



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2409

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

720 ILCS 550/12	from Ch. 56 1/2, par. 712
720 ILCS 570/505	from Ch. 56 1/2, par. 1505
720 ILCS 646/85	

Amends the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act. Provides that 12.5% of all moneys and the sale proceeds of all other property forfeited and seized under the Acts shall be distributed to the Office of the Public Defender of the county in which the prosecution resulting in the forfeiture was instituted, deposited in a special fund in the county treasury and appropriated to the Public Defender to be used for the expenses incurred in defending persons charged with violating laws governing cannabis and controlled substances. Decreases from 65% to 52.5% the amounts distributed to the metropolitan enforcement group, local, municipal, county, or state law enforcement agency or agencies which conducted or participated in the investigation resulting in the forfeiture.

LRB100 06947 RLC 16998 b

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 Cannabis Control Act is amended by changing
5 Section 12 as follows:

6 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

7 Sec. 12. (a) The following are subject to forfeiture:

8 (1) all substances containing cannabis which have been
9 produced, manufactured, delivered, or possessed in
10 violation of this Act;

11 (2) all raw materials, products and equipment of any
12 kind which are produced, delivered, or possessed in
13 connection with any substance containing cannabis in
14 violation of this Act;

15 (3) all conveyances, including aircraft, vehicles or
16 vessels, which are used, or intended for use, to transport,
17 or in any manner to facilitate the transportation, sale,
18 receipt, possession, or concealment of property described
19 in paragraph (1) or (2) that constitutes a felony violation
20 of the Act, but:

21 (i) no conveyance used by any person as a common
22 carrier in the transaction of business as a common
23 carrier is subject to forfeiture under this Section

1 unless it appears that the owner or other person in
2 charge of the conveyance is a consenting party or privy
3 to a violation of this Act;

4 (ii) no conveyance is subject to forfeiture under
5 this Section by reason of any act or omission which the
6 owner proves to have been committed or omitted without
7 his knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered by a
9 bona fide security interest is subject to the interest
10 of the secured party if he neither had knowledge of nor
11 consented to the act or omission;

12 (4) all money, things of value, books, records, and
13 research products and materials including formulas,
14 microfilm, tapes, and data which are used, or intended for
15 use in a felony violation of this Act;

16 (5) everything of value furnished or intended to be
17 furnished by any person in exchange for a substance in
18 violation of this Act, all proceeds traceable to such an
19 exchange, and all moneys, negotiable instruments, and
20 securities used, or intended to be used, to commit or in
21 any manner to facilitate any felony violation of this Act;

22 (6) all real property, including any right, title, and
23 interest including, but not limited to, any leasehold
24 interest or the beneficial interest to a land trust, in the
25 whole of any lot or tract of land and any appurtenances or
26 improvements, that is used or intended to be used to

1 facilitate the manufacture, distribution, sale, receipt,
2 or concealment of property described in paragraph (1) or
3 (2) of this subsection (a) that constitutes a felony
4 violation of more than 2,000 grams of a substance
5 containing cannabis or that is the proceeds of any felony
6 violation of this Act.

7 (b) Property subject to forfeiture under this Act may be
8 seized by the Director or any peace officer upon process or
9 seizure warrant issued by any court having jurisdiction over
10 the property. Seizure by the Director or any peace officer
11 without process may be made:

12 (1) if the property subject to seizure has been the
13 subject of a prior judgment in favor of the State in a
14 criminal proceeding or in an injunction or forfeiture
15 proceeding based upon this Act or the Drug Asset Forfeiture
16 Procedure Act;

17 (2) if there is probable cause to believe that the
18 property is directly or indirectly dangerous to health or
19 safety;

20 (3) if there is probable cause to believe that the
21 property is subject to forfeiture under this Act and the
22 property is seized under circumstances in which a
23 warrantless seizure or arrest would be reasonable; or

24 (4) in accordance with the Code of Criminal Procedure
25 of 1963.

26 (c) In the event of seizure pursuant to subsection (b),

1 notice shall be given forthwith to all known interest holders
2 that forfeiture proceedings, including a preliminary review,
3 shall be instituted in accordance with the Drug Asset
4 Forfeiture Procedure Act and such proceedings shall thereafter
5 be instituted in accordance with that Act. Upon a showing of
6 good cause, the notice required for a preliminary review under
7 this Section may be postponed.

8 (c-1) In the event the State's Attorney is of the opinion
9 that real property is subject to forfeiture under this Act,
10 forfeiture proceedings shall be instituted in accordance with
11 the Drug Asset Forfeiture Procedure Act. The exemptions from
12 forfeiture provisions of Section 8 of the Drug Asset Forfeiture
13 Procedure Act are applicable.

14 (d) Property taken or detained under this Section shall not
15 be subject to replevin, but is deemed to be in the custody of
16 the Director subject only to the order and judgments of the
17 circuit court having jurisdiction over the forfeiture
18 proceedings and the decisions of the State's Attorney under the
19 Drug Asset Forfeiture Procedure Act. When property is seized
20 under this Act, the seizing agency shall promptly conduct an
21 inventory of the seized property, estimate the property's
22 value, and shall forward a copy of the inventory of seized
23 property and the estimate of the property's value to the
24 Director. Upon receiving notice of seizure, the Director may:

25 (1) place the property under seal;

26 (2) remove the property to a place designated by him;

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 pending forfeiture on it, by giving
9 notice of pending forfeiture to its owners and interest
10 holders, or by filing notice of pending forfeiture in any
11 appropriate public record relating to the property; or

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

16 (e) No disposition may be made of property under seal until
17 the time for taking an appeal has elapsed or until all appeals
18 have been concluded unless a court, upon application therefor,
19 orders the sale of perishable substances and the deposit of the
20 proceeds of the sale with the court.

21 (f) When property is forfeited under this Act the Director
22 shall sell all such property unless such property is required
23 by law to be destroyed or is harmful to the public, and shall
24 distribute the proceeds of the sale, together with any moneys
25 forfeited or seized, in accordance with subsection (g).
26 However, upon the application of the seizing agency or

1 prosecutor who was responsible for the investigation, arrest or
2 arrests and prosecution which lead to the forfeiture, the
3 Director may return any item of forfeited property to the
4 seizing agency or prosecutor for official use in the
5 enforcement of laws relating to cannabis or controlled
6 substances, if the agency or prosecutor can demonstrate that
7 the item requested would be useful to the agency or prosecutor
8 in their enforcement efforts. When any forfeited conveyance,
9 including an aircraft, vehicle, or vessel, is returned to the
10 seizing agency or prosecutor, the conveyance may be used
11 immediately in the enforcement of the criminal laws of this
12 State. Upon disposal, all proceeds from the sale of the
13 conveyance must be used for drug enforcement purposes. When any
14 real property returned to the seizing agency is sold by the
15 agency or its unit of government, the proceeds of the sale
16 shall be delivered to the Director and distributed in
17 accordance with subsection (g).

18 (g) All monies and the sale proceeds of all other property
19 forfeited and seized under this Act shall be distributed as
20 follows:

21 (1) (i) 52.5% ~~65%~~ shall be distributed to the
22 metropolitan enforcement group, local, municipal, county,
23 or state law enforcement agency or agencies which conducted
24 or participated in the investigation resulting in the
25 forfeiture. The distribution shall bear a reasonable
26 relationship to the degree of direct participation of the

1 law enforcement agency in the effort resulting in the
2 forfeiture, taking into account the total value of the
3 property forfeited and the total law enforcement effort
4 with respect to the violation of the law upon which the
5 forfeiture is based. Amounts distributed to the agency or
6 agencies shall be used for the enforcement of laws
7 governing cannabis and controlled substances; for public
8 education in the community or schools in the prevention or
9 detection of the abuse of drugs or alcohol; or for security
10 cameras used for the prevention or detection of violence,
11 except that amounts distributed to the Secretary of State
12 shall be deposited into the Secretary of State Evidence
13 Fund to be used as provided in Section 2-115 of the
14 Illinois Vehicle Code.

15 (ii) Any local, municipal, or county law enforcement
16 agency entitled to receive a monetary distribution of
17 forfeiture proceeds may share those forfeiture proceeds
18 pursuant to the terms of an intergovernmental agreement
19 with a municipality that has a population in excess of
20 20,000 if:

21 (I) the receiving agency has entered into an
22 intergovernmental agreement with the municipality to
23 provide police services;

24 (II) the intergovernmental agreement for police
25 services provides for consideration in an amount of not
26 less than \$1,000,000 per year;

1 (III) the seizure took place within the
2 geographical limits of the municipality; and

3 (IV) the funds are used only for the enforcement of
4 laws governing cannabis and controlled substances; for
5 public education in the community or schools in the
6 prevention or detection of the abuse of drugs or
7 alcohol; or for security cameras used for the
8 prevention or detection of violence or the
9 establishment of a municipal police force, including
10 the training of officers, construction of a police
11 station, the purchase of law enforcement equipment, or
12 vehicles.

13 (2) (i) 12.5% shall be distributed to the Office of the
14 State's Attorney of the county in which the prosecution
15 resulting in the forfeiture was instituted, deposited in a
16 special fund in the county treasury and appropriated to the
17 State's Attorney for use in the enforcement of laws
18 governing cannabis and controlled substances; for public
19 education in the community or schools in the prevention or
20 detection of the abuse of drugs or alcohol; or at the
21 discretion of the State's Attorney, in addition to other
22 authorized purposes, to make grants to local substance
23 abuse treatment facilities and half-way houses. In
24 counties over 3,000,000 population, 25% will be
25 distributed to the Office of the State's Attorney for use
26 in the enforcement of laws governing cannabis and

1 controlled substances; for public education in the
2 community or schools in the prevention or detection of the
3 abuse of drugs or alcohol; or at the discretion of the
4 State's Attorney, in addition to other authorized
5 purposes, to make grants to local substance abuse treatment
6 facilities and half-way houses. If the prosecution is
7 undertaken solely by the Attorney General, the portion
8 provided hereunder shall be distributed to the Attorney
9 General for use in the enforcement of laws governing
10 cannabis and controlled substances.

11 (ii) 12.5% shall be distributed to the Office of the
12 State's Attorneys Appellate Prosecutor and deposited in
13 the Narcotics Profit Forfeiture Fund of that Office to be
14 used for additional expenses incurred in the
15 investigation, prosecution and appeal of cases arising
16 under laws governing cannabis and controlled substances or
17 for public education in the community or schools in the
18 prevention or detection of the abuse of drugs or alcohol.
19 The Office of the State's Attorneys Appellate Prosecutor
20 shall not receive distribution from cases brought in
21 counties with over 3,000,000 population.

22 (2.5) 12.5% shall be distributed to the Office of the
23 Public Defender of the county in which the prosecution
24 resulting in the forfeiture was instituted, deposited in a
25 special fund in the county treasury and appropriated to the
26 Public Defender to be used for the expenses incurred in

1 defending persons charged with violating laws governing
2 cannabis and controlled substances.

3 (3) 10% shall be retained by the Department of State
4 Police for expenses related to the administration and sale
5 of seized and forfeited property.

6 (Source: P.A. 99-686, eff. 7-29-16.)

7 Section 10. The Illinois Controlled Substances Act is
8 amended by changing Section 505 as follows:

9 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

10 Sec. 505. (a) The following are subject to forfeiture:

11 (1) all substances which have been manufactured,
12 distributed, dispensed, or possessed in violation of this
13 Act;

14 (2) all raw materials, products and equipment of any
15 kind which are used, or intended for use in manufacturing,
16 distributing, dispensing, administering or possessing any
17 substance in violation of this Act;

18 (3) all conveyances, including aircraft, vehicles or
19 vessels, which are used, or intended for use, to transport,
20 or in any manner to facilitate the transportation, sale,
21 receipt, possession, or concealment of property described
22 in paragraphs (1) and (2), but:

23 (i) no conveyance used by any person as a common
24 carrier in the transaction of business as a common

1 carrier is subject to forfeiture under this Section
2 unless it appears that the owner or other person in
3 charge of the conveyance is a consenting party or privy
4 to a violation of this Act;

5 (ii) no conveyance is subject to forfeiture under
6 this Section by reason of any act or omission which the
7 owner proves to have been committed or omitted without
8 his or her knowledge or consent;

9 (iii) a forfeiture of a conveyance encumbered by a
10 bona fide security interest is subject to the interest
11 of the secured party if he or she neither had knowledge
12 of nor consented to the act or omission;

13 (4) all money, things of value, books, records, and
14 research products and materials including formulas,
15 microfilm, tapes, and data which are used, or intended to
16 be used in violation of this Act;

17 (5) everything of value furnished, or intended to be
18 furnished, in exchange for a substance in violation of this
19 Act, all proceeds traceable to such an exchange, and all
20 moneys, negotiable instruments, and securities used, or
21 intended to be used, to commit or in any manner to
22 facilitate any violation of this Act;

23 (6) all real property, including any right, title, and
24 interest (including, but not limited to, any leasehold
25 interest or the beneficial interest in a land trust) in the
26 whole of any lot or tract of land and any appurtenances or

1 improvements, which is used or intended to be used, in any
2 manner or part, to commit, or in any manner to facilitate
3 the commission of, any violation or act that constitutes a
4 violation of Section 401 or 405 of this Act or that is the
5 proceeds of any violation or act that constitutes a
6 violation of Section 401 or 405 of this Act.

7 (b) Property subject to forfeiture under this Act may be
8 seized by the Director or any peace officer upon process or
9 seizure warrant issued by any court having jurisdiction over
10 the property. Seizure by the Director or any peace officer
11 without process may be made:

12 (1) if the seizure is incident to inspection under an
13 administrative inspection warrant;

14 (2) if the property subject to seizure has been the
15 subject of a prior judgment in favor of the State in a
16 criminal proceeding, or in an injunction or forfeiture
17 proceeding based upon this Act or the Drug Asset Forfeiture
18 Procedure Act;

19 (3) if there is probable cause to believe that the
20 property is directly or indirectly dangerous to health or
21 safety;

22 (4) if there is probable cause to believe that the
23 property is subject to forfeiture under this Act and the
24 property is seized under circumstances in which a
25 warrantless seizure or arrest would be reasonable; or

26 (5) in accordance with the Code of Criminal Procedure

1 of 1963.

2 (c) In the event of seizure pursuant to subsection (b),
3 notice shall be given forthwith to all known interest holders
4 that forfeiture proceedings, including a preliminary review,
5 shall be instituted in accordance with the Drug Asset
6 Forfeiture Procedure Act and such proceedings shall thereafter
7 be instituted in accordance with that Act. Upon a showing of
8 good cause, the notice required for a preliminary review under
9 this Section may be postponed.

10 (d) Property taken or detained under this Section shall not
11 be subject to replevin, but is deemed to be in the custody of
12 the Director subject only to the order and judgments of the
13 circuit court having jurisdiction over the forfeiture
14 proceedings and the decisions of the State's Attorney under the
15 Drug Asset Forfeiture Procedure Act. When property is seized
16 under this Act, the seizing agency shall promptly conduct an
17 inventory of the seized property and estimate the property's
18 value, and shall forward a copy of the inventory of seized
19 property and the estimate of the property's value to the
20 Director. Upon receiving notice of seizure, the Director may:

21 (1) place the property under seal;

22 (2) remove the property to a place designated by the
23 Director;

24 (3) keep the property in the possession of the seizing
25 agency;

26 (4) remove the property to a storage area for

1 safekeeping or, if the property is a negotiable instrument
2 or money and is not needed for evidentiary purposes,
3 deposit it in an interest bearing account;

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

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

13 (e) If the Department of Financial and Professional
14 Regulation suspends or revokes a registration, all controlled
15 substances owned or possessed by the registrant at the time of
16 suspension or the effective date of the revocation order may be
17 placed under seal by the Director. No disposition may be made
18 of substances under seal until the time for taking an appeal
19 has elapsed or until all appeals have been concluded unless a
20 court, upon application therefor, orders the sale of perishable
21 substances and the deposit of the proceeds of the sale with the
22 court. Upon a suspension or revocation order becoming final,
23 all substances may be forfeited to the Illinois State Police.

24 (f) When property is forfeited under this Act the Director
25 shall sell all such property unless such property is required
26 by law to be destroyed or is harmful to the public, and shall

1 distribute the proceeds of the sale, together with any moneys
2 forfeited or seized, in accordance with subsection (g).
3 However, upon the application of the seizing agency or
4 prosecutor who was responsible for the investigation, arrest or
5 arrests and prosecution which lead to the forfeiture, the
6 Director may return any item of forfeited property to the
7 seizing agency or prosecutor for official use in the
8 enforcement of laws relating to cannabis or controlled
9 substances, if the agency or prosecutor can demonstrate that
10 the item requested would be useful to the agency or prosecutor
11 in their enforcement efforts. When any forfeited conveyance,
12 including an aircraft, vehicle, or vessel, is returned to the
13 seizing agency or prosecutor, the conveyance may be used
14 immediately in the enforcement of the criminal laws of this
15 State. Upon disposal, all proceeds from the sale of the
16 conveyance must be used for drug enforcement purposes. When any
17 real property returned to the seizing agency is sold by the
18 agency or its unit of government, the proceeds of the sale
19 shall be delivered to the Director and distributed in
20 accordance with subsection (g).

21 (g) All monies and the sale proceeds of all other property
22 forfeited and seized under this Act shall be distributed as
23 follows:

24 (1) (i) 52.5% ~~65%~~ shall be distributed to the
25 metropolitan enforcement group, local, municipal, county,
26 or state law enforcement agency or agencies which conducted

1 or participated in the investigation resulting in the
2 forfeiture. The distribution shall bear a reasonable
3 relationship to the degree of direct participation of the
4 law enforcement agency in the effort resulting in the
5 forfeiture, taking into account the total value of the
6 property forfeited and the total law enforcement effort
7 with respect to the violation of the law upon which the
8 forfeiture is based. Amounts distributed to the agency or
9 agencies shall be used for the enforcement of laws
10 governing cannabis and controlled substances; for public
11 education in the community or schools in the prevention or
12 detection of the abuse of drugs or alcohol; or for security
13 cameras used for the prevention or detection of violence,
14 except that amounts distributed to the Secretary of State
15 shall be deposited into the Secretary of State Evidence
16 Fund to be used as provided in Section 2-115 of the
17 Illinois Vehicle Code.

18 (ii) Any local, municipal, or county law enforcement
19 agency entitled to receive a monetary distribution of
20 forfeiture proceeds may share those forfeiture proceeds
21 pursuant to the terms of an intergovernmental agreement
22 with a municipality that has a population in excess of
23 20,000 if:

24 (I) the receiving agency has entered into an
25 intergovernmental agreement with the municipality to
26 provide police services;

1 (II) the intergovernmental agreement for police
2 services provides for consideration in an amount of not
3 less than \$1,000,000 per year;

4 (III) the seizure took place within the
5 geographical limits of the municipality; and

6 (IV) the funds are used only for the enforcement of
7 laws governing cannabis and controlled substances; for
8 public education in the community or schools in the
9 prevention or detection of the abuse of drugs or
10 alcohol; or for security cameras used for the
11 prevention or detection of violence or the
12 establishment of a municipal police force, including
13 the training of officers, construction of a police
14 station, the purchase of law enforcement equipment, or
15 vehicles.

16 (2) (i) 12.5% shall be distributed to the Office of the
17 State's Attorney of the county in which the prosecution
18 resulting in the forfeiture was instituted, deposited in a
19 special fund in the county treasury and appropriated to the
20 State's Attorney for use in the enforcement of laws
21 governing cannabis and controlled substances; for public
22 education in the community or schools in the prevention or
23 detection of the abuse of drugs or alcohol; or at the
24 discretion of the State's Attorney, in addition to other
25 authorized purposes, to make grants to local substance
26 abuse treatment facilities and half-way houses. In

1 counties over 3,000,000 population, 25% will be
2 distributed to the Office of the State's Attorney for use
3 in the enforcement of laws governing cannabis and
4 controlled substances; for public education in the
5 community or schools in the prevention or detection of the
6 abuse of drugs or alcohol; or at the discretion of the
7 State's Attorney, in addition to other authorized
8 purposes, to make grants to local substance abuse treatment
9 facilities and half-way houses. If the prosecution is
10 undertaken solely by the Attorney General, the portion
11 provided hereunder shall be distributed to the Attorney
12 General for use in the enforcement of laws governing
13 cannabis and controlled substances or for public education
14 in the community or schools in the prevention or detection
15 of the abuse of drugs or alcohol.

16 (ii) 12.5% shall be distributed to the Office of the
17 State's Attorneys Appellate Prosecutor and deposited in
18 the Narcotics Profit Forfeiture Fund of that office to be
19 used for additional expenses incurred in the
20 investigation, prosecution and appeal of cases arising
21 under laws governing cannabis and controlled substances or
22 for public education in the community or schools in the
23 prevention or detection of the abuse of drugs or alcohol.
24 The Office of the State's Attorneys Appellate Prosecutor
25 shall not receive distribution from cases brought in
26 counties with over 3,000,000 population.

1 (2.5) 12.5% shall be distributed to the Office of the
2 Public Defender of the county in which the prosecution
3 resulting in the forfeiture was instituted, deposited in a
4 special fund in the county treasury and appropriated to the
5 Public Defender to be used for the expenses incurred in
6 defending persons charged with violating laws governing
7 cannabis and controlled substances.

8 (3) 10% shall be retained by the Department of State
9 Police for expenses related to the administration and sale
10 of seized and forfeited property.

11 (h) Species of plants from which controlled substances in
12 Schedules I and II may be derived which have been planted or
13 cultivated in violation of this Act, or of which the owners or
14 cultivators are unknown, or which are wild growths, may be
15 seized and summarily forfeited to the State. The failure, upon
16 demand by the Director or any peace officer, of the person in
17 occupancy or in control of land or premises upon which the
18 species of plants are growing or being stored, to produce
19 registration, or proof that he or she is the holder thereof,
20 constitutes authority for the seizure and forfeiture of the
21 plants.

22 (Source: P.A. 99-686, eff. 7-29-16.)

23 Section 15. The Methamphetamine Control and Community
24 Protection Act is amended by changing Section 85 as follows:

1 (720 ILCS 646/85)

2 Sec. 85. Forfeiture.

3 (a) The following are subject to forfeiture:

4 (1) all substances containing methamphetamine which
5 have been produced, manufactured, delivered, or possessed
6 in violation of this Act;

7 (2) all methamphetamine manufacturing materials which
8 have been produced, delivered, or possessed in connection
9 with any substance containing methamphetamine in violation
10 of this Act;

11 (3) all conveyances, including aircraft, vehicles or
12 vessels, which are used, or intended for use, to transport,
13 or in any manner to facilitate the transportation, sale,
14 receipt, possession, or concealment of property described
15 in paragraph (1) or (2) that constitutes a felony violation
16 of the Act, but:

17 (i) no conveyance used by any person as a common
18 carrier in the transaction of business as a common
19 carrier is subject to forfeiture under this Section
20 unless it appears that the owner or other person in
21 charge of the conveyance is a consenting party or privy
22 to a violation of this Act;

23 (ii) no conveyance is subject to forfeiture under
24 this Section by reason of any act or omission which the
25 owner proves to have been committed or omitted without
26 his or her knowledge or consent;

1 (iii) a forfeiture of a conveyance encumbered by a
2 bona fide security interest is subject to the interest
3 of the secured party if he or she neither had knowledge
4 of nor consented to the act or omission;

5 (4) all money, things of value, books, records, and
6 research products and materials including formulas,
7 microfilm, tapes, and data which are used, or intended for
8 use in a felony violation of this Act;

9 (5) everything of value furnished or intended to be
10 furnished by any person in exchange for a substance in
11 violation of this Act, all proceeds traceable to such an
12 exchange, and all moneys, negotiable instruments, and
13 securities used, or intended to be used, to commit or in
14 any manner to facilitate any felony violation of this Act.

15 (6) all real property, including any right, title, and
16 interest (including, but not limited to, any leasehold
17 interest or the beneficial interest in a land trust) in the
18 whole of any lot or tract of land and any appurtenances or
19 improvements, which is used, or intended to be used, in any
20 manner or part, to commit, or in any manner to facilitate
21 the commission of, any violation or act that constitutes a
22 violation of this Act or that is the proceeds of any
23 violation or act that constitutes a violation of this Act.

24 (b) Property subject to forfeiture under this Act may be
25 seized by the Director or any peace officer upon process or
26 seizure warrant issued by any court having jurisdiction over

1 the property. Seizure by the Director or any peace officer
2 without process may be made:

3 (1) if the property subject to seizure has been the
4 subject of a prior judgment in favor of the State in a
5 criminal proceeding or in an injunction or forfeiture
6 proceeding based upon this Act or the Drug Asset Forfeiture
7 Procedure Act;

8 (2) if there is probable cause to believe that the
9 property is directly or indirectly dangerous to health or
10 safety;

11 (3) if there is probable cause to believe that the
12 property is subject to forfeiture under this Act and the
13 property is seized under circumstances in which a
14 warrantless seizure or arrest would be reasonable; or

15 (4) in accordance with the Code of Criminal Procedure
16 of 1963.

17 (c) In the event of seizure pursuant to subsection (b),
18 notice shall be given forthwith to all known interest holders
19 that forfeiture proceedings, including a preliminary review,
20 shall be instituted in accordance with the Drug Asset
21 Forfeiture Procedure Act and such proceedings shall thereafter
22 be instituted in accordance with that Act. Upon a showing of
23 good cause, the notice required for a preliminary review under
24 this Section may be postponed.

25 (d) Property taken or detained under this Section is not
26 subject to replevin, but is deemed to be in the custody of the

1 Director subject only to the order and judgments of the circuit
2 court having jurisdiction over the forfeiture proceedings and
3 the decisions of the State's Attorney under the Drug Asset
4 Forfeiture Procedure Act. When property is seized under this
5 Act, the seizing agency shall promptly conduct an inventory of
6 the seized property, estimate the property's value, and forward
7 a copy of the inventory of seized property and the estimate of
8 the property's value to the Director. Upon receiving notice of
9 seizure, the Director may:

10 (1) place the property under seal;

11 (2) remove the property to a place designated by him or
12 her;

13 (3) keep the property in the possession of the seizing
14 agency;

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

19 (5) place the property under constructive seizure by
20 posting notice of pending forfeiture on it, by giving
21 notice of pending forfeiture to its owners and interest
22 holders, or by filing notice of pending forfeiture in any
23 appropriate public record relating to the property; or

24 (6) provide for another agency or custodian, including
25 an owner, secured party, or lienholder, to take custody of
26 the property upon the terms and conditions set by the

1 Director.

2 (e) No disposition may be made of property under seal until
3 the time for taking an appeal has elapsed or until all appeals
4 have been concluded unless a court, upon application therefor,
5 orders the sale of perishable substances and the deposit of the
6 proceeds of the sale with the court.

7 (f) When property is forfeited under this Act, the Director
8 shall sell the property unless the property is required by law
9 to be destroyed or is harmful to the public, and shall
10 distribute the proceeds of the sale, together with any moneys
11 forfeited or seized, in accordance with subsection (g).
12 However, upon the application of the seizing agency or
13 prosecutor who was responsible for the investigation, arrest or
14 arrests and prosecution which lead to the forfeiture, the
15 Director may return any item of forfeited property to the
16 seizing agency or prosecutor for official use in the
17 enforcement of laws relating to methamphetamine, cannabis, or
18 controlled substances, if the agency or prosecutor
19 demonstrates that the item requested would be useful to the
20 agency or prosecutor in their enforcement efforts. When any
21 forfeited conveyance, including an aircraft, vehicle, or
22 vessel, is returned to the seizing agency or prosecutor, the
23 conveyance may be used immediately in the enforcement of the
24 criminal laws of this State. Upon disposal, all proceeds from
25 the sale of the conveyance must be used for drug enforcement
26 purposes. When any real property returned to the seizing agency

1 is sold by the agency or its unit of government, the proceeds
2 of the sale shall be delivered to the Director and distributed
3 in accordance with subsection (g).

4 (g) All moneys and the sale proceeds of all other property
5 forfeited and seized under this Act shall be distributed as
6 follows:

7 (1) (i) 52.5% ~~65%~~ shall be distributed to the
8 metropolitan enforcement group, local, municipal, county,
9 or State law enforcement agency or agencies which conducted
10 or participated in the investigation resulting in the
11 forfeiture. The distribution shall bear a reasonable
12 relationship to the degree of direct participation of the
13 law enforcement agency in the effort resulting in the
14 forfeiture, taking into account the total value of the
15 property forfeited and the total law enforcement effort
16 with respect to the violation of the law upon which the
17 forfeiture is based. Amounts distributed to the agency or
18 agencies shall be used for the enforcement of laws
19 governing methamphetamine, cannabis, and controlled
20 substances; for public education in the community or
21 schools in the prevention or detection of the abuse of
22 drugs or alcohol; or for security cameras used for the
23 prevention or detection of violence, except that amounts
24 distributed to the Secretary of State shall be deposited
25 into the Secretary of State Evidence Fund to be used as
26 provided in Section 2-115 of the Illinois Vehicle Code.

1 (ii) Any local, municipal, or county law enforcement
2 agency entitled to receive a monetary distribution of
3 forfeiture proceeds may share those forfeiture proceeds
4 pursuant to the terms of an intergovernmental agreement
5 with a municipality that has a population in excess of
6 20,000 if:

7 (I) the receiving agency has entered into an
8 intergovernmental agreement with the municipality to
9 provide police services;

10 (II) the intergovernmental agreement for police
11 services provides for consideration in an amount of not
12 less than \$1,000,000 per year;

13 (III) the seizure took place within the
14 geographical limits of the municipality; and

15 (IV) the funds are used only for the enforcement of
16 laws governing cannabis and controlled substances; for
17 public education in the community or schools in the
18 prevention or detection of the abuse of drugs or
19 alcohol; or for security cameras used for the
20 prevention or detection of violence or the
21 establishment of a municipal police force, including
22 the training of officers, construction of a police
23 station, the purchase of law enforcement equipment, or
24 vehicles.

25 (2) (i) 12.5% shall be distributed to the Office of the
26 State's Attorney of the county in which the prosecution

1 resulting in the forfeiture was instituted, deposited in a
2 special fund in the county treasury and appropriated to the
3 State's Attorney for use in the enforcement of laws
4 governing methamphetamine, cannabis, and controlled
5 substances; for public education in the community or
6 schools in the prevention or detection of the abuse of
7 drugs or alcohol; or at the discretion of the State's
8 Attorney, in addition to other authorized purposes, to make
9 grants to local substance abuse treatment facilities and
10 half-way houses. In counties with a population over
11 3,000,000, 25% shall be distributed to the Office of the
12 State's Attorney for use in the enforcement of laws
13 governing methamphetamine, cannabis, and controlled
14 substances; for public education in the community or
15 schools in the prevention or detection of the abuse of
16 drugs or alcohol; or at the discretion of the State's
17 Attorney, in addition to other authorized purposes, to make
18 grants to local substance abuse treatment facilities and
19 half-way houses. If the prosecution is undertaken solely by
20 the Attorney General, the portion provided hereunder shall
21 be distributed to the Attorney General for use in the
22 enforcement of laws governing methamphetamine, cannabis,
23 and controlled substances or for public education in the
24 community or schools in the prevention or detection of the
25 abuse of drugs or alcohol.

26 (ii) 12.5% shall be distributed to the Office of the

1 State's Attorneys Appellate Prosecutor and deposited in
2 the Narcotics Profit Forfeiture Fund of that Office to be
3 used for additional expenses incurred in the
4 investigation, prosecution and appeal of cases arising
5 under laws governing methamphetamine, cannabis, and
6 controlled substances or for public education in the
7 community or schools in the prevention or detection of the
8 abuse of drugs or alcohol. The Office of the State's
9 Attorneys Appellate Prosecutor shall not receive
10 distribution from cases brought in counties with a
11 population over 3,000,000.

12 (2.5) 12.5% shall be distributed to the Office of the
13 Public Defender of the county in which the prosecution
14 resulting in the forfeiture was instituted, deposited in a
15 special fund in the county treasury and appropriated to the
16 Public Defender to be used for the expenses incurred in
17 defending persons charged with violating laws governing
18 cannabis and controlled substances.

19 (3) 10% shall be retained by the Department of State
20 Police for expenses related to the administration and sale
21 of seized and forfeited property.

22 (Source: P.A. 99-686, eff. 7-29-16.)