)

10 Sec. 124B-705. Seizure and inventory of property subject to  
11 forfeiture. Property taken or detained under this Part shall  
12 not be subject to replevin, but is deemed to be in the custody  
13 of the Director of State Police subject only to the order and  
14 judgments of the circuit court having jurisdiction over the  
15 forfeiture proceedings and the decisions of the Attorney  
16 General or State's Attorney under this Article. When property  
17 is seized under this Article, the seizing agency shall promptly  
18 conduct an inventory of the seized property and estimate the  
19 property's value and shall forward a copy of the estimate of  
20 the property's value to the Director of State Police. Upon  
21 receiving the notice of seizure, the Director may do any of the  
22 following:

23 (1) Place the property under seal.

24 (2) Remove the property to a place designated by the  
25 Director.

1           (3) Keep the property in the possession of the seizing  
2           agency.

3           (4) Remove the property to a storage area for  
4           safekeeping or, if the property is a negotiable instrument  
5           or money and is not needed for evidentiary purposes,  
6           deposit it in an interest bearing account.

7           (5) Place the property under constructive seizure by  
8           posting notice of the pending forfeiture on it, by giving  
9           notice of the pending forfeiture to its owners and interest  
10           holders, or by filing a notice of the pending forfeiture in  
11           any appropriate public record relating to the property.

12           (6) Provide for another agency or custodian, including  
13           an owner, secured party, or lienholder, to take custody of  
14           the property on terms and conditions set by the Director.

15           (725 ILCS 5/124B-710 new)

16           Sec. 124B-710. Sale of forfeited property by Director of  
17           State Police; return to seizing agency or prosecutor.

18           (a) The court shall authorize the Director of State Police  
19           to seize any property declared forfeited under this Article on  
20           terms and conditions the court deems proper.

21           (b) When property is forfeited under this Part 700, the  
22           Director of State Police shall sell the property unless the  
23           property is required by law to be destroyed or is harmful to  
24           the public. The Director shall distribute the proceeds of the  
25           sale, together with any moneys forfeited or seized, in

1 accordance with Section 124B-715.

2 (c) On the application of the seizing agency or prosecutor  
3 who was responsible for the investigation, arrest, and  
4 prosecution that lead to the forfeiture, however, the Director  
5 may return any item of forfeited property to the seizing agency  
6 or prosecutor for official use in the enforcement of laws  
7 relating to Article 17B of the Criminal Code of 1961 if the  
8 agency or prosecutor can demonstrate that the item requested  
9 would be useful to the agency or prosecutor in their  
10 enforcement efforts. When any real property returned to the  
11 seizing agency is sold by the agency or its unit of government,  
12 the proceeds of the sale shall be delivered to the Director and  
13 distributed in accordance with Section 124B-715.

14 (725 ILCS 5/124B-715 new)

15 Sec. 124B-715. Distribution of all other property and sale  
16 proceeds. All moneys and the sale proceeds of all property  
17 forfeited and seized under this Part 700 and not returned to a  
18 seizing agency or prosecutor under subsection (c) of Section  
19 124B-705 shall be distributed to the Special Supplemental Food  
20 Program for Women, Infants and Children (WIC) program  
21 administered by the Illinois Department of Human Services.

22 (725 ILCS 5/124B-720 new)

23 Sec. 124B-720. Standard forfeiture provisions incorporated  
24 by reference. All of the provisions of Part 100 of this Article

1 are incorporated by reference into this Part 700.

2 (725 ILCS 5/Art. 124B Pt. 800 heading new)

3 Part 800. Terrorism

4 (725 ILCS 5/124B-800 new)

5 Sec. 124B-800. Persons and property subject to forfeiture.

6 (a) A person who commits an offense under Article 29D of  
7 the Criminal Code of 1961 shall forfeit any property that the  
8 sentencing court determines, after a forfeiture hearing under  
9 this Article, (i) the person has acquired or maintained,  
10 directly or indirectly, in whole or in part, as a result of the  
11 offense or (ii) the person used, was about to use, or intended  
12 to use in connection with the offense. The person shall also  
13 forfeit any interest in, securities of, claim against, or  
14 contractual right of any kind that affords the person a source  
15 of influence over any enterprise that the person has  
16 established, operated, controlled, conducted, or participated  
17 in conducting, if the person's relationship to or connection  
18 with any such thing or activity directly or indirectly, in  
19 whole or in part, is traceable to any item or benefit that the  
20 person has obtained or acquired as a result of a violation of  
21 Article 29D of the Criminal Code of 1961 or that the person  
22 used, was about to use, or intended to use in connection with a  
23 violation of Article 29D of the Criminal Code of 1961.

24 (b) For purposes of this Part 800, "person" has the meaning

1 given in Section 124B-115 of this Code and, in addition to that  
2 meaning, includes, without limitation, any charitable  
3 organization, whether incorporated or unincorporated, any  
4 professional fund raiser, professional solicitor, limited  
5 liability company, association, joint stock company,  
6 association, trust, trustee, or any group of people formally or  
7 informally affiliated or associated for a common purpose, and  
8 any officer, director, partner, member, or agent of any person.

9 (725 ILCS 5/124B-805 new)

10 Sec. 124B-805. Asset freeze or seizure; ex parte  
11 proceeding.

12 (a) Whenever it appears that there is probable cause to  
13 believe that any person used, is using, is about to use, or is  
14 intending to use property in any way that constitutes or would  
15 constitute an offense as defined in this Article, the Attorney  
16 General or any State's Attorney may make an ex parte  
17 application to the circuit court to freeze or seize all assets  
18 of that person. Upon a showing of probable cause in the ex  
19 parte hearing, the circuit court shall issue an order to freeze  
20 or seize all assets of that person. A copy of the freeze or  
21 seize order shall be served upon the person whose property has  
22 been frozen or seized.

23 (b) At any time within 30 days after service of the order  
24 to freeze or seize property, the person whose property was  
25 ordered frozen or seized, or any person claiming an interest in



1 the property, may file a motion to release his or her property.

2 The court shall hold a hearing on the motion within 10 days.

3 (c) In any proceeding to release property, the burden of  
4 proof shall be by a preponderance of evidence and shall be on  
5 the State to show that the person used, was using, is about to  
6 use, or is intending to use any property in any way that  
7 constitutes or would constitute an offense as defined in this  
8 Article. If the court finds that any property was being used,  
9 is about to be used, or is intended to be used in any way that  
10 constitutes or would constitute an offense as defined in this  
11 Article, the court shall order the property frozen or held  
12 until further order of the court. Any property so ordered held  
13 or frozen is subject to forfeiture under the procedures set  
14 forth in this Article.

15 (d) Upon the request of the defendant, the court may  
16 release property frozen or seized under this Section in an  
17 amount sufficient to pay attorney's fees for representation of  
18 the defendant at a hearing conducted under this Article.

19 (725 ILCS 5/124B-810 new)

20 Sec. 124B-810. Forfeiture hearing following property  
21 freeze or seizure.

22 (a) If a person having any property interest in property  
23 frozen or seized under Section 124B-805 is charged with an  
24 offense within 60 days after the property is frozen or seized,  
25 the court that renders judgment on the charge shall conduct a

1 forfeiture hearing within 30 days after the judgment to  
2 determine whether the property (i) was used, about to be used,  
3 or intended to be used to commit an offense as defined in this  
4 Article or in connection with any such offense or (ii) was  
5 integrally related to any offense as defined in this Article or  
6 intended offense as defined in this Article.

7 (b) The State shall commence a forfeiture proceeding under  
8 subsection (a) by filing a written petition with the court. The  
9 petition must be verified and must include the following:

10 (1) Material allegations of fact.

11 (2) The name and address of every person determined by  
12 the State to have any property interest in the frozen or  
13 seized property.

14 (3) A representation that written notice of the date,  
15 time, and place of the forfeiture hearing has been mailed  
16 to every person described in paragraph (2) by certified  
17 mail at least 10 days before the date.

18 (4) A request for forfeiture.

19 (c) Every person described in paragraph (2) of subsection  
20 (b) may appear as a party and present evidence at the hearing.  
21 The quantum of proof required is a preponderance of the  
22 evidence, and the burden of proof is on the State.

23 (d) If the court determines that the frozen or seized  
24 property was used, about to be used, or intended to be used to  
25 commit an offense as defined in this Article or in connection  
26 with any such offense, or was integrally related to any offense

1 as defined in this Article or intended offense as defined in  
2 this Article, the court shall enter an order of forfeiture and  
3 disposition of the frozen or seized property. All property  
4 forfeited may be liquidated, and the resultant money, together  
5 with any other money forfeited, shall be distributed as set  
6 forth in this Article.

7 (725 ILCS 5/124B-815 new)

8 Sec. 124B-815. No release of property for payment of  
9 attorney's fees. No judge shall release any property that is  
10 the subject of a petition filed under subsection (b) of Section  
11 124B-810 or a hearing conducted under Section 124B-150 or  
12 124B-160 for the payment of attorney's fees for any person  
13 claiming an interest in that property.

14 (725 ILCS 5/124B-820 new)

15 Sec. 124B-820. No offense charged or no conviction; in rem  
16 proceeding.

17 (a) If a person is not charged with an offense within 60  
18 days after property is frozen or seized under Section 124B-805,  
19 or if the prosecution of the charge is permanently terminated  
20 or indefinitely discontinued without any judgment of  
21 conviction, or if a judgment of acquittal is entered, the  
22 Attorney General or State's Attorney shall immediately  
23 commence an in rem proceeding for the forfeiture of any frozen  
24 or seized property in the circuit court by filing a complaint

1 that contains the same information as required in a petition  
2 under subsection (b) of Section 124B-810. The court shall  
3 conduct the in rem proceeding in the same manner as other  
4 forfeiture proceedings under this Article.

5 (b) Any person having any property interest in the frozen  
6 or seized property may commence a separate civil proceeding in  
7 the manner provided by law.

8 (725 ILCS 5/124B-825 new)

9 Sec. 124B-825. Distribution of property and sale proceeds.  
10 After the deduction of all requisite expenses of administration  
11 and sale, the Attorney General or State's Attorney shall  
12 distribute the proceeds of the sale of forfeited property,  
13 along with any property forfeited or seized, between  
14 participating law enforcement agencies in equitable portions  
15 as determined by the court entering the forfeiture order.

16 (725 ILCS 5/124B-830 new)

17 Sec. 124B-830. Standard forfeiture provisions incorporated  
18 by reference. All of the provisions of Part 100 of this Article  
19 are incorporated by reference into this Part 800.

20 (725 ILCS 5/Art. 124B Pt. 900 heading new)

21 Part 900. Animals

22 (725 ILCS 5/124B-900 new)

1       Sec. 124B-900. Legislative declaration. The General  
2 Assembly finds that the forfeiture of real property that is  
3 used or intended to be used in connection with any show,  
4 exhibition, program, or other activity featuring or otherwise  
5 involving a fight between an animal and any other animal or  
6 human or involving the intentional killing of any animal for  
7 the purpose of sport, wagering, or entertainment will have a  
8 significant beneficial effect in deterring the rising  
9 incidence of those activities within this State, as well as  
10 other crimes that frequently occur in partnership with animal  
11 fighting, such as illegal gambling, possession of narcotics,  
12 and weapons violations.

13           (725 ILCS 5/124B-905 new)

14       Sec. 124B-905. Persons and property subject to forfeiture.  
15 A person who commits a felony violation of Section 4.01 of the  
16 Humane Care for Animals Act or a felony violation of Section  
17 26-5 of the Criminal Code of 1961 shall forfeit the following:

18           (1) Any moneys, profits, or proceeds the person  
19 acquired, in whole or in part, as a result of committing  
20 the violation.

21           (2) Any real property or interest in real property that  
22 the sentencing court determines, after a forfeiture  
23 hearing under this Article, (i) the person has acquired, in  
24 whole or in part, as a result of committing the violation  
25 or (ii) the person has maintained or used, in whole or in

1 part, to facilitate, directly or indirectly, the  
2 commission of the violation. Real property subject to  
3 forfeiture under this Part 900 includes property that  
4 belongs to any of the following:

5 (A) The person organizing the show, exhibition,  
6 program, or other activity described in subsections  
7 (a) through (g) of Section 4.01 of the Humane Care for  
8 Animals Act or Section 26-5 of the Criminal Code of  
9 1961.

10 (B) Any other person participating in the activity  
11 described in subsections (a) through (g) of Section  
12 4.01 of the Humane Care for Animals Act or Section 26-5  
13 of the Criminal Code of 1961 who is related to the  
14 organization and operation of the activity.

15 (C) Any person who knowingly allowed the  
16 activities to occur on his or her premises.

17 The person shall also forfeit any interest in, securities  
18 of, claim against, or contractual right of any kind that  
19 affords the person a source of influence over any enterprise  
20 that the person has established, operated, controlled,  
21 conducted, or participated in conducting, if the person's  
22 relationship to or connection with any such thing or activity  
23 directly or indirectly, in whole or in part, is traceable to  
24 any item or benefit that the person has obtained or acquired as  
25 a result of a felony violation of Section 4.01 of the Humane  
26 Care for Animals Act or a felony violation of Section 26-5 of

1 the Criminal Code of 1961.

2 (725 ILCS 5/124B-910 new)

3 Sec. 124B-910. Notice to or service on owner or interest  
4 holder.

5 (a) Whenever notice of pending forfeiture or service of an  
6 in rem complaint is required under this Article, the notice or  
7 service shall be given or made as follows:

8 (1) If the owner's or interest holder's name and  
9 current address are known, then notice or service shall be  
10 given or made either by personal service or by mailing a  
11 copy of the notice by certified mail, return receipt  
12 requested, to that address. For purposes of notice under  
13 this Section, if a person has been arrested for the conduct  
14 giving rise to the forfeiture, then the address provided to  
15 the arresting agency at the time of arrest shall be deemed  
16 to be that person's known address. If an owner's or  
17 interest holder's address changes before the effective  
18 date of the notice of pending forfeiture, however, the  
19 owner or interest holder shall promptly notify the seizing  
20 agency of the change in address. If the owner's or interest  
21 holder's address changes after the effective date of the  
22 notice of pending forfeiture, the owner or interest holder  
23 shall promptly notify the State's Attorney or Attorney  
24 General of the change in address.

25 (2) If the property seized is a conveyance, then notice

1       or service shall be given or made to the address reflected  
2       in the office of the agency or official in which title or  
3       interest to the conveyance is required by law to be  
4       recorded. Notice shall be given by mailing a copy of the  
5       notice by certified mail, return receipt requested, to that  
6       address.

7           (3) If the owner's or interest holder's address is not  
8       known and is not on record as provided in paragraph (2),  
9       then notice of pending forfeiture shall be given by  
10       publication for 3 successive weeks in a newspaper of  
11       general circulation in the county in which the seizure  
12       occurred.

13       (b) Notice of pending forfeiture served under this Article  
14       is effective upon personal service, the last date of  
15       publication, or the mailing of written notice, whichever is  
16       earlier.

17           (725 ILCS 5/124B-915 new)

18       Sec. 124B-915. Property vests in State. All property  
19       declared forfeited under this Article vests in the State on the  
20       date of the commission of the conduct giving rise to  
21       forfeiture, together with the proceeds of the property after  
22       that time. Any such property or proceeds subsequently  
23       transferred to any person remain subject to forfeiture and  
24       thereafter shall be ordered forfeited unless the transferee  
25       claims and establishes in a hearing under the provisions of



1 this Article that the transferee's interest is exempt from  
2 forfeiture.

3 (725 ILCS 5/124B-920 new)

4 Sec. 124B-920. Defendant precluded from later denying the  
5 essential allegations of the offense. A defendant convicted in  
6 any criminal proceeding is precluded from later denying the  
7 essential allegations of the criminal offense of which the  
8 defendant was convicted in any proceeding under this Article  
9 regardless of the pendency of an appeal from that conviction.  
10 However, evidence of the pendency of an appeal is admissible.

11 (725 ILCS 5/124B-925 new)

12 Sec. 124B-925. Settlement of claims. Notwithstanding any  
13 other provision of this Article, the Attorney General or  
14 State's Attorney and a claimant of seized property may enter  
15 into an agreed-upon settlement concerning the seized property  
16 in an amount and upon terms that are set out in writing in a  
17 settlement agreement.

18 (725 ILCS 5/124B-930 new)

19 Sec. 124B-930. Disposal of property.

20 (a) Real property taken or detained under this Part is not  
21 subject to replevin, but is deemed to be in the custody of the  
22 Director of State Police subject only to the order and  
23 judgments of the circuit court having jurisdiction over the

1 forfeiture proceedings and the decisions of the State's  
2 Attorney or Attorney General under this Article.

3 (b) When property is forfeited under this Article, the  
4 Director of State Police shall sell all such property and shall  
5 distribute the proceeds of the sale, together with any moneys  
6 forfeited or seized, in accordance with Section 124B-935.

7 (725 ILCS 5/124B-935 new)

8 Sec. 124B-935. Distribution of property and sale proceeds.  
9 All moneys and the sale proceeds of all other property  
10 forfeited and seized under this Part 900 shall be distributed  
11 as follows:

12 (1) 65% shall be distributed to the local, municipal,  
13 county, or State law enforcement agency or agencies that  
14 conducted or participated in the investigation resulting  
15 in the forfeiture. The distribution shall bear a reasonable  
16 relationship to the degree of direct participation of the  
17 law enforcement agency in the effort resulting in the  
18 forfeiture, taking into account the total value of the  
19 property forfeited and the total law enforcement effort  
20 with respect to the violation of the law upon which the  
21 forfeiture is based.

22 (2) 12.5% shall be distributed to the Office of the  
23 State's Attorney of the county in which the prosecution  
24 resulting in the forfeiture was instituted for use in the  
25 enforcement of laws, including laws governing animal

1 fighting.

2 (3) 12.5% shall be distributed to the Illinois  
3 Department of Agriculture for reimbursement of expenses  
4 incurred in the investigation, prosecution, and appeal of  
5 cases arising under laws governing animal fighting.

6 (4) 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 (725 ILCS 5/124B-940 new)

10 Sec. 124B-940. Standard forfeiture provisions incorporated  
11 by reference. All of the provisions of Part 100 of this Article  
12 are incorporated by reference into this Part 900.

13 Section 20. The Violent Crime Victims Assistance Act is  
14 amended by changing Section 10 as follows:

15 (725 ILCS 240/10) (from Ch. 70, par. 510)

16 Sec. 10. Violent Crime Victims Assistance Fund.

17 (a) The "Violent Crime Victims Assistance Fund" is created  
18 as a special fund in the State Treasury to provide monies for  
19 the grants to be awarded under this Act.

20 (b) On and after September 18, 1986, there shall be an  
21 additional penalty collected from each defendant upon  
22 conviction of any felony or upon conviction of or disposition  
23 of supervision for any misdemeanor, or upon conviction of or

1 disposition of supervision for any offense under the Illinois  
2 Vehicle Code, exclusive of offenses enumerated in paragraph  
3 (a)(2) of Section 6-204 of that Code, and exclusive of any  
4 offense enumerated in Article VI of Chapter 11 of that Code  
5 relating to restrictions, regulations and limitations on the  
6 speed at which a motor vehicle is driven or operated, an  
7 additional penalty of \$4 for each \$40, or fraction thereof, of  
8 fine imposed. Such additional amounts shall be collected by the  
9 Clerk of the Circuit Court in addition to the fine and costs in  
10 the case. Each such additional penalty collected under this  
11 subsection (b) or subsection (c) of this Section shall be  
12 remitted by the Clerk of the Circuit Court within one month  
13 after receipt to the State Treasurer for deposit into the  
14 Violent Crime Victims Assistance Fund, except as provided in  
15 subsection (g) of this Section. Such additional penalty shall  
16 not be considered a part of the fine for purposes of any  
17 reduction made in the fine for time served either before or  
18 after sentencing. Not later than March 1 of each year the Clerk  
19 of the Circuit Court shall submit to the State Comptroller a  
20 report of the amount of funds remitted by him to the State  
21 Treasurer under this Section during the preceding calendar  
22 year. Except as otherwise provided by Supreme Court Rules, if a  
23 court in sentencing an offender levies a gross amount for fine,  
24 costs, fees and penalties, the amount of the additional penalty  
25 provided for herein shall be computed on the amount remaining  
26 after deducting from the gross amount levied all fees of the

1 Circuit Clerk, the State's Attorney and the Sheriff. After  
2 deducting from the gross amount levied the fees and additional  
3 penalty provided for herein, less any other additional  
4 penalties provided by law, the clerk shall remit the net  
5 balance remaining to the entity authorized by law to receive  
6 the fine imposed in the case. For purposes of this Section  
7 "fees of the Circuit Clerk" shall include, if applicable, the  
8 fee provided for under Section 27.3a of the Clerks of Courts  
9 Act and the fee, if applicable, payable to the county in which  
10 the violation occurred pursuant to Section 5-1101 of the  
11 Counties Code.

12 (c) When any person is convicted in Illinois on or after  
13 August 28, 1986, of an offense listed below, or placed on  
14 supervision for such an offense on or after September 18, 1986,  
15 and no other fine is imposed, the following penalty shall be  
16 collected by the Circuit Court Clerk:

17 (1) \$25, for any crime of violence as defined in  
18 subsection (c) of Section 2 of the Crime Victims  
19 Compensation Act; and

20 (2) \$20, for any other felony or misdemeanor, excluding  
21 any conservation offense.

22 Such charge shall not be subject to the provisions of  
23 Section 110-14 of the Code of Criminal Procedure of 1963.

24 (d) Monies forfeited, and proceeds from the sale of  
25 property forfeited and seized, under the forfeiture provisions  
26 set forth in Part 500 of Article 124B of the Code of Criminal

1 Procedure of 1963 ~~of Section 11-20.1A of the Criminal Code of~~  
2 ~~1961~~ shall be accepted for the Violent Crime Victims Assistance  
3 Fund.

4 (e) Investment income which is attributable to the  
5 investment of monies in the Violent Crime Victims Assistance  
6 Fund shall be credited to that fund for uses specified in this  
7 Act. The Treasurer shall provide the Attorney General a monthly  
8 status report on the amount of money in the Fund.

9 (f) Monies from the fund may be granted on and after July  
10 1, 1984.

11 (g) All amounts and charges imposed under this Section for  
12 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
13 Vehicle Code, or a similar provision of a local ordinance, or  
14 any violation of the Child Passenger Protection Act, or a  
15 similar provision of a local ordinance, shall be collected and  
16 disbursed by the circuit clerk as provided under Section 27.5  
17 of the Clerks of Courts Act.

18 (Source: P.A. 89-688, eff. 6-1-97; 90-372, eff. 7-1-98.)

19 Section 99. Effective date. This Act takes effect January  
20 1, 2010."