



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB6167

by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. Adds the Gang Influenced and Criminal Organizations Law (GICO) as a new Article of the Code. Provides that it is unlawful for any person: (1) who is employed by or associated with any enterprise, knowingly to conduct or participate, directly or indirectly, in the enterprise's affairs through either a pattern of predicate activity or the collection of unlawful debt; or (2) knowingly to acquire or maintain, directly or indirectly, through either a pattern of predicate activity or the collection of unlawful debt, any interest in, or control of, to any degree, any enterprise, real property, or personal property of any character, including money. Defines "pattern of predicate activity". Provides criminal penalties and for seizure and forfeiture of property derived from the pattern of predicate activity. Amends the Code of Criminal Procedure of 1963. Authorizes the court to issue an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit predicate activity under GICO. Amends the Statewide Grand Jury Act. Permits the convening of a Statewide Grand Jury to investigate and return indictments for violations of the Gang Influenced and Criminal Organizations Law. Effective immediately.

LRB097 21216 RLC 68805 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by adding  
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G. GANG INFLUENCED AND CRIMINAL ORGANIZATIONS LAW

8 (720 ILCS 5/33G-1 new)

9 Sec. 33G-1. Short title. This Article may be cited as the  
10 Gang Influenced and Criminal Organizations Law (or "GICO").

11 (720 ILCS 5/33G-5 new)

12 Sec. 33G-5. Definitions. As used in this Article:

13 (a) "Another state" means any state of the United States  
14 (other than the State of Illinois), or the District of  
15 Columbia, or the Commonwealth of Puerto Rico, or any territory  
16 or possession of the United States, or any political  
17 subdivision, or any department, agency, or instrumentality  
18 thereof.

19 (b) "Enterprise" includes (1) any individual, sole  
20 proprietorship, partnership, corporation, association,  
21 business or charitable trust or other legal entity, and (2) any

1 union or group of individuals, sole proprietorships,  
2 partnerships, corporations, associations, business or  
3 charitable trusts or other legal entities, or any combination  
4 thereof, associated in fact although not itself a legal entity.  
5 An association in fact must be held together by a common  
6 purpose, apart from an individual purpose or purposes, but it  
7 need not be hierarchically structured or otherwise specially  
8 configured. As used in this Article, "enterprise" includes  
9 licit and illicit enterprises, as well as the State of Illinois  
10 and any political subdivision, or any department, agency, or  
11 instrumentality thereof.

12 (c) "Predicate activity" means:

13 (1) any act, attempt, endeavor, solicitation, or  
14 conspiracy that is punishable by imprisonment for more than  
15 one year, and constitutes a violation or violations of any  
16 of the following provisions of the laws of the State of  
17 Illinois (as amended or revised as of the date the activity  
18 occurred or, in the instance of a continuing offense, the  
19 date that charges under this Article are filed in a  
20 particular matter in the State of Illinois):

21 (i) under the Criminal Code of 1961: 8-1.2  
22 (solicitation of murder for hire), 9-1 (first degree  
23 murder), 9-3.3 (drug-induced homicide), 9-3.4 or 9-3.1  
24 (concealment of homicidal death), 10-1 (kidnapping),  
25 10-2 (aggravated kidnapping), 10-3 (unlawful  
26 restraint), 10-3.1 (aggravated unlawful restraint),

1           10-4 (forcible detention), 10-5 (child abduction),  
2           10-7 (aiding and abetting child abduction), 10-9  
3           (trafficking in persons, involuntary servitude, and  
4           related offenses), 11-1.20 or 12-13 (criminal sexual  
5           assault), 11-1.30 or 12-14 (aggravated criminal sexual  
6           assault), 11-1.40 or 12-14.1 (predatory criminal  
7           sexual assault of a child), 11-1.60 or 12-16  
8           (aggravated criminal sexual abuse), 11-6 (indecent  
9           solicitation of a child), 11-6.5 (indecent  
10           solicitation of an adult), 11-9.1 (sexual exploitation  
11           of a child), 11-9.2 (custodial sexual misconduct),  
12           11-14.3(a) (2) (A) and (a) (2) (B) (promoting  
13           prostitution), 11-14.4 (promoting juvenile  
14           prostitution), 11-15.1 (soliciting for a juvenile  
15           prostitute), 11-16 (pandering), 11-17.1 (keeping a  
16           place of juvenile prostitution), 11-18.1 (patronizing  
17           a minor engaged in prostitution; patronizing a  
18           juvenile prostitute), 11-19.1 (juvenile pimping and  
19           aggravated juvenile pimping), 11-19.2 (exploitation of  
20           a child), 12-2 (aggravated assault), 12-3.05 or 12-4  
21           (aggravated battery), 12-4.1 (heinous battery), 12-4.2  
22           (aggravated battery with a firearm), 12-4.2-5  
23           (aggravated battery with a machine gun or  
24           silencer-equipped firearm), 12-4.7 (drug-induced  
25           infliction of great bodily harm), 12-6.4 (criminal  
26           street gang recruitment), 12-6.5 or 12-6.1 (compelling

1 organization membership of persons), 12-7.3  
2 (stalking), 12-7.4 (aggravated stalking), 12-7.5  
3 (cyber-stalking), 12-11 (home invasion), 12-11.1  
4 (vehicular invasion), 18-1 (robbery), 18-2 (armed  
5 robbery), 18-3 (vehicular hijacking), 18-4 (aggravated  
6 vehicular hijacking), 18-5 (aggravated robbery), 19-1  
7 (burglary), 19-2 (possession of burglary tools), 19-3  
8 (residential burglary), 20-1 (arson), 20-1.1  
9 (aggravated arson), 20-1.2 (residential arson), 20-1.3  
10 (place of worship arson), 20-2 (possession of  
11 explosives), 24-1.2 (aggravated discharge of a  
12 firearm), 24-1.2-5 (aggravated discharge of a machine  
13 gun or silencer equipped firearm), 24-1.6 (aggravated  
14 unlawful use of a weapon), 24-1.8 (unlawful possession  
15 of a firearm by a street gang member), 24-2.2 (unlawful  
16 ammunition), 24-3 (unlawful sale of firearms), 24-3.2  
17 (unlawful discharge of firearm projectiles), 24-3.9 or  
18 16-16.1 (aggravated possession of a stolen firearm),  
19 24-3A (gunrunning), 24-5 (defacing a firearm), 26-5  
20 (dog-fighting), 29D-14.9 or 29D-30 (terrorism), 29D-15  
21 (soliciting support for terrorism), 29D-15.1 or 20.5-5  
22 (causing a catastrophe), 29D-15.2 or 20.5-6  
23 (possession of a deadly substance), 29D-20 (making a  
24 terrorist threat), 29D-25 (falsely making a terrorist  
25 threat), 29D-29.9 (material support for terrorism),  
26 29D-35 (hindering prosecution of terrorism), 31A-1.2

1 (unauthorized contraband in a penal institution), or  
2 33A-3 (armed violence);

3 (ii) under the Cannabis Control Act: Sections 5  
4 (manufacture or delivery of cannabis), 5.1 (cannabis  
5 trafficking), or 8 (production or possession of  
6 cannabis plants);

7 (iii) under the Illinois Controlled Substances  
8 Act: Sections 401 (manufacture or delivery of a  
9 controlled substance), 401.1 (controlled substance  
10 trafficking), 405 (calculated criminal drug  
11 conspiracy), 405.1 (criminal drug conspiracy), 405.2  
12 (street gang criminal drug conspiracy), or 406.1  
13 (unlawful use of buildings to produce controlled  
14 substances);

15 (iv) under the Methamphetamine Control and  
16 Community Protection Act: Sections 15 (methamphetamine  
17 manufacturing), or 55 (methamphetamine delivery); or

18 (2) any act, attempt, endeavor, solicitation, or  
19 conspiracy involving predicate activity.

20 (d) "Pattern of predicate activity" means: (1) at least 2  
21 occurrences of predicate activity related to the affairs of an  
22 enterprise in the form of an act, attempt, endeavor,  
23 solicitation, or conspiracy, or any combination thereof; and  
24 (2) at least one of which falls after the effective date of  
25 this Article, and the last of which falls within 10 years  
26 (excluding any period of imprisonment) after the prior

1 occurrence of predicate activity.

2 (e) "Unlawful debt" means a debt (1) incurred or contracted  
3 in the business of gambling activity that was in violation of  
4 the law of the United States, or the State of Illinois or  
5 another state, or any political subdivision thereof, and that  
6 is unenforceable under Federal law, or the laws of the State of  
7 Illinois or another state, in whole or in part as to principal  
8 or interest, or (2) that was incurred in connection with the  
9 business of lending money or other things of value in violation  
10 of the laws of the United States, or the laws of the State of  
11 Illinois or another state, or a political subdivision thereof,  
12 at a rate usurious under Federal law, or the laws of the State  
13 of Illinois or another state, where the usurious rate is at  
14 least twice the enforceable rate.

15 (f) "Unlawful death" includes the following offenses under  
16 the Criminal Code of 1961: Section 9-1 (first degree murder),  
17 9-2 (second degree murder), 9-3 (voluntary manslaughter and  
18 reckless homicide), or 9-3.2 (involuntary manslaughter).

19 (g) "GICO prosecutor" means any State's Attorney, or any of  
20 his or her representatives so designated by the State's  
21 Attorney, under the laws or regulations of the State or any  
22 political subdivision thereof, who is charged with the duty of  
23 enforcing or carrying into effect this Article. "Prosecutor"  
24 also includes the Attorney General upon the granting of an  
25 application under the Statewide Grand Jury Act.

1 (720 ILCS 5/33G-10 new)

2 Sec. 33G-10. Prohibited activities. Under this Article:

3 (a) It is unlawful for any person: (1) who is employed by  
4 or associated with any enterprise, knowingly to conduct or  
5 participate, directly or indirectly, in the enterprise's  
6 affairs through either a pattern of predicate activity or the  
7 collection of unlawful debt; or (2) knowingly to acquire or  
8 maintain, directly or indirectly, through either a pattern of  
9 predicate activity or the collection of unlawful debt, any  
10 interest in, or control of, to any degree, of any enterprise,  
11 real property, or personal property of any character, including  
12 money.

13 (b) It is unlawful for any person knowingly to attempt to  
14 violate, or knowingly conspire to violate, this Article.  
15 Notwithstanding any other provision of law, in any prosecution  
16 for a conspiracy to violate this Article, no person may be  
17 convicted of the conspiracy unless an overt act in furtherance  
18 of the agreement is alleged and proved to have been committed  
19 by him or by a coconspirator. The commission of the overt act  
20 need not itself constitute predicate activity underlying the  
21 specific violation of this Article.

22 (c) The application of a remedy under this Article shall  
23 not preclude the application of other criminal, civil or  
24 administrative remedies under this Article or any other  
25 provision of law. Any person prosecuted under this Article may  
26 be convicted and sentenced either: (1) for the offense of



1 attempting or conspiring to violate this Article, and for any  
2 other particular offense or offenses that may constitute an  
3 object of the attempt or conspiracy to violate this Article; or  
4 (2) for the substantive offense of violating this Article, and  
5 for any other particular offense or offenses that may  
6 constitute predicate activity underlying a violation of this  
7 Article.

8 (d) It is not a defense to any violation of this Article  
9 that a defendant has been formerly prosecuted for an offense  
10 based upon the same facts, within the meaning of Section 3-4 of  
11 this Code, that thereafter serves as any portion of the  
12 underlying predicate activity in a subsequent prosecution for  
13 any violation of this Article, unless the former prosecution  
14 was terminated by a final order or judgment, even if entered  
15 before trial, which required a determination inconsistent with  
16 any fact necessary to a conviction in the subsequent  
17 prosecution under this Article.

18 (720 ILCS 5/33G-15 new)

19 Sec. 33G-15. Penalties. Under this Article,  
20 notwithstanding any other provision of law:

21 (a) Any violation of this Article shall be sentenced as a  
22 Class X felony with a term of imprisonment of not less than 6  
23 years and not more than 30 years, and the sentence imposed  
24 shall also include restitution or a criminal fine, or both,  
25 jointly and severally, up to \$250,000 or twice the gross amount

1 of any intended loss of the violation, if any, whichever is  
2 higher.

3 (b) Wherever the unlawful death of any person or persons  
4 results as a necessary or natural consequence of any violation  
5 of this Article, the sentence imposed on the defendant shall  
6 include an enhanced term of imprisonment of at least 25 years  
7 up to natural life, in addition to any other penalty imposed by  
8 the court, provided: (1) the death or deaths were reasonably  
9 foreseeable to the defendant to be sentenced; and (2) the death  
10 or deaths occurred when the defendant was otherwise engaged in  
11 the violation of this Article as a whole.

12 (c) A sentence of probation, periodic imprisonment,  
13 conditional discharge, impact incarceration or county impact  
14 incarceration, court supervision, withheld adjudication, or  
15 any pretrial diversionary sentence or suspended sentence, is  
16 not authorized for a violation of this Article.

17 (720 ILCS 5/33G-20 new)

18 Sec. 33G-20. Remedial proceedings, procedures, and  
19 forfeiture. Under this Article:

20 (a) The courts shall have jurisdiction to prevent and  
21 restrain violations of this Article by issuing appropriate  
22 orders, including: (1) ordering any person to disgorge illicit  
23 proceeds obtained by a violation of this Article or divest  
24 himself or herself of any interest, direct or indirect, in any  
25 enterprise or real or personal property of any character,

1 including money, obtained, directly or indirectly, by a  
2 violation of this Article; (2) imposing reasonable  
3 restrictions on the future activities or investments of any  
4 person or enterprise, including prohibiting any person or  
5 enterprise from engaging in the same type of endeavor as the  
6 person or enterprise engaged in, that violated this Article; or  
7 (3) ordering dissolution or reorganization of any enterprise,  
8 making due provision for the rights of innocent persons.

9 (b) The United States, another state, or the State of  
10 Illinois, or any political subdivision, or any department,  
11 agency, or instrumentality thereof, or any person (subject to a  
12 substantially equal involvement defense) or the person's  
13 estate, injured in his or her person, business, or property by  
14 reason of a violation, directly or indirectly, of this Article,  
15 may sue in any appropriate court and shall recover threefold  
16 any damages sustained and the costs of the suit, including a  
17 reasonable attorney's fee at the trial and appellate level, and  
18 any equitable remedy justice requires, including injunctions,  
19 declaratory judgments, divestiture, accounting or  
20 disgorgement. Pending final determination thereof, the court  
21 may at any time enter the restraining orders or prohibitions,  
22 or take other actions, including the acceptance of satisfactory  
23 performance bonds, as it shall deem proper. Satisfactory  
24 performance bonds shall not be required of the United States,  
25 another state, or the State of Illinois, or any political  
26 subdivision, or any department, agency, or instrumentality

1 thereof. The existence of a criminal conviction or  
2 investigation for the alleged violation of this Article is not  
3 a prerequisite to any proceeding hereunder, but a final  
4 judgment entered in favor of the People of the State of  
5 Illinois in any criminal proceeding brought under this Article  
6 shall estop the defendant in the criminal case from denying the  
7 material allegations of the criminal violation in any  
8 subsequent civil or administrative proceeding brought under  
9 this Article.

10 (c) Notwithstanding any other provision of law, the court  
11 shall, for any violation of this Article, order criminal or  
12 civil forfeiture, in personam or in rem, jointly and severally,  
13 of any interest or property the person has acquired or  
14 maintained in violation of this Article, or any interest in,  
15 security of, or claim against, or property or contractual right  
16 of any kind affording a source of influence of any degree over,  
17 any enterprise that the person has established, operated,  
18 controlled, conducted, or participated in, in violation of this  
19 Article, as well as any property constituting, or derived from,  
20 any proceeds, including money, that the person obtained,  
21 directly or indirectly, from predicate activity or unlawful  
22 debt collection in violation of this Article. Any court, in  
23 imposing sentence on the person, shall order, in addition to  
24 any other sentence imposed under this Article, that the person  
25 forfeit to the State of Illinois all property described in this  
26 Article. The property and interests subject to criminal or

1 civil forfeiture under this Article include any real property,  
2 including things growing on, affixed to, and found in land, and  
3 any tangible and intangible personal property, including  
4 rights, privileges, interests, claims, and securities. All  
5 right, title, and interest in property described in this  
6 Article vests in the State of Illinois upon the inception of  
7 the illicit agreement or commission of any act otherwise giving  
8 rise to forfeiture under this Article. The court shall further  
9 order the criminal or civil forfeiture of any other property of  
10 the defendant up to the value of the property described in this  
11 Article if, as a result of any act or omission of the  
12 defendant, the property subject to forfeiture: (1) cannot be  
13 located upon the exercise of due diligence; (2) has been  
14 transferred or sold to, or deposited with, a third party; (3)  
15 has been placed beyond the jurisdiction of the court; (4) has  
16 been substantially diminished in value; or (5) has been  
17 commingled with other property that cannot be divided without  
18 difficulty.

19 (d) Any property subject to criminal or civil forfeiture  
20 under this Article that is subsequently transferred to a person  
21 other than a defendant may be the subject of a special verdict  
22 of forfeiture and thereafter shall be ordered forfeited to the  
23 State of Illinois, unless the transferee petitions the court  
24 and establishes in a hearing before the court, without a jury,  
25 that he or she is a bona fide purchaser for value of the  
26 property who at the time of purchase was reasonably without

1 cause to believe that the property was subject to forfeiture  
2 under this Article. The petition shall be signed by the  
3 petitioner under penalty of perjury and shall set forth the  
4 nature and extent of the petitioner's right, title, or interest  
5 in the property, the time and circumstances of the petitioner's  
6 acquisition of the right, title, or interest in the property,  
7 any additional facts supporting the petitioner's claim, and the  
8 relief sought. The hearing on the petition shall, to the extent  
9 practicable and consistent with the interests of justice, be  
10 held as soon as possible after completion of the criminal  
11 proceedings, if any, under this Article. The court may  
12 consolidate the hearing on the petition with a hearing on any  
13 other petition filed by a person other than the defendant under  
14 this Article. Following the court's disposition of all  
15 petitions filed under this Article, or if no petitions are  
16 filed then within 90 days of the completion of criminal or  
17 civil proceedings under this Article, the State of Illinois  
18 shall have clear title to property that is the subject of the  
19 order of forfeiture and may warrant good title to any  
20 subsequent purchaser or transferee. In addition to testimony  
21 and evidence presented at the hearing, the court shall consider  
22 the relevant portions of the record of any criminal case that  
23 resulted in, or relates to, the order of forfeiture. After the  
24 hearing, the court shall amend the order of forfeiture if the  
25 court determines that the petitioner has established by a  
26 preponderance of the evidence that:

1           (1) the petitioner has a legal right, title, or  
2           interest in the property, and the right, title, or interest  
3           renders the order of forfeiture invalid in whole or in part  
4           because the right, title, or interest was vested in the  
5           petitioner rather than the defendant or was superior to any  
6           right, title, or interest of the defendant at the time of  
7           the commission of the acts that gave rise to the forfeiture  
8           of the property under this Article; or

9           (2) the petitioner is a bona fide purchaser for value  
10           of the right, title, or interest in the property and was at  
11           the time of purchase reasonably without cause to believe  
12           that the property was subject to forfeiture under this  
13           Article.

14           (e) Upon application of a GICO prosecutor, the court may  
15           enter a restraining order or injunction, require the execution  
16           of a satisfactory performance bond, or take any other action to  
17           preserve the availability of property described in this Article  
18           for forfeiture under this Article:

19           (1) upon the filing of an indictment or information  
20           charging a violation of this Article and alleging that the  
21           property with respect to which the order is sought would,  
22           in the event of conviction, be subject to forfeiture under  
23           this Article; or

24           (2) prior to the filing of an indictment or  
25           information, if, after notice to persons appearing to have  
26           an interest in the property and opportunity for a hearing,

1       the court determines that: (A) there is a substantial  
2       probability that the prosecutor will prevail on the issue  
3       of forfeiture and that failure to enter the order will  
4       result in the property being destroyed, removed from the  
5       jurisdiction of the court, or otherwise made unavailable  
6       for forfeiture; and (B) the need to preserve the  
7       availability of the property through the entry of the  
8       requested order outweighs the hardship on any party against  
9       whom the order is to be entered; provided that any order  
10       entered be effective for not more than 90 days, unless  
11       extended by the court for good cause shown or unless an  
12       indictment or information described in this Article has  
13       been filed.

14       A temporary restraining order under this Article may be  
15       entered upon application of a prosecutor without notice or  
16       opportunity for a hearing when an information or indictment has  
17       not yet been filed with respect to the property, if the  
18       prosecutor demonstrates that there is probable cause to believe  
19       that the property with respect to which the order is sought  
20       would, in the event of conviction, be subject to forfeiture  
21       under this Article and that provision of notice will jeopardize  
22       the integrity of an investigation, the safety of any persons,  
23       or the availability of the property for forfeiture. A temporary  
24       order shall expire not more than 10 days after the date on  
25       which it is entered, unless extended for good cause shown or  
26       unless the party against whom it is entered consents to an



1 extension for a longer period. A hearing requested concerning  
2 an order entered under this Article shall be held at the  
3 earliest possible time, and prior to the expiration of the  
4 temporary order. The court may receive and consider, at a  
5 hearing held under this Article, evidence and information that  
6 would be otherwise inadmissible under the rules of evidence,  
7 and the evidence shall be heard by the court without a jury.

8 (f) Upon conviction of a person under this Article or upon  
9 the completion of appropriate civil proceedings under this  
10 Article, the court shall enter a judgment of forfeiture of the  
11 property to the State of Illinois and shall authorize the  
12 prosecutor or his or her agent to seize all property ordered  
13 forfeited upon the terms and conditions as the court shall deem  
14 proper. Following the entry of an order declaring the property  
15 forfeited, the court may, upon application of a prosecutor or  
16 investigator, enter the appropriate restraining orders or  
17 injunctions, require the execution of satisfactory performance  
18 bonds, appoint receivers, conservators, appraisers,  
19 accountants, or trustees, or take any other action to protect  
20 the interest of the State of Illinois in the property ordered  
21 forfeited. Any income accruing to, or derived from, an  
22 enterprise or an interest in an enterprise that has been  
23 ordered forfeited under this Article may be used to offset  
24 ordinary and necessary expenses to the enterprise which are  
25 required by law, or which are necessary to protect the  
26 interests of the State of Illinois or third parties.

1       (g) Following the seizure of property ordered forfeited  
2 under this Article, the prosecutor or his or her agent shall  
3 direct the disposition of the property by sale or any other  
4 commercially feasible means, making due provision for the  
5 rights of any innocent persons. Any property right or interest  
6 not exercisable by, or transferable for value to, the State of  
7 Illinois shall expire and shall not revert to the defendant,  
8 nor shall the defendant or any person acting in concert with or  
9 on behalf of the defendant be eligible to purchase forfeited  
10 property at any sale held by the prosecutor or his or her  
11 agent. Upon application of a person, other than the defendant  
12 or a person acting in concert with or on behalf of the  
13 defendant, the court may restrain or stay the sale or  
14 disposition of the property pending the conclusion of any  
15 appeal of the criminal case giving rise to the forfeiture, if  
16 the applicant demonstrates that proceeding with the sale or  
17 disposition of the property will result in irreparable injury,  
18 harm or loss to him or her. At the direction of the court, the  
19 proceeds of any sale or other disposition of property forfeited  
20 under this Article and any moneys forfeited shall be used to  
21 pay all proper expenses consisting of the costs of the  
22 investigation, the prosecution thereof, and any related  
23 remedial proceedings under this Article, as well as the  
24 forfeiture and sale, including any expenses of seizure,  
25 maintenance or custody of the property pending its disposition,  
26 advertising and court costs. The prosecutor shall deposit in

1 the treasury of the State of Illinois 75% of any amounts of the  
2 proceeds or moneys remaining after the payment of the proper  
3 expenses, which money or proceeds shall thereafter be disposed  
4 of as prescribed by law, and the prosecutor shall retain  
5 directly the final 25% of the proceeds or moneys for the  
6 general purposes of fulfilling the duties of his or her office,  
7 or for equitable sharing, as directed by the prosecutor, among  
8 those investigators participating in the investigation, the  
9 prosecution thereof, and or any related remedial proceedings  
10 under this Article.

11 (h) With respect to property ordered forfeited under this  
12 Article, the court is authorized to: (1) grant petitions for  
13 mitigation or remission of forfeiture, restore forfeited  
14 property to victims of a violation of this Article, or take any  
15 other action to protect the rights of innocent persons that is  
16 in the interest of justice and that is not inconsistent with  
17 the provisions of this Article; (2) compromise claims arising  
18 under this Article; (3) award compensation to persons providing  
19 information resulting in a forfeiture under this Article; (4)  
20 direct the disposition by public sale by the prosecutor or his  
21 or her agent of all property ordered forfeited under this  
22 Article or direct any other commercially feasible means, making  
23 due provision for the rights of innocent persons; and (5) take  
24 appropriate measures necessary to safeguard and maintain  
25 property ordered forfeited under this Article pending its  
26 disposition.

1       (i) Except as provided in this Article, no party claiming  
2 an interest in property subject to forfeiture under this  
3 Article may: (1) intervene in any trial or appeal of a criminal  
4 case involving the forfeiture of the property under this  
5 Article; or (2) commence an action at law or equity against the  
6 State of Illinois, or against any prosecutor or investigator,  
7 concerning the actions taken under this Article or concerning  
8 the validity of an alleged interest in the property subsequent  
9 to the filing of an indictment or information alleging that the  
10 property is subject to forfeiture under this Article.

11       (j) In order to facilitate the identification or location  
12 of property declared forfeited and to facilitate the  
13 disposition of petitions for remission or mitigation of  
14 forfeiture, after the entry of an order declaring property  
15 forfeited to the State of Illinois, the court may, upon  
16 application of the prosecutor, order that the testimony of any  
17 witness relating to the property forfeited be taken by  
18 deposition and that any designated book, paper, document,  
19 record, recording, or other material not privileged be produced  
20 at the same time and place, in the same manner as provided for  
21 the taking of depositions in civil proceedings under the laws  
22 of the State of Illinois.

23       (720 ILCS 5/33G-25 new)

24       Sec. 33G-25. Severability. If any clause, sentence,  
25 Section, or provision, or part of this Article or the

1 application thereof to any person or circumstance shall be  
2 adjudged to be unconstitutional, the remainder of this Article  
3 or its application to any person or circumstances other than  
4 those to which it is held invalid shall not be affected  
5 thereby.

6 (720 ILCS 5/33G-30 new)

7 Sec. 33G-30. Construction. In interpreting the provisions  
8 of this Article, the court, because of their remedial purposes,  
9 shall construe them liberally. Nothing in this Article shall  
10 preclude the imposition of additional criminal penalties under  
11 any provision of Federal law, or the laws of the State of  
12 Illinois or another state, or any other law, or the affording  
13 of any civil or administrative remedies in addition to those  
14 provided for in this Article. In addition, the court shall  
15 construe this Article in light of the provisions contained in  
16 Title IX of Public Law 91-452, 84 Stat. 922 (as amended in  
17 Title 18, United States Code, Section 1961-1968), wherever  
18 substantially similar language is used in the Title and this  
19 Article, but where the language indicates an intent to depart  
20 from the Title, the court shall interpret the language as  
21 provided in this Article.

22 (720 ILCS 5/33G-35 new)

23 Sec. 33G-35. Limitations. Under this Article,  
24 notwithstanding any other provision of law, but otherwise

1 subject to the periods of exclusion from limitation as provided  
2 in Section 3-7 of this Code, the following limitations apply:

3 (a) Any action, proceeding, or prosecution brought by a  
4 prosecutor under this Article must commence within 5 years of  
5 one of the following dates, whichever is latest: (1) the date  
6 of the commission of the last occurrence of predicate activity  
7 in a pattern of the activity, in the form of an act, attempt,  
8 endeavor, or solicitation, underlying the alleged violation of  
9 this Article; or (2) in the case of an action, proceeding, or  
10 prosecution, based upon a conspiracy to violate this Article,  
11 the date that the last objective of the alleged conspiracy was  
12 accomplished, defeated or abandoned (whichever is later); or  
13 (3) the date any minor victim of the violation attains the age  
14 of 18 years or the date any victim of the violation subject to  
15 a legal disability thereafter gains legal capacity; or (4) the  
16 date that any alleged violation of this Article, including  
17 injury, cause, pattern, or identity of the violator or  
18 violators, was otherwise discovered in the exercise of good  
19 faith;

20 (b) Any action, proceeding, or prosecution brought by a  
21 prosecutor under this Article may be commenced at any time  
22 against all defendants if the conduct of any defendant, or any  
23 part of the overall violation, resulted in the unlawful death  
24 of any person or persons;

25 (c) Any action or proceeding brought by a private party  
26 under subsection (b) of Section 33G-20 of this Article must

1 commence within 3 years of one of the following dates,  
2 whichever is latest: (1) the date of the commission of the last  
3 occurrence of predicate activity in a pattern of the activity,  
4 in the form of an act, attempt, endeavor, or solicitation,  
5 underlying the alleged violation of this Article; or (2) in the  
6 case of an action, proceeding, or prosecution, based upon a  
7 conspiracy to violate this Article, the date that the last  
8 objective of the alleged conspiracy was accomplished, defeated  
9 or abandoned (whichever is later); or (3) the date that any  
10 alleged violation of this Article, including injury, cause,  
11 pattern, or identity of the violator or violators, was  
12 otherwise discovered in the exercise of good faith.

13 Section 10. The Code of Criminal Procedure of 1963 is  
14 amended by changing Sections 108A-5 and 108B-3 as follows:

15 (725 ILCS 5/108A-5) (from Ch. 38, par. 108A-5)

16 Sec. 108A-5. Orders Authorizing Use of an Eavesdropping  
17 Device.

18 (a) Each order authorizing or approving the use of an  
19 eavesdropping device shall specify:

20 (1) the identity of the person who has consented to the  
21 use of the device to monitor any of his conversations and a  
22 requirement that any conversation overheard or received  
23 must include this person;

24 (2) the identity of the other person or persons, if

1 known, who will participate in the conversation;

2 (3) the period of time in which the use of the device  
3 is authorized, ~~including a statement as to whether or not~~  
4 ~~the use shall automatically terminate when the described~~  
5 ~~conversations have been first obtained.~~

6 (b) No order entered under this section may authorize or  
7 approve the use of any eavesdropping device for any period  
8 longer than 30 days. An initial or a subsequent extension, in  
9 no case for more than 30 days each, of an order may be granted  
10 but only upon application made in accordance with Section  
11 108A-3 and where the court makes the findings required in  
12 Section 108A-4.

13 (Source: P.A. 92-413, eff. 8-17-01.)

14 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

15 Sec. 108B-3. Authorization for the interception of private  
16 communication.

17 (a) The State's Attorney, or a person designated in writing  
18 or by law to act for him and to perform his duties during his  
19 absence or disability, may authorize, in writing, an ex parte  
20 application to the chief judge of a court of competent  
21 jurisdiction for an order authorizing the interception of a  
22 private communication when no party has consented to the  
23 interception and (i) the interception may provide evidence of,  
24 or may assist in the apprehension of a person who has  
25 committed, is committing or is about to commit, a violation of



1 Section 8-1(b) (solicitation of murder), 8-1.2 (solicitation  
2 of murder for hire), 9-1 (first degree murder), 10-9  
3 (involuntary servitude, involuntary sexual servitude of a  
4 minor, or trafficking in persons for forced labor or services),  
5 11-15.1 (soliciting for a minor engaged in prostitution), 11-16  
6 (pandering), 11-17.1 (keeping a place of juvenile  
7 prostitution), 11-18.1 (patronizing a minor engaged in  
8 prostitution), 11-19.1 (juvenile pimping and aggravated  
9 juvenile pimping), or 29B-1 (money laundering) of the Criminal  
10 Code of 1961, Section 401, 401.1 (controlled substance  
11 trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of  
12 the Illinois Controlled Substances Act or any Section of the  
13 Methamphetamine Control and Community Protection Act, a  
14 violation of Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3,  
15 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6),  
16 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the  
17 Criminal Code of 1961, or an offense listed as predicate  
18 activity under subsection (c) of Section 33G-5, or conspiracy  
19 to commit money laundering or conspiracy to commit first degree  
20 murder; (ii) in response to a clear and present danger of  
21 imminent death or great bodily harm to persons resulting from:  
22 (1) a kidnapping or the holding of a hostage by force or the  
23 threat of the imminent use of force; or (2) the occupation by  
24 force or the threat of the imminent use of force of any  
25 premises, place, vehicle, vessel or aircraft; (iii) to aid an  
26 investigation or prosecution of a civil action brought under

1 the Illinois Streetgang Terrorism Omnibus Prevention Act when  
2 there is probable cause to believe the interception of the  
3 private communication will provide evidence that a streetgang  
4 is committing, has committed, or will commit a second or  
5 subsequent gang-related offense or that the interception of the  
6 private communication will aid in the collection of a judgment  
7 entered under that Act; or (iv) upon information and belief  
8 that a streetgang has committed, is committing, or is about to  
9 commit a felony.

10 (b) The State's Attorney or a person designated in writing  
11 or by law to act for the State's Attorney and to perform his or  
12 her duties during his or her absence or disability, may  
13 authorize, in writing, an ex parte application to the chief  
14 judge of a circuit court for an order authorizing the  
15 interception of a private communication when no party has  
16 consented to the interception and the interception may provide  
17 evidence of, or may assist in the apprehension of a person who  
18 has committed, is committing or is about to commit, a violation  
19 of an offense under Article 29D of the Criminal Code of 1961.

20 (b-1) Subsection (b) is inoperative on and after January 1,  
21 2005.

22 (b-2) No conversations recorded or monitored pursuant to  
23 subsection (b) shall be made inadmissible in a court of law by  
24 virtue of subsection (b-1).

25 (c) As used in this Section, "streetgang" and  
26 "gang-related" have the meanings ascribed to them in Section 10

1 of the Illinois Streetgang Terrorism Omnibus Prevention Act.  
2 (Source: P.A. 95-331, eff. 8-21-07; 96-710, eff. 1-1-10;  
3 96-1464, eff. 8-20-10.)

4 Section 15. The Statewide Grand Jury Act is amended by  
5 changing Section 3 as follows:

6 (725 ILCS 215/3) (from Ch. 38, par. 1703)

7 Sec. 3. Written application for the appointment of a  
8 Circuit Judge to convene and preside over a Statewide Grand  
9 Jury, with jurisdiction extending throughout the State, shall  
10 be made to the Chief Justice of the Supreme Court. Upon such  
11 written application, the Chief Justice of the Supreme Court  
12 shall appoint a Circuit Judge from the circuit where the  
13 Statewide Grand Jury is being sought to be convened, who shall  
14 make a determination that the convening of a Statewide Grand  
15 Jury is necessary.

16 In such application the Attorney General shall state that  
17 the convening of a Statewide Grand Jury is necessary because of  
18 an alleged offense or offenses set forth in this Section  
19 involving more than one county of the State and identifying any  
20 such offense alleged; and

21 (a) that he or she believes that the grand jury  
22 function for the investigation and indictment of the  
23 offense or offenses cannot effectively be performed by a  
24 county grand jury together with the reasons for such

1 belief, and

2 (b) (1) that each State's Attorney with jurisdiction  
3 over an offense or offenses to be investigated has  
4 consented to the impaneling of the Statewide Grand  
5 Jury, or

6 (2) if one or more of the State's Attorneys having  
7 jurisdiction over an offense or offenses to be  
8 investigated fails to consent to the impaneling of the  
9 Statewide Grand Jury, the Attorney General shall set  
10 forth good cause for impaneling the Statewide Grand  
11 Jury.

12 If the Circuit Judge determines that the convening of a  
13 Statewide Grand Jury is necessary, he or she shall convene and  
14 impanel the Statewide Grand Jury with jurisdiction extending  
15 throughout the State to investigate and return indictments:

16 (a) For violations of any of the following or for any  
17 other criminal offense committed in the course of violating  
18 any of the following: Article 29D of the Criminal Code of  
19 1961, the Illinois Controlled Substances Act, the Cannabis  
20 Control Act, the Methamphetamine Control and Community  
21 Protection Act, the Narcotics Profit Forfeiture Act, or the  
22 Cannabis and Controlled Substances Tax Act; a streetgang  
23 related felony offense; Section 24-2.1, 24-2.2, 24-3,  
24 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection  
25 24-1(a) (4), 24-1(a) (6), 24-1(a) (7), 24-1(a) (9),  
26 24-1(a) (10), or 24-1(c) of the Criminal Code of 1961; or a

1 money laundering offense; or any violation of the Gang  
2 Influenced and Criminal Organizations Law; provided that  
3 the violation or offense involves acts occurring in more  
4 than one county of this State; and

5 (a-5) For violations facilitated by the use of a  
6 computer, including the use of the Internet, the World Wide  
7 Web, electronic mail, message board, newsgroup, or any  
8 other commercial or noncommercial on-line service, of any  
9 of the following offenses: indecent solicitation of a  
10 child, sexual exploitation of a child, soliciting for a  
11 juvenile prostitute, keeping a place of juvenile  
12 prostitution, juvenile pimping, child pornography,  
13 aggravated child pornography, or promoting juvenile  
14 prostitution except as described in subdivision (a)(4) of  
15 Section 11-14.4 of the Criminal Code of 1961; and

16 (b) For the offenses of perjury, subornation of  
17 perjury, communicating with jurors and witnesses, and  
18 harassment of jurors and witnesses, as they relate to  
19 matters before the Statewide Grand Jury.

20 "Streetgang related" has the meaning ascribed to it in  
21 Section 10 of the Illinois Streetgang Terrorism Omnibus  
22 Prevention Act.

23 Upon written application by the Attorney General for the  
24 convening of an additional Statewide Grand Jury, the Chief  
25 Justice of the Supreme Court shall appoint a Circuit Judge from  
26 the circuit for which the additional Statewide Grand Jury is

1 sought. The Circuit Judge shall determine the necessity for an  
2 additional Statewide Grand Jury in accordance with the  
3 provisions of this Section. No more than 2 Statewide Grand  
4 Juries may be empaneled at any time.

5 (Source: P.A. 96-1551, eff. 7-1-11.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.

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2		Statutes amended in order of appearance
3	720 ILCS 5/Art. 33G	
4	heading new	
5	720 ILCS 5/33G-1 new	
6	720 ILCS 5/33G-5 new	
7	720 ILCS 5/33G-10 new	
8	720 ILCS 5/33G-15 new	
9	720 ILCS 5/33G-20 new	
10	720 ILCS 5/33G-25 new	
11	720 ILCS 5/33G-30 new	
12	720 ILCS 5/33G-35 new	
13	725 ILCS 5/108A-5	from Ch. 38, par. 108A-5
14	725 ILCS 5/108B-3	from Ch. 38, par. 108B-3
15	725 ILCS 215/3	from Ch. 38, par. 1703