

1 AN ACT in relation to 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
5 changing Section 11-20.1A as follows:

6 (720 ILCS 5/11-20.1A) (from Ch. 38, par. 11-20.1A)
7 Sec. 11-20.1A. Forfeitures.

8 (a) A person who commits the offense of keeping a place
9 of juvenile prostitution, exploitation of a child, or child
10 pornography under Section ~~Sections~~ 11-17.1, 11-19.2, or
11 11-20.1 of this Code, shall forfeit to the State of Illinois:

12 (1) Any profits or proceeds and any interest or
13 property he or she has acquired or maintained in
14 violation of Section ~~Sections~~ 11-17.1, 11-19.2, or
15 11-20.1 of this Code that the sentencing court
16 determines, after a forfeiture hearing, to have been
17 acquired or maintained as a result of keeping a place of
18 juvenile prostitution, exploitation of a child, or child
19 pornography. ~~and~~

20 (2) Any interest in, security of, claim against, or
21 property or contractual right of any kind affording a
22 source of influence over, any enterprise that ~~which~~ he or
23 she has established, operated, controlled, or conducted
24 in violation of Section ~~Sections~~ 11-17.1, 11-19.2, or
25 11-20.1 of this Code that the sentencing court
26 determines, after a forfeiture hearing, to have been
27 acquired or maintained as a result of keeping a place of
28 juvenile prostitution, exploitation of a child, or child
29 pornography.

30 (3) Any computer that contains a depiction of child
31 pornography in any encoded or decoded format in violation

1 of Section 11-20.1 of this Code. For purposes of this
2 paragraph (3), "computer" has the meaning ascribed to it
3 in Section 16D-2 of this Code.

4 (b) (1) The court shall, upon petition by the Attorney
5 General or State's Attorney at any time following
6 sentencing, conduct a hearing to determine whether any
7 property or property interest is subject to forfeiture
8 under this Section. At the forfeiture hearing the people
9 shall have the burden of establishing, by a preponderance
10 of the evidence, that property or property interests are
11 subject to forfeiture under this Section.

12 (2) In any action brought by the People of the
13 State of Illinois under this Section, wherein any
14 restraining order, injunction or prohibition or any other
15 action in connection with any property or interest
16 subject to forfeiture under this Section is sought, the
17 circuit court presiding over the trial of the person or
18 persons charged with keeping a place of juvenile
19 prostitution, exploitation of a child or child
20 pornography shall first determine whether there is
21 probable cause to believe that the person or persons so
22 charged have committed the offense of keeping a place of
23 juvenile prostitution, exploitation of a child or child
24 pornography and whether the property or interest is
25 subject to forfeiture pursuant to this Section. In order
26 to make such a determination, prior to entering any such
27 order, the court shall conduct a hearing without a jury,
28 wherein the People shall establish that there is: (i)
29 probable cause that the person or persons so charged have
30 committed the offense of keeping a place of juvenile
31 prostitution, exploitation of a child or child
32 pornography and (ii) probable cause that any property or
33 interest may be subject to forfeiture pursuant to this
34 Section. Such hearing may be conducted simultaneously

1 with a preliminary hearing, if the prosecution is
2 commenced by information or complaint, or by motion of
3 the People, at any stage in the proceedings. The court
4 may accept a finding of probable cause at a preliminary
5 hearing following the filing of an information charging
6 the offense of keeping a place of juvenile prostitution,
7 exploitation of a child or child pornography or the
8 return of an indictment by a grand jury charging the
9 offense of keeping a place of juvenile prostitution,
10 exploitation of a child or child pornography as
11 sufficient evidence of probable cause as provided in item
12 (i) above. Upon such a finding, the circuit court shall
13 enter such restraining order, injunction or prohibition,
14 or shall take such other action in connection with any
15 such property or other interest subject to forfeiture, as
16 is necessary to insure that such property is not removed
17 from the jurisdiction of the court, concealed, destroyed
18 or otherwise disposed of by the owner of that property or
19 interest prior to a forfeiture hearing under this
20 Section. The Attorney General or State's Attorney shall
21 file a certified copy of such restraining order,
22 injunction or other prohibition with the recorder of
23 deeds or registrar of titles of each county where any
24 such property of the defendant may be located. No such
25 injunction, restraining order or other prohibition shall
26 affect the rights of any bona fide purchaser, mortgagee,
27 judgment creditor or other lienholder arising prior to
28 the date of such filing. The court may, at any time, upon
29 verified petition by the defendant or an innocent owner
30 or innocent bona fide third party lienholder who neither
31 had knowledge of, nor consented to, the illegal act or
32 omission, conduct a hearing to release all or portions of
33 any such property or interest which the court previously
34 determined to be subject to forfeiture or subject to any

1 restraining order, injunction, or prohibition or other
2 action. The court may release such property to the
3 defendant or innocent owner or innocent bona fide third
4 party lienholder who neither had knowledge of, nor
5 consented to, the illegal act or omission for good cause
6 shown and within the sound discretion of the court.

7 A forfeiture under this Section may be commenced by
8 the Attorney General or a State's Attorney.

9 (3) Upon conviction of a person of keeping a place
10 of juvenile prostitution, exploitation of a child or
11 child pornography, the court shall authorize the Attorney
12 General to seize all property or other interest declared
13 forfeited under this Section upon such terms and
14 conditions as the court shall deem proper.

15 (4) The Attorney General is authorized to sell all
16 property forfeited and seized pursuant to this Section,
17 unless such property is required by law to be destroyed
18 or is harmful to the public, and, after the deduction of
19 all requisite expenses of administration and sale, shall
20 distribute the proceeds of such sale, along with any
21 moneys forfeited or seized, in accordance with subsection
22 (c) of this Section.

23 (c) All monies forfeited and the sale proceeds of all
24 other property forfeited and seized under this Section shall
25 be distributed as follows:

26 (1) One-half shall be divided equally among all
27 State agencies and units of local government whose
28 officers or employees conducted the investigation which
29 resulted in the forfeiture; and

30 (2) One-half shall be deposited in the Violent Crime
31 Victims Assistance Fund.

32 (Source: P.A. 91-229, eff. 1-1-00.)