

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 Seizure and Forfeiture Reporting Act is
5 amended by changing Section 20 as follows:

6 (5 ILCS 810/20)

7 Sec. 20. Applicability. This Act and the changes made to
8 this Act by Public Act 100-699 ~~this amendatory Act of the 100th~~
9 ~~General Assembly~~ only apply to property seized on and after
10 July 1, 2018.

11 (Source: P.A. 100-699, eff. 8-3-18.)

12 Section 10. The Illinois Food, Drug and Cosmetic Act is
13 amended by changing Section 3.23 as follows:

14 (410 ILCS 620/3.23)

15 Sec. 3.23. Legend drug prohibition.

16 (a) In this Section:

17 "Legend drug" means a drug limited by the Federal Food,
18 Drug and Cosmetic Act to being dispensed by or upon a medical
19 practitioner's prescription because the drug is:

20 (1) habit forming;

21 (2) toxic or having potential for harm; or

1 (3) limited in use by the new drug application for the
2 drug to use only under a medical practitioner's
3 supervision.

4 "Medical practitioner" means any person licensed to
5 practice medicine in all its branches in the State.

6 "Deliver" or "delivery" means the actual, constructive, or
7 attempted transfer of possession of a legend drug, with or
8 without consideration, whether or not there is an agency
9 relationship.

10 "Manufacture" means the production, preparation,
11 propagation, compounding, conversion, or processing of a
12 legend drug, either directly or indirectly, by extraction from
13 substances of natural origin, or independently by means of
14 chemical synthesis, or by a combination of extraction and
15 chemical synthesis, and includes any packaging or repackaging
16 of the substance or labeling of its container. "Manufacture"
17 does not include:

18 (1) by an ultimate user, the preparation or compounding
19 of a legend drug for his or her own use; or

20 (2) by a medical practitioner, or his or her authorized
21 agent under his or her supervision, the preparation,
22 compounding, packaging, or labeling of a legend drug:

23 (A) as an incident to his or her administering or
24 dispensing of a legend drug in the course of his or her
25 professional practice; or

26 (B) as an incident to lawful research, teaching, or

1 chemical analysis and not for sale.

2 "Prescription" has the same meaning ascribed to it in
3 Section 3 of the Pharmacy Practice Act.

4 (b) It is unlawful for any person to knowingly manufacture
5 or deliver or possess with the intent to manufacture or deliver
6 a legend drug of 6 or more pills, tablets, capsules, or caplets
7 or 30 ml or more of a legend drug in liquid form who is not
8 licensed by applicable law to prescribe or dispense legend
9 drugs or is not an employee of the licensee operating in the
10 normal course of business under the supervision of the
11 licensee. Any person who violates this Section is guilty of a
12 Class 3 felony, the fine for which shall not exceed \$100,000. A
13 person convicted of a second or subsequent violation of this
14 Section is guilty of a Class 1 felony, the fine for which shall
15 not exceed \$250,000.

16 (c) The following are subject to forfeiture:

17 (1) (blank);

18 (2) all raw materials, products, and equipment of any
19 kind which are used, or intended for use, in manufacturing,
20 distributing, dispensing, administering, or possessing any
21 substance in violation of this Section;

22 (3) all conveyances, including aircraft, vehicles, or
23 vessels, which are used, or intended for use, to transport,
24 or in any manner to facilitate the transportation, sale,
25 receipt, possession, or concealment of any substance
26 manufactured, distributed, dispensed, or possessed in

1 violation of this Section or property described in
2 paragraph (2) of this subsection (c), but:

3 (A) no conveyance used by any person as a common
4 carrier in the transaction of business as a common
5 carrier is subject to forfeiture under this Section
6 unless it appears that the owner or other person in
7 charge of the conveyance is a consenting party or privy
8 to the violation;

9 (B) no conveyance is subject to forfeiture under
10 this Section by reason of any act or omission which the
11 owner proves to have been committed or omitted without
12 his or her knowledge or consent; and

13 (C) a forfeiture of a conveyance encumbered by a
14 bona fide security interest is subject to the interest
15 of the secured party if he or she neither had knowledge
16 of nor consented to the act or omission;

17 (4) all money, things of value, books, records, and
18 research products and materials including formulas,
19 microfilm, tapes, and data that are used, or intended to be
20 used, in violation of this Section;

21 (5) everything of value furnished, or intended to be
22 furnished, in exchange for a substance in violation of this
23 Section, all proceeds traceable to such an exchange, and
24 all moneys, negotiable instruments, and securities used,
25 or intended to be used, to commit or in any manner to
26 facilitate any violation of this Section; and

1 (6) all real property, including any right, title, and
2 interest, including, but not limited to, any leasehold
3 interest or the beneficial interest in a land trust, in the
4 whole of any lot or tract of land and any appurtenances or
5 improvements, which is used or intended to be used, in any
6 manner or part, to commit, or in any manner to facilitate
7 the commission of, any violation or act that constitutes a
8 violation of this Section or that is the proceeds of any
9 violation or act that constitutes a violation of this
10 Section.

11 (d) Property subject to forfeiture under this Act may be
12 seized under the Drug Asset Forfeiture Procedure Act. In the
13 event of seizure, forfeiture proceedings shall be instituted
14 under the Drug Asset Forfeiture Procedure Act.

15 (e) Forfeiture under this Act is subject to an 8th
16 Amendment to the United States Constitution disproportionate
17 penalties analysis as provided under Section 9.5 of the Drug
18 Asset Forfeiture Procedure Act.

19 (f) With regard to possession of legend drug offenses only,
20 a sum of currency with a value of less than \$500 shall not be
21 subject to forfeiture under this Act. For all other offenses
22 under this Act, a sum of currency with a value of less than
23 \$100 shall not be subject to forfeiture under this Act. In
24 seizures of currency in excess of these amounts, this Section
25 shall not create an exemption for these amounts.

26 (f-5) For felony offenses involving possession of legend

1 drug only, no property shall be subject to forfeiture under
2 this Act because of the possession of less than 2 single unit
3 doses of a legend drug. This exemption shall not apply in
4 instances when the possessor, or another person at the
5 direction of the possessor, is engaged in the destruction of
6 any amount of a legend drug. The amount of a single unit dose
7 shall be the State's burden to prove in its case in chief.

8 (g) If the Department suspends or revokes a registration,
9 all legend drugs owned or possessed by the registrant at the
10 time of suspension or the effective date of the revocation
11 order may be placed under seal. No disposition may be made of
12 substances under seal until the time for taking an appeal has
13 elapsed or until all appeals have been concluded unless a
14 court, upon application therefor, orders the sale of perishable
15 substances and the deposit of the proceeds of the sale with the
16 court. Upon a revocation rule becoming final, all substances
17 are subject to seizure and forfeiture under the Drug Asset
18 Forfeiture Procedure Act.

19 (h) (Blank).

20 (i) (Blank).

21 (j) Contraband, including legend drugs possessed without a
22 prescription or other authorization under State or federal law,
23 is not subject to forfeiture. No property right exists in
24 contraband. Contraband is subject to seizure and shall be
25 disposed of according to State law.

26 (k) The changes made to this Section by Public Act 100-512

1 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
2 ~~100th General Assembly~~ only apply to property seized on and
3 after July 1, 2018.

4 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

5 Section 15. The Criminal Code of 2012 is amended by
6 changing Sections 29B-0.5, 29B-1, 29B-2, 29B-5, 29B-7, 29B-10,
7 29B-12, 29B-13, 29B-14, 29B-17, 29B-21, 29B-22, 29B-26,
8 29B-27, 36-1.3, 36-1.4, 36-1.5, 36-2, 36-2.1, 36-2.5, and 36-10
9 as follows:

10 (720 ILCS 5/29B-0.5)

11 Sec. 29B-0.5. Definitions. In this Article:

12 "Conduct" or "conducts" includes, in addition to its
13 ordinary meaning, initiating, concluding, or participating in
14 initiating or concluding a transaction.

15 "Criminally derived property" means: (1) any property,
16 real or personal, constituting or derived from proceeds
17 obtained, directly or indirectly, from activity that
18 constitutes a felony under State, federal, or foreign law; or
19 (2) any property represented to be property constituting or
20 derived from proceeds obtained, directly or indirectly, from
21 activity that constitutes a felony under State, federal, or
22 foreign law.

23 "Department" means the Department of State Police of this
24 State or its successor agency.

1 "Director" means the Director of State Police or his or her
2 designated agents.

3 "Financial institution" means any bank; savings ~~saving~~ and
4 loan association; trust company; agency or branch of a foreign
5 bank in the United States; currency exchange; credit union;
6 mortgage banking institution; pawnbroker; loan or finance
7 company; operator of a credit card system; issuer, redeemer, or
8 cashier of travelers checks, checks, or money orders; dealer in
9 precious metals, stones, or jewels; broker or dealer in
10 securities or commodities; investment banker; or investment
11 company.

12 "Financial transaction" means a purchase, sale, loan,
13 pledge, gift, transfer, delivery, or other disposition
14 utilizing criminally derived property, and with respect to
15 financial institutions, includes a deposit, withdrawal,
16 transfer between accounts, exchange of currency, loan,
17 extension of credit, purchase or sale of any stock, bond,
18 certificate of deposit or other monetary instrument, use of
19 safe deposit box, or any other payment, transfer or delivery
20 by, through, or to a financial institution. "Financial
21 transaction" also means a transaction which without regard to
22 whether the funds, monetary instruments, or real or personal
23 property involved in the transaction are criminally derived,
24 any transaction which in any way or degree: (1) involves the
25 movement of funds by wire or any other means; (2) involves one
26 or more monetary instruments; or (3) the transfer of title to

1 any real or personal property. The receipt by an attorney of
2 bona fide fees for the purpose of legal representation is not a
3 financial transaction for purposes of this Article.

4 "Form 4-64" means the Illinois State Police
5 Notice/Inventory of Seized Property (Form 4-64).

6 "Knowing that the property involved in a financial
7 transaction represents the proceeds of some form of unlawful
8 activity" means that the person knew the property involved in
9 the transaction represented proceeds from some form, though not
10 necessarily which form, of activity that constitutes a felony
11 under State, federal, or foreign law.

12 "Monetary instrument" means United States coins and
13 currency; coins and currency of a foreign country; travelers
14 checks; personal checks, bank checks, and money orders;
15 investment securities; bearer negotiable instruments; bearer
16 investment securities; or bearer securities and certificates
17 of stock in a form that title passes upon delivery.

18 "Specified criminal activity" means any violation of
19 Section 29D-15.1 and any violation of Article 29D of this Code.

20 "Transaction reporting requirement under State law" means
21 any violation as defined under the Currency Reporting Act.

22 (Source: P.A. 100-699, eff. 8-3-18.)

23 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

24 Sec. 29B-1. Money laundering.

25 (a) A person commits the offense of money laundering:

1 (1) when, knowing that the property involved in a
2 financial transaction represents the proceeds of some form
3 of unlawful activity, he or she conducts or attempts to
4 conduct the financial transaction which in fact involves
5 criminally derived property:

6 (A) with the intent to promote the carrying on of
7 the unlawful activity from which the criminally
8 derived property was obtained; or

9 (B) where he or she knows or reasonably should know
10 that the financial transaction is designed in whole or
11 in part:

12 (i) to conceal or disguise the nature, the
13 location, the source, the ownership or the control
14 of the criminally derived property; or

15 (ii) to avoid a transaction reporting
16 requirement under State law; or

17 (1.5) when he or she transports, transmits, or
18 transfers, or attempts to transport, transmit, or transfer
19 a monetary instrument:

20 (A) with the intent to promote the carrying on of
21 the unlawful activity from which the criminally
22 derived property was obtained; or

23 (B) knowing, or having reason to know, that the
24 financial transaction is designed in whole or in part:

25 (i) to conceal or disguise the nature, the
26 location, the source, the ownership or the control

1 of the criminally derived property; or
2 (ii) to avoid a transaction reporting
3 requirement under State law; or

4 (2) when, with the intent to:

5 (A) promote the carrying on of a specified criminal
6 activity as defined in this Article; or

7 (B) conceal or disguise the nature, location,
8 source, ownership, or control of property believed to
9 be the proceeds of a specified criminal activity as
10 defined in this Article; or

11 (C) avoid a transaction reporting requirement
12 under State law,

13 he or she conducts or attempts to conduct a financial
14 transaction involving property he or she believes to be the
15 proceeds of specified criminal activity or property used to
16 conduct or facilitate specified criminal activity as
17 defined in this Article.

18 (b) (Blank).

19 (c) Sentence.

20 (1) Laundering of criminally derived property of a
21 value not exceeding \$10,000 is a Class 3 felony;

22 (2) Laundering of criminally derived property of a
23 value exceeding \$10,000 but not exceeding \$100,000 is a
24 Class 2 felony;

25 (3) Laundering of criminally derived property of a
26 value exceeding \$100,000 but not exceeding \$500,000 is a

1 Class 1 felony;

2 (4) Money laundering in violation of subsection (a) (2)
3 of this Section is a Class X felony;

4 (5) Laundering of criminally derived property of a
5 value exceeding \$500,000 is a Class 1 non-probationable
6 felony;

7 (6) In a prosecution under clause (a) (1.5) (B) (ii) of
8 this Section, the sentences are as follows:

9 (A) Laundering of property of a value not exceeding
10 \$10,000 is a Class 3 felony;

11 (B) Laundering of property of a value exceeding
12 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

13 (C) Laundering of property of a value exceeding
14 \$100,000 but not exceeding \$500,000 is a Class 1
15 felony;

16 (D) Laundering of property of a value exceeding
17 \$500,000 is a Class 1 non-probationable felony.

18 ~~Substance Use Disorder Act.~~

19 (Source: P.A. 99-480, eff. 9-9-15; 100-512, eff. 7-1-18;
20 100-699, eff. 8-3-18; 100-759, eff. 1-1-19; revised 10-3-18.)

21 (720 ILCS 5/29B-2)

22 Sec. 29B-2. Evidence in money laundering prosecutions. In a
23 prosecution under this Article, either party may introduce the
24 following evidence pertaining to the issue of whether the
25 property or proceeds were known to be some form of criminally

1 derived property or from some form of unlawful activity:

2 (1) a financial transaction was conducted or
3 structured or attempted in violation of the reporting
4 requirements of any State or federal law;

5 (2) a financial transaction was conducted or attempted
6 with the use of a false or fictitious name or a forged
7 instrument;

8 (3) a falsely altered or completed written instrument
9 or a written instrument that contains any materially false
10 personal identifying information was made, used, offered,
11 or presented, whether accepted or not, in connection with a
12 financial transaction;

13 (4) a financial transaction was structured or
14 attempted to be structured so as to falsely report the
15 actual consideration or value of the transaction;

16 (5) a money transmitter, a person engaged in a trade or
17 business, or any employee of a money transmitter or a
18 person engaged in a trade or business, knows or reasonably
19 should know that false personal identifying information
20 has been presented and incorporates the false personal
21 identifying information into any report or record;

22 (6) the criminally derived property is transported or
23 possessed in a fashion inconsistent with the ordinary or
24 usual means of transportation or possession of the property
25 and where the property is discovered in the absence of any
26 documentation or other indicia of legitimate origin or

1 right to the property;

2 (7) a person pays or receives substantially less than
3 face value for one or more monetary instruments; or

4 (8) a person engages in a transaction involving one or
5 more monetary instruments, where the physical condition or
6 form of the monetary instrument or instruments makes it
7 apparent that they are not the product of bona fide
8 business or financial transactions.

9 (Source: P.A. 100-699, eff. 8-3-18.)

10 (720 ILCS 5/29B-5)

11 Sec. 29B-5. Property subject to forfeiture. The following
12 are subject to forfeiture:

13 (1) any property, real or personal, constituting,
14 derived from, or traceable to any proceeds the person
15 obtained, directly or indirectly, as a result of a
16 violation of this Article;

17 (2) any of the person's property used, or intended to
18 be used, in any manner or part, to commit, or to facilitate
19 the commission of, a violation of this Article;

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

25 (A) no conveyance used by any person as a common

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

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

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

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

23 (Source: P.A. 100-699, eff. 8-3-18.)

24 (720 ILCS 5/29B-7)

25 Sec. 29B-7. Safekeeping of seized property pending

1 disposition.

2 (a) If property is seized under this Article, the seizing
3 agency shall promptly conduct an inventory of the seized
4 property and estimate the property's value and shall forward a
5 copy of the inventory of seized property and the estimate of
6 the property's value to the Director. Upon receiving notice of
7 seizure, the Director may:

8 (1) place the property under seal;

9 (2) remove the property to a place designated by the
10 Director;

11 (3) keep the property in the possession of the seizing
12 agency;

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

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

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

26 (b) When property is forfeited under this Article, the

1 Director shall sell all the property unless the property is
2 required by law to be destroyed or is harmful to the public,
3 and shall distribute the proceeds of the sale, together with
4 any moneys forfeited or seized, under Section 29B-26 of this
5 Article.

6 (Source: P.A. 100-699, eff. 8-3-18.)

7 (720 ILCS 5/29B-10)

8 Sec. 29B-10. Notice to owner or interest holder.

9 (a) The first attempted service of notice shall be
10 commenced within 28 days of the latter of filing of the
11 verified claim or the receipt of the notice from the seizing
12 agency by Form 4-64. A complaint for forfeiture or a notice of
13 pending forfeiture shall be served on a claimant if the owner's
14 or interest holder's name and current address are known, then
15 by either: (1) personal service; or (2) mailing a copy of the
16 notice by certified mail, return receipt requested, and first
17 class mail to that address.

18 (b) If no signed return receipt is received by the State's
19 Attorney within 28 days of mailing or no communication from the
20 owner or interest holder is received by the State's Attorney
21 documenting actual notice by the parties, the State's Attorney
22 shall, within a reasonable period of time, mail a second copy
23 of the notice by certified mail, return receipt requested, and
24 first class mail to that address. If no signed return receipt
25 is received by the State's Attorney within 28 days of the

1 second mailing, or no communication from the owner or interest
2 holder is received by the State's Attorney documenting actual
3 notice by the parties, the State's Attorney shall have 60 days
4 to attempt to serve the notice by personal service, including
5 substitute service by leaving a copy at the usual place of
6 abode with some person of the family or a person residing
7 there, of the age of 13 years or upwards. If, after 3 attempts
8 at service in this manner, no service of the notice is
9 accomplished, the notice shall be posted in a conspicuous
10 manner at the address and service shall be made by the posting.
11 The attempts at service and the posting, if required, shall be
12 documented by the person attempting service which shall be made
13 part of a return of service returned to the State's Attorney.
14 The State's Attorney may utilize any Sheriff or Deputy Sheriff,
15 a peace officer, a private process server or investigator, or
16 an employee, agent, or investigator of the State's Attorney's
17 Office to attempt service without seeking leave of court.

18 (c) After the procedures listed are followed, service shall
19 be effective on the owner or interest holder on the date of
20 receipt by the State's Attorney of a return receipt, or on the
21 date of receipt of a communication from an owner or interest
22 holder documenting actual notice, whichever is first in time,
23 or on the date of the last act performed by the State's
24 Attorney in attempting personal service. For purposes of notice
25 under this Section, if a person has been arrested for the
26 conduct giving rise to the forfeiture, the address provided to

1 the arresting agency at the time of arrest shall be deemed to
2 be that person's known address. Provided, however, if an owner
3 or interest holder's address changes prior to the effective
4 date of the notice of pending forfeiture, the owner or interest
5 holder shall promptly notify the seizing agency of the change
6 in address or, if the owner or interest holder's address
7 changes subsequent to the effective date of the notice of
8 pending forfeiture, the owner or interest holder shall promptly
9 notify the State's Attorney of the change in address. If the
10 property seized is a conveyance, notice shall also be directed
11 to the address reflected in the office of the agency or
12 official in which title to or interest in the conveyance is
13 required by law to be recorded.

14 (d) If the owner's or interest holder's address is not
15 known, and is not on record as provided in this Section,
16 service by publication for 3 successive weeks in a newspaper of
17 general circulation in the county in which the seizure occurred
18 shall suffice for service requirements.

19 (e) Notice to any business entity, corporation, limited
20 liability company, limited liability partnership, or
21 partnership shall be completed by a single mailing of a copy of
22 the notice by certified mail, return receipt requested, and
23 first class mail to that address. This notice is complete
24 regardless of the return of a signed return receipt.

25 (f) Notice to a person whose address is not within the
26 State shall be completed by a single mailing of a copy of the

1 notice by certified mail, return receipt requested, and first
2 class mail to that address. This notice is complete regardless
3 of the return of a signed return receipt.

4 (g) Notice to a person whose address is not within the
5 United States shall be completed by a single mailing of a copy
6 of the notice by certified mail, return receipt requested, and
7 first class mail to that address. This notice is complete
8 regardless of the return of a signed return receipt. If
9 certified mail is not available in the foreign country where
10 the person has an address, notice shall proceed by publication
11 requirements under subsection (d) of this Section.

12 (h) Notice to a ~~A~~ person whom the State's Attorney
13 reasonably should know is incarcerated within this State, shall
14 also include, mailing a copy of the notice by certified mail,
15 return receipt requested, and first class mail to the address
16 of the detention facility with the inmate's name clearly marked
17 on the envelope.

18 (i) After a claimant files a verified claim with the
19 State's Attorney and provides an address at which the claimant
20 will accept service, the complaint shall be served and notice
21 shall be complete upon the mailing of the complaint to the
22 claimant at the address the claimant provided via certified
23 mail, return receipt requested, and first class mail. No return
24 receipt need be received, or any other attempts at service need
25 be made to comply with service and notice requirements under
26 this Section. This certified mailing, return receipt

1 requested, shall be proof of service of the complaint on the
2 claimant. If notice is to be shown by actual notice from
3 communication with a claimant, then the State's Attorney shall
4 file an affidavit as proof of service, providing details of the
5 communication, which shall be accepted as proof of service by
6 the court.

7 (j) If the property seized is a conveyance, notice shall
8 also be directed to the address reflected in the office of the
9 agency or official in which title to or interest in the
10 conveyance is required by law to be recorded, ~~then~~ by mailing a
11 copy of the notice by certified mail, return receipt requested,
12 to that address.

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

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

17 (720 ILCS 5/29B-12)

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

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

3 (1) If, after review of the facts surrounding the
4 seizure, the State's Attorney is of the opinion that the
5 seized property is subject to forfeiture, then, within 28
6 days after the receipt of notice of seizure from the
7 seizing agency, the State's Attorney shall cause notice of
8 pending forfeiture to be given to the owner of the property
9 and all known interest holders of the property in
10 accordance with Section 29B-10 of this Article.

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

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

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

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

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

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

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

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

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

14 (viii) the relief sought.

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

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

1 (Source: P.A. 100-699, eff. 8-3-18.)

2 (720 ILCS 5/29B-13)

3 Sec. 29B-13. Judicial in rem procedures. If property seized
4 under this Article is non-real property that exceeds \$20,000 in
5 value excluding the value of any conveyance, or is real
6 property, or a claimant has filed a claim under paragraph (3)
7 of Section 29B-12 of this Article, the following judicial in
8 rem procedures shall apply:

9 (1) If, after a review of the facts surrounding the
10 seizure, the State's Attorney is of the opinion that the
11 seized property is subject to forfeiture, then, within 28
12 days of the receipt of notice of seizure by the seizing
13 agency or the filing of the claim, whichever is later, the
14 State's Attorney shall institute judicial forfeiture
15 proceedings by filing a verified complaint for forfeiture.
16 If authorized by law, a forfeiture shall be ordered by a
17 court on an action in rem brought by a State's Attorney
18 under a verified complaint for forfeiture.

19 (2) A complaint of forfeiture shall include:

20 (A) a description of the property seized;

21 (B) the date and place of seizure of the property;

22 (C) the name and address of the law enforcement
23 agency making the seizure; and

24 (D) the specific statutory and factual grounds for
25 the seizure.

1 (3) The complaint shall be served upon the person from
2 whom the property was seized and all persons known or
3 reasonably believed by the State to claim an interest in
4 the property, as provided in Section 29B-10 of this
5 Article. The complaint shall be accompanied by the
6 following written notice:

7 "This is a civil court proceeding subject to the Code
8 of Civil Procedure. You received this Complaint of
9 Forfeiture because the State's Attorney's office has
10 brought a legal action seeking forfeiture of your seized
11 property. This complaint starts the court process where the
12 State seeks to prove that your property should be forfeited
13 and not returned to you. This process is also your
14 opportunity to try to prove to a judge that you should get
15 your property back. The complaint lists the date, time, and
16 location of your first court date. You must appear in court
17 on that day, or you may lose the case automatically. You
18 must also file an appearance and answer. If you are unable
19 to pay the appearance fee, you may qualify to have the fee
20 waived. If there is a criminal case related to the seizure
21 of your property, your case may be set for trial after the
22 criminal case has been resolved. Before trial, the judge
23 may allow discovery, where the State can ask you to respond
24 in writing to questions and give them certain documents,
25 and you can make similar requests of the State. The trial
26 is your opportunity to explain what happened when your

1 property was seized and why you should get the property
2 back."

3 (4) Forfeiture proceedings under this Article shall be
4 subject to the Code of Civil Procedure and the rules of
5 evidence relating to civil actions shall apply to
6 proceedings under this Article with the following
7 exception. The parties shall be allowed to use, and the
8 court shall receive and consider, all relevant hearsay
9 evidence that relates to evidentiary foundation, chain of
10 custody, business records, recordings, laboratory
11 analysis, laboratory reports, and relevant hearsay related
12 to the use of technology in the investigation that resulted
13 in the seizure of property that is subject to the
14 forfeiture action.

15 (5) Only an owner of or interest holder in the property
16 may file an answer asserting a claim against the property
17 in the action in rem. For purposes of this Section, the
18 owner or interest holder shall be referred to as claimant.
19 Upon motion of the State, the court shall first hold a
20 hearing, in which a claimant shall establish by a
21 preponderance of the evidence, that he or she has a lawful,
22 legitimate ownership interest in the property and that it
23 was obtained through a lawful source.

24 (6) The answer must be signed by the owner or interest
25 holder under penalty of perjury and shall set forth:

26 (A) the caption of the proceedings as set forth on

1 the notice of pending forfeiture and the name of the
2 claimant;

3 (B) the address at which the claimant will accept
4 mail;

5 (C) the nature and extent of the claimant's
6 interest in the property;

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

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

12 (F) all essential facts supporting each assertion;

13 (G) the precise relief sought; and

14 (H) in a forfeiture action involving currency or
15 its equivalent, a claimant shall provide the State with
16 notice of his or her intent to allege that the currency
17 or its equivalent is not related to the alleged factual
18 basis for the forfeiture, and why. ~~and~~

19 The ~~(H)~~ the answer shall follow the rules under the
20 Code of Civil Procedure.

21 (7) The answer shall be filed with the court within 45
22 days after service of the civil in rem complaint.

23 (8) The hearing shall be held within 60 days after
24 filing of the answer unless continued for good cause.

25 (9) At the judicial in rem proceeding, in the State's
26 case in chief, the State shall show by a preponderance of

1 the evidence that the property is subject to forfeiture. If
2 the State makes such a showing, the claimant shall have the
3 burden of production to set forth evidence that the
4 property is not related to the alleged factual basis of the
5 forfeiture. After this production of evidence, the State
6 shall maintain the burden of proof to overcome this
7 assertion. A claimant shall provide the State notice of its
8 intent to allege that the currency or its equivalent is not
9 related to the alleged factual basis of the forfeiture and
10 why. As to conveyances, at the judicial in rem proceeding,
11 in its case in chief, the State shall show by a
12 preponderance of the evidence: ~~that~~

13 (A) that the property is subject to forfeiture; and

14 (B) at least one of the following:

15 (i) that the claimant was legally accountable
16 for the conduct giving rise to the forfeiture;

17 (ii) that the claimant knew or reasonably
18 should have known of the conduct giving rise to the
19 forfeiture;

20 (iii) that the claimant knew or reasonably
21 should have known that the conduct giving rise to
22 the forfeiture was likely to occur;

23 (iv) that the claimant held the property for
24 the benefit of, or as nominee for, any person whose
25 conduct gave rise to its forfeiture;

26 (v) that if the claimant acquired the interest

1 through any person engaging in any of the conduct
2 described above or conduct giving rise to the
3 forfeiture:

4 (a) the claimant did not acquire it as a
5 bona fide purchaser for value; or

6 (b) the claimant acquired the interest
7 under the circumstances that the claimant
8 reasonably should have known the property was
9 derived from, or used in, the conduct giving
10 rise to the forfeiture; or

11 (vi) that the claimant is not the true owner of
12 the property that is subject to forfeiture.

13 (10) If the State does not meet its burden to show that
14 the property is subject to forfeiture, the court shall
15 order the interest in the property returned or conveyed to
16 the claimant and shall order all other property forfeited
17 to the State. If the State does meet its burden to show
18 that the property is subject to forfeiture, the court shall
19 order all property forfeited to the State.

20 (11) A defendant convicted in any criminal proceeding
21 is precluded from later denying the essential allegations
22 of the criminal offense of which the defendant was
23 convicted in any proceeding under this Article regardless
24 of the pendency of an appeal from that conviction. However,
25 evidence of the pendency of an appeal is admissible.

26 (12) On a motion by the parties, the court may stay

1 civil forfeiture proceedings during the criminal trial for
2 a related criminal indictment or information alleging a
3 money laundering violation. Such a stay shall not be
4 available pending an appeal. Property subject to
5 forfeiture under this Article shall not be subject to
6 return or release by a court exercising jurisdiction over a
7 criminal case involving the seizure of the property unless
8 the return or release is consented to by the State's
9 Attorney.

10 (Source: P.A. 100-699, eff. 8-3-18.)

11 (720 ILCS 5/29B-14)

12 Sec. 29B-14. Innocent owner hearing.

13 (a) After a complaint for forfeiture has been filed and all
14 claimants have appeared and answered, a claimant may file a
15 motion with the court for an innocent owner hearing prior to
16 trial. This motion shall be made and supported by sworn
17 affidavit and shall assert the following along with specific
18 facts that support each assertion:

19 (1) that the claimant filing the motion is the true
20 owner of the conveyance as interpreted by case law;

21 (2) that the claimant was not legally accountable for
22 the conduct giving rise to the forfeiture or acquiesced in
23 the conduct;

24 (3) that the claimant did not solicit, conspire, or
25 attempt to commit the conduct giving rise to the

1 forfeiture;

2 (4) that the claimant did not know or did not have
3 reason to know that the conduct giving rise to the
4 forfeiture was likely to occur; and

5 (5) that the claimant did not hold the property for the
6 benefit of, or as nominee for, any person whose conduct
7 gave rise to its forfeiture, or if the claimant ~~owner or~~
8 ~~interest holder~~ acquired the interest through any person,
9 the claimant acquired ~~owner or interest holder did not~~
10 ~~acquire~~ it as a bona fide purchaser for value or acquired
11 the interest without knowledge of the seizure of the
12 property for forfeiture.

13 (b) The claimant's motion shall include specific facts
14 supporting these assertions.

15 (c) Upon this filing, a hearing may only be conducted after
16 the parties have been given the opportunity to conduct limited
17 discovery as to the ownership and control of the property, the
18 claimant's knowledge, or any matter relevant to the issues
19 raised or facts alleged in the claimant's motion. Discovery
20 shall be limited to the People's requests in these areas but
21 may proceed by any means allowed in the Code of Civil
22 Procedure.

23 (1) After discovery is complete and the court has
24 allowed for sufficient time to review and investigate the
25 discovery responses, the court shall conduct a hearing. At
26 the hearing, the fact that the conveyance is subject to

1 forfeiture shall not be at issue. The court shall only hear
2 evidence relating to the issue of innocent ownership.

3 (2) At the hearing on the motion, it shall be the
4 burden of the claimant to prove each of the assertions
5 listed in subsection (a) of this Section by a preponderance
6 of the evidence.

7 (3) If a claimant meets his or her burden of proof, the
8 court shall grant the motion and order the property
9 returned to the claimant. If the claimant fails to meet his
10 or her burden of proof, then the court shall deny the
11 motion and the forfeiture case shall proceed according to
12 the Code of Civil Procedure.

13 (Source: P.A. 100-699, eff. 8-3-18.)

14 (720 ILCS 5/29B-17)

15 Sec. 29B-17. Exception for bona fide purchasers. No
16 property shall be forfeited under this Article from a person
17 who, without actual or constructive notice that the property
18 was the subject of forfeiture proceedings, obtained possession
19 of the property as a bona fide purchaser for value. A person
20 who purports to effect ~~affect~~ transfer of property after
21 receiving actual or constructive notice that the property is
22 subject to seizure or forfeiture is guilty of contempt of
23 court⁷ and shall be liable to the State for a penalty in the
24 amount of the fair market value of the property.

25 (Source: P.A. 100-699, eff. 8-3-18.)

1 (720 ILCS 5/29B-21)

2 Sec. 29B-21. Attorney's fees. Nothing in this Article
3 applies to property that constitutes reasonable bona fide
4 attorney's fees paid to an attorney for services rendered or to
5 be rendered in the forfeiture proceeding or criminal proceeding
6 relating directly thereto if the property was paid before its
7 seizure and ~~τ~~ before the issuance of any seizure warrant or
8 court order prohibiting transfer of the property and if the
9 attorney, at the time he or she received the property did not
10 know that it was property subject to forfeiture under this
11 Article.

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

13 (720 ILCS 5/29B-22)

14 Sec. 29B-22. Construction.

15 (a) It is the intent of the General Assembly that the
16 forfeiture provisions of this Article be liberally construed so
17 as to effect their remedial purpose. The forfeiture of property
18 and other remedies under this Article shall be considered to be
19 in addition to, and not exclusive of, any sentence or other
20 remedy provided by law.

21 (b) The changes made to this Article by Public Act 100-512
22 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
23 ~~100th General Assembly~~ are subject to Section 2 of the Statute
24 on Statutes.

1 (Source: P.A. 100-699, eff. 8-3-18.)

2 (720 ILCS 5/29B-26)

3 Sec. 29B-26. Distribution of proceeds. All moneys ~~monies~~
4 and the sale proceeds of all other property forfeited and
5 seized under this Article shall be distributed as follows:

6 (1) 65% shall be distributed to the metropolitan
7 enforcement group, local, municipal, county, or State law
8 enforcement agency or agencies that conducted or
9 participated in the investigation resulting in the
10 forfeiture. The distribution shall bear a reasonable
11 relationship to the degree of direct participation of the
12 law enforcement agency in the effort resulting in the
13 forfeiture, taking into account the total value of the
14 property forfeited and the total law enforcement effort
15 with respect to the violation of the law upon which the
16 forfeiture is based. Amounts distributed to the agency or
17 agencies shall be used for the enforcement of laws.

18 (2) (i) 12.5% shall be distributed to the Office of the
19 State's Attorney of the county in which the prosecution
20 resulting in the forfeiture was instituted, deposited in a
21 special fund in the county treasury and appropriated to the
22 State's Attorney for use in the enforcement of laws. In
23 counties over 3,000,000 population, 25% shall be
24 distributed to the Office of the State's Attorney for use
25 in the enforcement of laws. If the prosecution is

1 undertaken solely by the Attorney General, the portion
2 provided under this subparagraph (i) shall be distributed
3 to the Attorney General for use in the enforcement of laws.

4 (ii) 12.5% shall be distributed to the Office of the
5 State's Attorneys Appellate Prosecutor and deposited in
6 the Narcotics Profit Forfeiture Fund of that office to be
7 used for additional expenses incurred in the
8 investigation, prosecution, and appeal of cases arising
9 under laws. The Office of the State's Attorneys Appellate
10 Prosecutor shall not receive distribution from cases
11 brought in counties with over 3,000,000 population.

12 (3) 10% shall be retained by the Department of State
13 Police for expenses related to the administration and sale
14 of seized and forfeited property.

15 Moneys and the sale proceeds distributed to the Department
16 of State Police under this Article shall be deposited in the
17 Money Laundering Asset Recovery Fund created in the State
18 treasury and shall be used by the Department of State Police
19 for State law enforcement purposes. All moneys and sale
20 proceeds of property forfeited and seized under this Article
21 and distributed according to this Section may also be used to
22 purchase opioid antagonists as defined in Section 5-23 of the
23 Substance Use Disorder Alcoholism and Other Drug Abuse and
24 Dependency Act.

25 (Source: P.A. 100-699, eff. 8-3-18.)

1 (720 ILCS 5/29B-27)

2 Sec. 29B-27. Applicability; savings clause.

3 (a) The changes made to this Article by Public Act 100-512
4 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
5 ~~100th General Assembly~~ only apply to property seized on and
6 after July 1, 2018.

7 (b) The changes made to this Article by Public Act 100-699
8 ~~this amendatory Act of the 100th General Assembly~~ are subject
9 to Section 4 of the Statute on Statutes.

10 (Source: P.A. 100-699, eff. 8-3-18.)

11 (720 ILCS 5/36-1.3)

12 Sec. 36-1.3. Safekeeping of seized property pending
13 disposition.

14 (a) Property seized under this Article is deemed to be in
15 the custody of the Director of State Police, subject only to
16 the order and judgments of the circuit court having
17 jurisdiction over the forfeiture proceedings and the decisions
18 of the State's Attorney under this Article.

19 (b) If property is seized under this Article, the seizing
20 agency shall promptly conduct an inventory of the seized
21 property and estimate the property's value, and shall forward a
22 copy of the inventory of seized property and the estimate of
23 the property's value to the Director of State Police. Upon
24 receiving notice of seizure, the Director of State Police may:

25 (1) place the property under seal;

1 (2) remove the property to a place designated by the
2 Director of State Police;

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

5 (4) remove the property to a storage area for
6 safekeeping;

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 seizing agency.

16 (c) The seizing agency shall exercise ordinary care to
17 protect the subject of the forfeiture from negligent loss,
18 damage, or destruction.

19 (d) Property seized or forfeited under this Article is
20 subject to reporting under the Seizure and Forfeiture Reporting
21 Act.

22 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

23 (720 ILCS 5/36-1.4)

24 Sec. 36-1.4. Notice to State's Attorney. The law
25 enforcement agency seizing property for forfeiture under this

1 Article shall, as soon as practicable but not later than 28
2 days after the seizure, notify the State's Attorney for the
3 county in which an act or omission giving rise to the seizure
4 occurred or in which the property was seized and the facts and
5 circumstances giving rise to the seizure, and shall provide the
6 State's Attorney with the inventory of the property and its
7 estimated value. The notice shall be by the delivery of
8 Illinois State Police Notice/Inventory of Seized Property
9 (Form 4-64). If the property seized for forfeiture is a
10 vehicle, the law enforcement agency seizing the property shall
11 immediately notify the Secretary of State that forfeiture
12 proceedings are pending regarding the vehicle.

13 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

14 (720 ILCS 5/36-1.5)

15 Sec. 36-1.5. Preliminary review.

16 (a) Within 14 days of the seizure, the State's Attorney of
17 the county in which the seizure occurred shall seek a
18 preliminary determination from the circuit court as to whether
19 there is probable cause that the property may be subject to
20 forfeiture.

21 (b) The rules of evidence shall not apply to any proceeding
22 conducted under this Section.

23 (c) The court may conduct the review under subsection (a)
24 of this Section simultaneously with a proceeding under Section
25 109-1 of the Code of Criminal Procedure of 1963 for a related

1 criminal offense if a prosecution is commenced by information
2 or complaint.

3 (d) The court may accept a finding of probable cause at a
4 preliminary hearing following the filing of an information or
5 complaint charging a related criminal offense or following the
6 return of indictment by a grand jury charging the related
7 offense as sufficient evidence of probable cause as required
8 under subsection (a) of this ~~the~~ Section.

9 (e) Upon making a finding of probable cause as required
10 under this Section, the circuit court shall order the property
11 subject to the provisions of the applicable forfeiture Act held
12 until the conclusion of any forfeiture proceeding.

13 For seizures of conveyances, within 28 days of a finding of
14 probable cause under subsection (a) of this Section, the
15 registered owner or other claimant may file a motion in writing
16 supported by sworn affidavits claiming that denial of the use
17 of the conveyance during the pendency of the forfeiture
18 proceedings creates a substantial hardship and alleges facts
19 showing that the hardship was not due to his or her culpable
20 negligence. The court shall consider the following factors in
21 determining whether a substantial hardship has been proven:

22 (1) the nature of the claimed hardship;

23 (2) the availability of public transportation or other
24 available means of transportation; and

25 (3) any available alternatives to alleviate the
26 hardship other than the return of the seized conveyance.

1 If the court determines that a substantial hardship has
2 been proven, the court shall then balance the nature of the
3 hardship against the State's interest in safeguarding the
4 conveyance. If the court determines that the hardship outweighs
5 the State's interest in safeguarding the conveyance, the court
6 may temporarily release the conveyance to the registered owner
7 or the registered owner's authorized designee, or both, until
8 the conclusion of the forfeiture proceedings or for such
9 shorter period as ordered by the court provided that the person
10 to whom the conveyance is released provides proof of insurance
11 and a valid driver's license and all State and local
12 registrations for operation of the conveyance are current. The
13 court shall place conditions on the conveyance limiting its use
14 to the stated hardship and providing transportation for
15 employment, religious purposes, medical needs, child care, and
16 restricting the conveyance's use to only those individuals
17 authorized to use the conveyance by the registered owner. The
18 use of the vehicle shall be further restricted to exclude all
19 recreational and entertainment purposes. The court may order
20 additional restrictions it deems reasonable and just on its own
21 motion or on motion of the People. The court shall revoke the
22 order releasing the conveyance and order that the conveyance be
23 resealed by law enforcement if the conditions of release are
24 violated or if the conveyance is used in the commission of any
25 offense identified in subsection (a) of Section 6-205 of the
26 Illinois Vehicle Code.

1 If the court orders the release of the conveyance during
2 the pendency of the forfeiture proceedings, the court may order
3 the registered owner or his or her authorized designee to post
4 a cash security with the clerk of the court as ordered by the
5 court. If cash security is ordered, the court shall consider
6 the following factors in determining the amount of the cash
7 security:

8 (A) the full market value of the conveyance;

9 (B) the nature of the hardship;

10 (C) the extent and length of the usage of the
11 conveyance;

12 (D) the ability of the owner or designee to pay; and

13 (E) other conditions as the court deems necessary to
14 safeguard the conveyance.

15 If the conveyance is released, the court shall order that
16 the registered owner or his or her designee safeguard the
17 conveyance, not remove the conveyance from the jurisdiction,
18 not conceal, destroy, or otherwise dispose of the conveyance,
19 not encumber the conveyance, and not diminish the value of the
20 conveyance in any way. The court shall also make a
21 determination of the full market value of the conveyance prior
22 to it being released based on a source or sources defined in 50
23 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

24 If the conveyance subject to forfeiture is released under
25 this Section and is subsequently forfeited, the person to whom
26 the conveyance was released shall return the conveyance to the

1 law enforcement agency that seized the conveyance within 7 days
2 from the date of the declaration of forfeiture or order of
3 forfeiture. If the conveyance is not returned within 7 days,
4 the cash security shall be forfeited in the same manner as the
5 conveyance subject to forfeiture. If the cash security was less
6 than the full market value, a judgment shall be entered against
7 the parties to whom the conveyance was released and the
8 registered owner, jointly and severally, for the difference
9 between the full market value and the amount of the cash
10 security. If the conveyance is returned in a condition other
11 than the condition in which it was released, the cash security
12 shall be returned to the surety who posted the security minus
13 the amount of the diminished value, and that amount shall be
14 forfeited in the same manner as the conveyance subject to
15 forfeiture. Additionally, the court may enter an order allowing
16 any law enforcement agency in the State of Illinois to seize
17 the conveyance wherever it may be found in the State to satisfy
18 the judgment if the cash security was less than the full market
19 value of the conveyance.

20 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

21 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

22 Sec. 36-2. Complaint for forfeiture.

23 (a) If the State's Attorney of the county in which such
24 seizure occurs finds that the alleged violation of law giving
25 rise to the seizure was incurred without willful negligence or

1 without any intention on the part of the owner of the vessel or
2 watercraft, vehicle, or aircraft or any person whose right,
3 title, or interest is of record as described in Section 36-1 of
4 this Article, to violate the law, or finds the existence of
5 such mitigating circumstances as to justify remission of the
6 forfeiture, he or she may cause the law enforcement agency
7 having custody of the property to return the property to the
8 owner within a reasonable time not to exceed 7 days. The
9 State's Attorney shall exercise his or her discretion under
10 this subsection (a) prior to or promptly after the preliminary
11 review under Section 36-1.5.

12 (b) If, after review of the facts surrounding the seizure,
13 the State's Attorney is of the opinion that the seized property
14 is subject to forfeiture and the State's Attorney does not
15 cause the forfeiture to be remitted under subsection (a) of
16 this Section, he or she shall bring an action for forfeiture in
17 the circuit court within whose jurisdiction the seizure and
18 confiscation has taken place by filing a verified complaint for
19 forfeiture in the circuit court within whose jurisdiction the
20 seizure occurred, or within whose jurisdiction an act or
21 omission giving rise to the seizure occurred, subject to
22 Supreme Court Rule 187. The complaint shall be filed as soon as
23 practicable but not later than 28 days after the State's
24 Attorney receives notice from the seizing agency as provided
25 under Section 36-1.4 of this Article. A complaint of forfeiture
26 shall include:

- 1 (1) a description of the property seized;
- 2 (2) the date and place of seizure of the property;
- 3 (3) the name and address of the law enforcement agency
- 4 making the seizure; and
- 5 (4) the specific statutory and factual grounds for the
- 6 seizure.

7 The complaint shall be served upon each person whose right,
8 title, or interest is of record in the office of the Secretary
9 of State, the Secretary of Transportation, the Administrator of
10 the Federal Aviation Agency, or any other department of this
11 State, or any other state of the United States if the vessel or
12 watercraft, vehicle, or aircraft is required to be so
13 registered, as the case may be, the person from whom the
14 property was seized, and all persons known or reasonably
15 believed by the State to claim an interest in the property, as
16 provided in this Article. The complaint shall be accompanied by
17 the following written notice:

18 "This is a civil court proceeding subject to the Code of
19 Civil Procedure. You received this Complaint of Forfeiture
20 because the State's Attorney's office has brought a legal
21 action seeking forfeiture of your seized property. This
22 complaint starts the court process where the State seeks to
23 prove that your property should be forfeited and not returned
24 to you. This process is also your opportunity to try to prove
25 to a judge that you should get your property back. The
26 complaint lists the date, time, and location of your first

1 court date. You must appear in court on that day, or you may
2 lose the case automatically. You must also file an appearance
3 and answer. If you are unable to pay the appearance fee, you
4 may qualify to have the fee waived. If there is a criminal case
5 related to the seizure of your property, your case may be set
6 for trial after the criminal case has been resolved. Before
7 trial, the judge may allow discovery, where the State can ask
8 you to respond in writing to questions and give them certain
9 documents, and you can make similar requests of the State. The
10 trial is your opportunity to explain what happened when your
11 property was seized and why you should get the property back."

12 (c) (Blank).

13 (d) (Blank).

14 (e) (Blank).

15 (f) (Blank).

16 (g) (Blank).

17 (h) (Blank).

18 (Source: P.A. 99-78, eff. 7-20-15; 100-512, eff. 7-1-18;
19 100-699, eff. 8-3-18.)

20 (720 ILCS 5/36-2.1)

21 Sec. 36-2.1. Notice to owner or interest holder. The first
22 attempted service of notice shall be commenced within 28 days
23 of the receipt of the notice from the seizing agency by Form
24 4-64. If the property seized is a conveyance, notice shall also
25 be directed to the address reflected in the office of the

1 agency or official in which title to or interest in the
2 conveyance is required by law to be recorded. A complaint for
3 forfeiture shall be served upon the property owner or interest
4 holder in the following manner:

5 (1) If the owner's or interest holder's name and
6 current address are known, then by either:

7 (A) personal service; or

8 (B) mailing a copy of the notice by certified mail,
9 return receipt requested, and first class mail to that
10 address.

11 (i) If notice is sent by certified mail and no
12 signed return receipt is received by the State's
13 Attorney within 28 days of mailing, and no
14 communication from the owner or interest holder is
15 received by the State's Attorney documenting
16 actual notice by said parties, the State's
17 Attorney shall, within a reasonable period of
18 time, mail a second copy of the notice by certified
19 mail, return receipt requested, and first class
20 mail to that address.

21 (ii) If no signed return receipt is received by
22 the State's Attorney within 28 days of the second
23 attempt at service by certified mail, and no
24 communication from the owner or interest holder is
25 received by the State's Attorney documenting
26 actual notice by said parties, the State's

1 Attorney shall have 60 days to attempt to serve the
2 notice by personal service, which also includes
3 substitute service by leaving a copy at the usual
4 place of abode, with some person of the family or a
5 person residing there, of the age of 13 years or
6 upwards. If, after 3 attempts at service in this
7 manner, no service of the notice is accomplished,
8 then the notice shall be posted in a conspicuous
9 manner at this address and service shall be made by
10 the posting.

11 The attempts at service and the posting, if
12 required, shall be documented by the person attempting
13 service and said documentation shall be made part of a
14 return of service returned to the State's Attorney.

15 The State's Attorney may utilize a Sheriff or
16 Deputy Sheriff, any peace officer, a private process
17 server or investigator, or any employee, agent, or
18 investigator of the State's Attorney's office to
19 attempt service without seeking leave of court.

20 After the procedures are followed, service shall
21 be effective on an owner or interest holder on the date
22 of receipt by the State's Attorney of a return receipt,
23 or on the date of receipt of a communication from an
24 owner or interest holder documenting actual notice,
25 whichever is first in time, or on the date of the last
26 act performed by the State's Attorney in attempting

1 personal service under item (ii) of this paragraph (1).
2 If notice is to be shown by actual notice from
3 communication with a claimant, then the State's
4 Attorney shall file an affidavit providing details of
5 the communication, which shall be accepted as
6 sufficient proof of service by the court.

7 For purposes of notice under this Section, if a
8 person has been arrested for the conduct giving rise to
9 the forfeiture, the address provided to the arresting
10 agency at the time of arrest shall be deemed to be that
11 person's known address. Provided, however, if an owner
12 or interest holder's address changes prior to the
13 effective date of the complaint for forfeiture, the
14 owner or interest holder shall promptly notify the
15 seizing agency of the change in address or, if the
16 owner or interest holder's address changes subsequent
17 to the effective date of the notice of pending
18 forfeiture, the owner or interest holder shall
19 promptly notify the State's Attorney of the change in
20 address; or if the property seized is a conveyance, to
21 the address reflected in the office of the agency or
22 official in which title to or interest in the
23 conveyance is required by law to be recorded.

24 (2) If the owner's or interest holder's address is not
25 known, and is not on record, then notice shall be served by
26 publication for 3 successive weeks in a newspaper of

1 general circulation in the county in which the seizure
2 occurred.

3 (3) Notice to any business entity, corporation,
4 limited liability company, limited liability partnership,
5 or partnership shall be completed by a single mailing of a
6 copy of the notice by certified mail, return receipt
7 requested, and first class mail to that address. This
8 notice is complete regardless of the return of a signed
9 return receipt.

10 (4) Notice to a person whose address is not within the
11 State shall be completed by a single mailing of a copy of
12 the notice by certified mail, return receipt requested, and
13 first class mail to that address. This notice is complete
14 regardless of the return of a signed return receipt.

15 (5) Notice to a person whose address is not within the
16 United States shall be completed by a single mailing of a
17 copy of the notice by certified mail, return receipt
18 requested, and first class mail to that address. This
19 notice shall be complete regardless of the return of a
20 signed return receipt. If certified mail is not available
21 in the foreign country where the person has an address,
22 then notice shall proceed by publication under paragraph
23 (2) of this Section.

24 (6) Notice to any person whom the State's Attorney
25 reasonably should know is incarcerated within the State
26 shall also include ~~the~~ mailing a copy of the notice by

1 certified mail, return receipt requested, and first class
2 mail to the address of the detention facility with the
3 inmate's name clearly marked on the envelope.

4 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

5 (720 ILCS 5/36-2.5)

6 Sec. 36-2.5. Judicial in rem procedures.

7 (a) The laws of evidence relating to civil actions shall
8 apply to judicial in rem proceedings under this Article.

9 (b) Only an owner of or interest holder in the property may
10 file an answer asserting a claim against the property in the
11 action in rem. For purposes of this Section, the owner or
12 interest holder shall be referred to as claimant. A person not
13 named in the forfeiture complaint who claims to have an
14 interest in the property may petition to intervene as a
15 claimant under Section 2-408 of the Code of Civil Procedure.

16 (c) The answer shall be filed with the court within 45 days
17 after service of the civil in rem complaint.

18 (d) The trial shall be held within 60 days after filing of
19 the answer unless continued for good cause.

20 (e) In its case in chief, the State shall show by a
21 preponderance of the evidence that:

22 (1) the property is subject to forfeiture; and

23 (2) at least one of the following:

24 (i) the claimant knew or should have known that the
25 conduct was likely to occur; or

1 (ii) the claimant is not the true owner of the
2 property that is subject to forfeiture.

3 In any forfeiture case under this Article, a claimant may
4 present evidence to overcome evidence presented by the State
5 that the property is subject to forfeiture.

6 (f) Notwithstanding any other provision of this Section,
7 the State's burden of proof at the trial of the forfeiture
8 action shall be by clear and convincing evidence if:

9 (1) a finding of not guilty is entered as to all counts
10 and all defendants in a criminal proceeding relating to the
11 conduct giving rise to the forfeiture action; or

12 (2) the State receives an adverse finding at a
13 preliminary hearing and fails to secure an indictment in a
14 criminal proceeding related to the factual allegations of
15 the forfeiture action.

16 (g) If the State does not meet its burden of proof, the
17 court shall order the interest in the property returned or
18 conveyed to the claimant and shall order all other property in
19 which the State does meet its burden of proof forfeited to the
20 State. If the State does meet its burden of proof, the court
21 shall order all property forfeited to the State.

22 (h) A defendant convicted in any criminal proceeding is
23 precluded from later denying the essential allegations of the
24 criminal offense of which the defendant was convicted in any
25 proceeding under this Article regardless of the pendency of an
26 appeal from that conviction. However, evidence of the pendency

1 of an appeal is admissible.

2 (i) An acquittal or dismissal in a criminal proceeding
3 shall not preclude civil proceedings under this Act; however,
4 for good cause shown, on a motion by either party, the court
5 may stay civil forfeiture proceedings during the criminal trial
6 for a related criminal indictment or information alleging a
7 violation of law authorizing forfeiture under Section 36-1 of
8 this Article.

9 (j) Title to all property declared forfeited under this Act
10 vests in this State on the commission of the conduct giving
11 rise to forfeiture together with the proceeds of the property
12 after that time. Except as otherwise provided in this Article,
13 any property or proceeds subsequently transferred to any person
14 remain subject to forfeiture unless a person to whom the
15 property was transferred makes an appropriate claim under or
16 has the claim adjudicated at the judicial in rem hearing.

17 (k) No property shall be forfeited under this Article from
18 a person who, without actual or constructive notice that the
19 property was the subject of forfeiture proceedings, obtained
20 possession of the property as a bona fide purchaser for value.
21 A person who purports to transfer property after receiving
22 actual or constructive notice that the property is subject to
23 seizure or forfeiture is guilty of contempt of court, and shall
24 be liable to the State for a penalty in the amount of the fair
25 market value of the property.

26 (l) A civil action under this Article shall be commenced

1 within 5 years after the last conduct giving rise to forfeiture
2 became known or should have become known or 5 years after the
3 forfeitable property is discovered, whichever is later,
4 excluding any time during which either the property or claimant
5 is out of the State or in confinement or during which criminal
6 proceedings relating to the same conduct are in progress.

7 (m) If property is ordered forfeited under this Article
8 from a claimant who held title to the property in joint tenancy
9 or tenancy in common with another claimant, the court shall
10 determine the amount of each owner's interest in the property
11 according to principles of property law.

12 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

13 (720 ILCS 5/36-10)

14 Sec. 36-10. Applicability; savings clause.

15 (a) The changes made to this Article by Public Act 100-512
16 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
17 ~~100th General Assembly~~ only apply to property seized on and
18 after July 1, 2018.

19 (b) The changes made to this Article by Public Act 100-699
20 ~~this amendatory Act of the 100th General Assembly~~ are subject
21 to Section 4 of the Statute on Statutes.

22 (Source: P.A. 100-699, eff. 8-3-18.)

23 Section 20. The Cannabis Control Act is amended by changing
24 Section 12 as follows:

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

2 Sec. 12. Forfeiture.

3 (a) The following are subject to forfeiture:

4 (1) (blank);

5 (2) all raw materials, products, and equipment of any
6 kind which are produced, delivered, or possessed in
7 connection with any substance containing cannabis in a
8 felony violation of this Act;

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

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

22 (ii) no conveyance is subject to forfeiture under
23 this Section by reason of any act or omission which the
24 owner proves to have been committed or omitted without
25 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, that is used or intended to be used to
20 facilitate the manufacture, distribution, sale, receipt,
21 or concealment of a substance containing cannabis or
22 property described in paragraph (2) of this subsection (a)
23 that constitutes a felony violation of this Act involving
24 more than 2,000 grams of a substance containing cannabis or
25 that is the proceeds of any felony violation of this Act.

26 (b) Property subject to forfeiture under this Act may be

1 seized under the Drug Asset Forfeiture Procedure Act. In the
2 event of seizure, forfeiture proceedings shall be instituted
3 under the Drug Asset Forfeiture Procedure Act.

4 (c) Forfeiture under this Act is subject to an 8th
5 Amendment to the United States Constitution disproportionate
6 penalties analysis as provided under Section 9.5 of the Drug
7 Asset Forfeiture Procedure Act.

8 (c-1) With regard to possession of cannabis offenses only,
9 a sum of currency with a value of less than \$500 shall not be
10 subject to forfeiture under this Act. For all other offenses
11 under this Act, a sum of currency with a value of less than
12 \$100 shall not be subject to forfeiture under this Act. In
13 seizures of currency in excess of these amounts, this Section
14 shall not create an exemption for these amounts.

15 (d) (Blank).

16 (e) (Blank).

17 (f) (Blank).

18 (g) (Blank).

19 (h) Contraband, including cannabis possessed without
20 authorization under State or federal law, is not subject to
21 forfeiture. No property right exists in contraband. Contraband
22 is subject to seizure and shall be disposed of according to
23 State law.

24 (i) The changes made to this Section by Public Act 100-512
25 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
26 ~~100th General Assembly~~ only apply to property seized on and

1 after July 1, 2018.

2 (j) The changes made to this Section by Public Act 100-699
3 ~~this amendatory Act of the 100th General Assembly~~ are subject
4 to Section 4 of the Statute on Statutes.

5 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18;
6 100-699, eff. 8-3-18.)

7 Section 25. 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) (blank);

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

16 (3) all conveyances, including aircraft, vehicles, or
17 vessels, which are used, or intended for use, to transport,
18 or in any manner to facilitate the transportation, sale,
19 receipt, possession, or concealment of substances
20 manufactured, distributed, dispensed, or possessed in
21 violation of this Act, or property described in paragraph
22 (2) of this subsection (a), 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 under the Drug Asset Forfeiture Procedure Act. In the
9 event of seizure, forfeiture proceedings shall be instituted
10 under the Drug Asset Forfeiture Procedure Act.

11 (c) Forfeiture under this Act is subject to an 8th
12 Amendment to the United States Constitution disproportionate
13 penalties analysis as provided under Section 9.5 of the Drug
14 Asset Forfeiture Procedure Act.

15 (d) With regard to possession of controlled substances
16 offenses only, a sum of currency with a value of less than \$500
17 shall not be subject to forfeiture under this Act. For all
18 other offenses under this Act, a sum of currency with a value
19 of less than \$100 shall not be subject to forfeiture under this
20 Act. In seizures of currency in excess of these amounts, this
21 Section shall not create an exemption for these amounts.

22 (d-5) For felony offenses involving possession of
23 controlled substances only, no property shall be subject to
24 forfeiture under this Act because of the possession of less
25 than 2 single unit doses of a controlled substance. This
26 exemption shall not apply in instances when the possessor, or

1 another person at the direction of the possessor, engaged in
2 the destruction of any amount of a controlled substance. The
3 amount of a single unit dose shall be the State's burden to
4 prove in its case in chief.

5 (e) If the Department of Financial and Professional
6 Regulation suspends or revokes a registration, all controlled
7 substances owned or possessed by the registrant at the time of
8 suspension or the effective date of the revocation order may be
9 placed under seal by the Director. No disposition may be made
10 of substances under seal until the time for taking an appeal
11 has elapsed or until all appeals have been concluded unless a
12 court, upon application therefor, orders the sale of perishable
13 substances and the deposit of the proceeds of the sale with the
14 court. Upon a suspension or revocation order becoming final,
15 all substances are subject to seizure and forfeiture under the
16 Drug Asset Forfeiture Procedure Act.

17 (f) (Blank).

18 (g) (Blank).

19 (h) (Blank).

20 (i) Contraband, including controlled substances possessed
21 without authorization under State or federal law, is not
22 subject to forfeiture. No property right exists in contraband.
23 Contraband is subject to seizure and shall be disposed of
24 according to State law.

25 (j) The changes made to this Section by Public Act 100-512
26 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~

1 ~~100th General Assembly~~ only apply to property seized on and
2 after July 1, 2018.

3 (k) The changes made to this Section by Public Act 100-699
4 ~~this amendatory Act of the 100th General Assembly~~ are subject
5 to Section 4 of the Statute on Statutes.

6 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18;
7 100-699, eff. 8-3-18.)

8 Section 30. The Drug Asset Forfeiture Procedure Act is
9 amended by changing Sections 3.3, 4, 6, 9, and 13.4 as follows:

10 (725 ILCS 150/3.3)

11 Sec. 3.3. Safekeeping of seized property pending
12 disposition.

13 (a) Property seized under this Act is deemed to be in the
14 custody of the Director of State Police, subject only to the
15 order and judgments of the circuit court having jurisdiction
16 over the forfeiture proceedings and the decisions of the
17 State's Attorney under this Act.

18 (b) If property is seized under this Act, the seizing
19 agency shall promptly conduct an inventory of the seized
20 property and estimate the property's value, and shall forward a
21 copy of the inventory of seized property and the estimate of
22 the property's value to the Director of State Police. Upon
23 receiving notice of seizure, the Director of State Police may:

24 (1) place the property under seal;

1 (2) remove the property to a place designated by the
2 seizing agency;

3 (3) keep the property in the possession of the Director
4 of State Police;

5 (4) remove the property to a storage area for
6 safekeeping;

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 seizing agency.

16 (c) The seizing agency is required to exercise ordinary
17 care to protect the seized property from negligent loss,
18 damage, or destruction.

19 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

20 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

21 Sec. 4. Notice to owner or interest holder. The first
22 attempted service of notice shall be commenced within 28 days
23 of the filing of the verified claim or the receipt of the
24 notice from the seizing agency by Illinois State Police
25 Notice/Inventory of Seized Property (Form 4-64), whichever

1 occurs sooner. A complaint for forfeiture or a notice of
2 pending forfeiture shall be served upon the property owner or
3 interest holder in the following manner:

4 (1) If the owner's or interest holder's name and
5 current address are known, then by either:

6 (A) personal service; or

7 (B) mailing a copy of the notice by certified mail,
8 return receipt requested, and first class mail to that
9 address.

10 (i) If notice is sent by certified mail and no
11 signed return receipt is received by the State's
12 Attorney within 28 days of mailing, and no
13 communication from the owner or interest holder is
14 received by the State's Attorney documenting
15 actual notice by said parties, then the State's
16 Attorney shall, within a reasonable period of
17 time, mail a second copy of the notice by certified
18 mail, return receipt requested, and first class
19 mail to that address.

20 (ii) If no signed return receipt is received by
21 the State's Attorney within 28 days of the second
22 attempt at service by certified mail, and no
23 communication from the owner or interest holder is
24 received by the State's Attorney documenting
25 actual notice by said parties, then the State's
26 Attorney shall have 60 days to attempt to serve the

1 notice by personal service, which also includes
2 substitute service by leaving a copy at the usual
3 place of abode, with some person of the family or a
4 person residing there, of the age of 13 years or
5 upwards. If, after 3 attempts at service in this
6 manner, no service of the notice is accomplished,
7 then the notice shall be posted in a conspicuous
8 manner at this address and service shall be made by
9 posting.

10 The attempts at service and the posting, if
11 required, shall be documented by the person
12 attempting service and said documentation shall be
13 made part of a return of service returned to the
14 State's Attorney.

15 The State's Attorney may utilize any Sheriff
16 or Deputy Sheriff, any peace officer, a private
17 process server or investigator, or any employee,
18 agent, or investigator of the State's Attorney's
19 Office to attempt service without seeking leave of
20 court.

21 After the procedures set forth are followed,
22 service shall be effective on an owner or interest
23 holder on the date of receipt by the State's
24 Attorney of a return receipt, or on the date of
25 receipt of a communication from an owner or
26 interest holder documenting actual notice,

1 whichever is first in time, or on the date of the
2 last act performed by the State's Attorney in
3 attempting personal service under subparagraph
4 (ii) above. If notice is to be shown by actual
5 notice from communication with a claimant, then
6 the State's Attorney shall file an affidavit
7 providing details of the communication, which may
8 be accepted as sufficient proof of service by the
9 court.

10 After a claimant files a verified claim with
11 the State's Attorney and provides an address at
12 which the claimant will accept service, the
13 complaint shall be served and notice shall be
14 perfected upon mailing of the complaint to the
15 claimant at the address the claimant provided via
16 certified mail, return receipt requested, and
17 first class mail. No return receipt need be
18 received, or any other attempts at service need be
19 made to comply with service and notice
20 requirements under this Act. This certified
21 mailing, return receipt requested, shall be proof
22 of service of the complaint on the claimant.

23 For purposes of notice under this Section, if a
24 person has been arrested for the conduct giving
25 rise to the forfeiture, then the address provided
26 to the arresting agency at the time of arrest shall

1 be deemed to be that person's known address.
2 Provided, however, if an owner or interest
3 holder's address changes prior to the effective
4 date of the notice of pending forfeiture, the owner
5 or interest holder shall promptly notify the
6 seizing agency of the change in address or, if the
7 owner or interest holder's address changes
8 subsequent to the effective date of the notice of
9 pending forfeiture, the owner or interest holder
10 shall promptly notify the State's Attorney of the
11 change in address; or if the property seized is a
12 conveyance, to the address reflected in the office
13 of the agency or official in which title to or
14 interest in the conveyance is required by law to be
15 recorded.

16 (2) If the owner's or interest holder's address is not
17 known, and is not on record, then notice shall be served by
18 publication for 3 successive weeks in a newspaper of
19 general circulation in the county in which the seizure
20 occurred.

21 (3) After a claimant files a verified claim with the
22 State's Attorney and provides an address at which the
23 claimant will accept service, the complaint shall be served
24 and notice shall be perfected upon mailing of the complaint
25 to the claimant at the address the claimant provided via
26 certified mail, return receipt requested, and first class

1 mail. No return receipt need be received or any other
2 attempts at service need be made to comply with service and
3 notice requirements under this Act. This certified
4 mailing, return receipt requested, shall be proof of
5 service of the complaint on the claimant.

6 (4) Notice to any business entity, corporation,
7 limited liability company, limited liability partnership,
8 or partnership shall be completed by a single mailing of a
9 copy of the notice by certified mail, return receipt
10 requested, and first class mail to that address. This
11 notice is complete regardless of the return of a signed
12 return receipt.

13 (5) Notice to a person whose address is not within the
14 State shall be completed by a single mailing of a copy of
15 the notice by certified mail, return receipt requested, and
16 first class mail to that address. This notice is complete
17 regardless of the return of a signed return receipt.

18 (6) Notice to a person whose address is not within the
19 United States shall be completed by a single mailing of a
20 copy of the notice by certified mail, return receipt
21 requested, and first class mail to that address. This
22 notice shall be complete regardless of the return of a
23 signed return receipt. If certified mail is not available
24 in the foreign country where the person has an address,
25 then notice shall proceed by publication under paragraph
26 (2) of this Section.

1 (7) Notice to any person whom the State's Attorney
2 reasonably should know is incarcerated within the State
3 shall also include the mailing a copy of the notice by
4 certified mail, return receipt requested, and first class
5 mail to the address of the detention facility with the
6 inmate's name clearly marked on the envelope.

7 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

8 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

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

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

1 forfeiture to be given to the owner of the property and all
2 known interest holders of the property in accordance with
3 Section 4 of this Act.

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

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

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

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

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

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

26 (v) the names and addresses of all other persons

1 known to have an interest in the property;

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

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

6 (viii) the relief sought.

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

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

18 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

19 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

20 Sec. 9. Judicial in rem procedures. If property seized
21 under the provisions of the Illinois Controlled Substances Act,
22 the Cannabis Control Act, or the Methamphetamine Control and
23 Community Protection Act is non-real property that exceeds
24 \$150,000 in value excluding the value of any conveyance, or is
25 real property, or a claimant has filed a claim under subsection

1 (C) of Section 6 of this Act, the following judicial in rem
2 procedures shall apply:

3 (A) If, after a review of the facts surrounding the
4 seizure, the State's Attorney is of the opinion that the
5 seized property is subject to forfeiture, the State's
6 Attorney shall institute judicial forfeiture proceedings
7 by filing a verified complaint for forfeiture in the
8 circuit court within whose jurisdiction the seizure
9 occurred, or within whose jurisdiction an act or omission
10 giving rise to the seizure occurred, subject to Supreme
11 Court Rule 187. The complaint for forfeiture shall be filed
12 as soon as practicable, but not later than 28 days after
13 the filing of a verified claim by a claimant if the
14 property was acted upon under a non-judicial forfeiture
15 action, or 28 days after the State's Attorney receives
16 notice from the seizing agency as provided under Section 5
17 of this Act, whichever occurs later. When authorized by
18 law, a forfeiture must be ordered by a court on an action
19 in rem brought by a State's Attorney under a verified
20 complaint for forfeiture.

21 (A-5) If the State's Attorney finds that the alleged
22 violation of law giving rise to the seizure was incurred
23 without willful negligence or without any intention on the
24 part of the owner of the property to violate the law or
25 finds the existence of mitigating circumstances to justify
26 remission of the forfeiture, the State's Attorney may cause

1 the law enforcement agency having custody of the property
2 to return the property to the owner within a reasonable
3 time not to exceed 7 days. The State's Attorney shall
4 exercise his or her discretion prior to or promptly after
5 the preliminary review under Section 3.5 of this Act.
6 Judicial in rem forfeiture proceedings under this Act shall
7 be subject to the Code of Civil Procedure and the rules of
8 evidence relating to civil actions.

9 (A-10) A complaint of forfeiture shall include:

10 (1) a description of the property seized;

11 (2) the date and place of seizure of the property;

12 (3) the name and address of the law enforcement
13 agency making the seizure; and

14 (4) the specific statutory and factual grounds for
15 the seizure.

16 The complaint shall be served upon the person from whom
17 the property was seized and all persons known or reasonably
18 believed by the State to claim an interest in the property,
19 as provided in Section 4 of this Act. The complaint shall
20 be accompanied by the following written notice:

21 "This is a civil court proceeding subject to the Code
22 of Civil Procedure. You received this Complaint of
23 Forfeiture because the State's Attorney's office has
24 brought a legal action seeking forfeiture of your
25 seized property. This complaint starts the court
26 process where the state seeks to prove that your

1 property should be forfeited and not returned to you.
2 This process is also your opportunity to try to prove
3 to a judge that you should get your property back. The
4 complaint lists the date, time, and location of your
5 first court date. You must appear in court on that day,
6 or you may lose the case automatically. You must also
7 file an appearance and answer. If you are unable to pay
8 the appearance fee, you may qualify to have the fee
9 waived. If there is a criminal case related to the
10 seizure of your property, your case may be set for
11 trial after the criminal case has been resolved. Before
12 trial, the judge may allow discovery, where the State
13 can ask you to respond in writing to questions and give
14 them certain documents, and you can make similar
15 requests of the State. The trial is your opportunity to
16 explain what happened when your property was seized and
17 why you should get the property back."

18 (B) The laws of evidence relating to civil actions
19 shall apply to all other proceedings under this Act except
20 that the parties shall be allowed to use, and the court
21 must receive and consider, all relevant hearsay evidence
22 that relates to evidentiary foundation, chain of custody,
23 business records, recordings, laboratory analysis,
24 laboratory reports, and the use of technology in the
25 investigation that resulted in the seizure of the property
26 that is subject to the forfeiture action.

1 (C) Only an owner of or interest holder in the property
2 may file an answer asserting a claim against the property
3 in the action in rem. For purposes of this Section, the
4 owner or interest holder shall be referred to as claimant.
5 A person not named in the forfeiture complaint who claims
6 to have an interest in the property may petition to
7 intervene as a claimant under Section 2-408 of the Code of
8 Civil Procedure.

9 (D) The answer must be signed by the owner or interest
10 holder under penalty of perjury and must set forth:

11 (i) the caption of the proceedings as set forth on
12 the notice of pending forfeiture and the name of the
13 claimant;

14 (ii) the address at which the claimant will accept
15 mail;

16 (iii) the nature and extent of the claimant's
17 interest in the property;

18 (iv) the date, identity of transferor, and
19 circumstances of the claimant's acquisition of the
20 interest in the property;

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

23 (vi) the specific provisions of Section 8 of this
24 Act relied on in asserting it is exempt from
25 forfeiture, if applicable;

26 (vii) all essential facts supporting each

1 assertion;

2 (viii) the precise relief sought; and

3 (ix) in a forfeiture action involving currency or
4 its equivalent, a claimant shall provide the State with
5 notice of the claimant's intent to allege that the
6 currency or its equivalent is not related to the
7 alleged factual basis for the forfeiture, and why.

8 (E) The answer must be filed with the court within 45
9 days after service of the civil in rem complaint.

10 (F) The trial shall be held within 60 days after filing
11 of the answer unless continued for good cause.

12 (G) The State, in its case in chief, shall show by a
13 preponderance of the evidence that the property is subject
14 to forfeiture; and at least one of the following:

15 (i) In the case of personal property, including
16 conveyances:

17 (a) that the claimant was legally accountable
18 for the conduct giving rise to the forfeiture;

19 (b) that the claimant knew or reasonably
20 should have known of the conduct giving rise to the
21 forfeiture;

22 (c) that the claimant knew or reasonably
23 should have known that the conduct giving rise to
24 the forfeiture was likely to occur;

25 (d) that the claimant held the property for the
26 benefit of, or as nominee for, any person whose

1 conduct gave rise to its forfeiture;

2 (e) that if the claimant acquired the interest
3 through any person engaging in any of the conduct
4 described above or conduct giving rise to the
5 forfeiture:

6 (1) the claimant did not acquire it as a
7 bona fide purchaser for value, or

8 (2) the claimant acquired the interest
9 under such circumstances that the claimant
10 reasonably should have known the property was
11 derived from, or used in, the conduct giving
12 rise to the forfeiture;

13 (f) that the claimant is not the true owner of
14 the property;

15 (g) that the claimant acquired the interest:

16 (1) before the commencement of the conduct
17 giving rise to the forfeiture and the person
18 whose conduct gave rise to the forfeiture did
19 not have authority to convey the interest to a
20 bona fide purchaser for value at the time of
21 the conduct; or

22 (2) after the commencement of the conduct
23 giving rise to the forfeiture and the owner or
24 interest holder acquired the interest as a
25 mortgagee, secured creditor, lienholder, or
26 bona fide purchaser for value without

1 knowledge of the conduct that gave rise to the
2 forfeiture, and without the knowledge of the
3 seizure of the property for forfeiture.

4 (ii) In the case of real property:

5 (a) that the claimant was legally accountable
6 for the conduct giving rise to the forfeiture;

7 (b) that the claimant solicited, conspired, or
8 attempted to commit the conduct giving rise to the
9 forfeiture; or

10 (c) that the claimant had acquired or stood to
11 acquire substantial proceeds from the conduct
12 giving rise to its forfeiture other than as an
13 interest holder in an arm's length transaction;

14 (d) that the claimant is not the true owner of
15 the property;

16 (e) that the claimant acquired the interest:

17 (1) before the commencement of the conduct
18 giving rise to the forfeiture and the person
19 whose conduct gave rise to the forfeiture did
20 not have authority to convey the interest to a
21 bona fide purchaser for value at the time of
22 the conduct; or

23 (2) after the commencement of the conduct
24 giving rise to the forfeiture and the owner or
25 interest holder acquired the interest as a
26 mortgagee, secured creditor, lienholder, or

1 bona fide purchaser for value without
2 knowledge of the conduct that gave rise to the
3 forfeiture, and before the filing in the office
4 of the recorder of deeds of the county in which
5 the real estate is located a notice of seizure
6 for forfeiture or a lis pendens notice.

7 (G-5) If the property that is the subject of the
8 forfeiture proceeding is currency or its equivalent, the
9 State, in its case in chief, shall show by a preponderance
10 of the evidence that the property is subject to forfeiture.
11 If the State makes that showing, the claimant shall have
12 the burden of production to set forth evidence that the
13 currency or its equivalent is not related to the alleged
14 factual basis of the forfeiture. After the production of
15 evidence, the State shall maintain the burden of proof to
16 overcome this assertion.

17 (G-10) Notwithstanding any other provision of this
18 Section, the State's burden of proof at the trial of the
19 forfeiture action shall be by clear and convincing evidence
20 if:

21 (1) a finding of not guilty is entered as to all
22 counts and all defendants in a criminal proceeding
23 relating to the conduct giving rise to the forfeiture
24 action; or

25 (2) the State receives an adverse finding at a
26 preliminary hearing and fails to secure an indictment

1 in a criminal proceeding related to the factual
2 allegations of the forfeiture action.

3 (H) If the State does not meet its burden of proof, the
4 court shall order the interest in the property returned or
5 conveyed to the claimant and shall order all other property
6 as to which the State does meet its burden of proof
7 forfeited to the State. If the State does meet its burden
8 of proof, the court shall order all property forfeited to
9 the State.

10 (I) A defendant convicted in any criminal proceeding is
11 precluded from later denying the essential allegations of
12 the criminal offense of which the defendant was convicted
13 in any proceeding under this Act regardless of the pendency
14 of an appeal from that conviction. However, evidence of the
15 pendency of an appeal is admissible.

16 (J) An acquittal or dismissal in a criminal proceeding
17 shall not preclude civil proceedings under this Act;
18 however, for good cause shown, on a motion by the State's
19 Attorney, the court may stay civil forfeiture proceedings
20 during the criminal trial for a related criminal indictment
21 or information alleging a violation of the Illinois
22 Controlled Substances Act, the Cannabis Control Act, or the
23 Methamphetamine Control and Community Protection Act. Such
24 a stay shall not be available pending an appeal. Property
25 subject to forfeiture under the Illinois Controlled
26 Substances Act, the Cannabis Control Act, or the

1 Methamphetamine Control and Community Protection Act shall
2 not be subject to return or release by a court exercising
3 jurisdiction over a criminal case involving the seizure of
4 such property unless such return or release is consented to
5 by the State's Attorney.

6 (K) Title to all property declared forfeited under this
7 Act vests in the State on the commission of the conduct
8 giving rise to forfeiture together with the proceeds of the
9 property after that time. Except as otherwise provided in
10 this Act, any such property or proceeds subsequently
11 transferred to any person remain subject to forfeiture
12 unless a person to whom the property was transferred makes
13 an appropriate claim under this Act and has the claim
14 adjudicated in the judicial in rem proceeding.

15 (L) A civil action under this Act must be commenced
16 within 5 years after the last conduct giving rise to
17 forfeiture became known or should have become known or 5
18 years after the forfeitable property is discovered,
19 whichever is later, excluding any time during which either
20 the property or claimant is out of the State or in
21 confinement or during which criminal proceedings relating
22 to the same conduct are in progress.

23 (M) No property shall be forfeited under this Act from
24 a person who, without actual or constructive notice that
25 the property was the subject of forfeiture proceedings,
26 obtained possession of the property as a bona fide

1 purchaser for value. A person who purports to transfer
2 property after receiving actual or constructive notice
3 that the property is subject to seizure or forfeiture is
4 guilty of contempt of court and shall be liable to the
5 State for a penalty in the amount of the fair market value
6 of the property.

7 (N) If property is ordered forfeited under this Act
8 from a claimant who held title to the property in joint
9 tenancy or tenancy in common with another claimant, the
10 court shall determine the amount of each owner's interest
11 in the property according to principles of property law.

12 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

13 (725 ILCS 150/13.4)

14 Sec. 13.4. Applicability; savings clause.

15 (a) The changes made to this Act by Public Act 100-512
16 ~~100-0512~~ and Public Act 100-699 ~~this amendatory Act of the~~
17 ~~100th General Assembly~~ only apply to property seized on and
18 after July 1, 2018.

19 (b) The changes made to this Act by Public Act 100-699 ~~this~~
20 ~~amendatory Act of the 100th General Assembly~~ are subject to
21 Section 4 of the Statute on Statutes.

22 (Source: P.A. 100-699, eff. 8-3-18.)

23 Section 35. The Illinois Streetgang Terrorism Omnibus
24 Prevention Act is amended by changing Section 40 as follows:

1 (740 ILCS 147/40)

2 Sec. 40. Forfeiture.

3 (a) The following are subject to seizure and forfeiture:

4 (1) any property that is directly or indirectly used or
5 intended for use in any manner to facilitate streetgang
6 related activity; and

7 (2) any property constituting or derived from gross
8 profits or other proceeds obtained from streetgang related
9 activity.

10 (b) Property subject to forfeiture under this Section may
11 be seized under the procedures set forth in ~~under~~ Section
12 36-2.1 of the Criminal Code of 2012, except that actual
13 physical seizure of real property subject to forfeiture under
14 this Act requires the issuance of a seizure warrant. Nothing in
15 this Section prohibits the constructive seizure of real
16 property through the filing of a complaint for forfeiture in
17 circuit court and the recording of a lis pendens against the
18 real property without a hearing, warrant application, or
19 judicial approval.

20 (c) The State's Attorney may initiate forfeiture
21 proceedings under the procedures in Article 36 of the Criminal
22 Code of 2012. The State shall bear the burden of proving by a
23 preponderance of the evidence that the property was acquired
24 through a pattern of streetgang related activity.

25 (d) Property forfeited under this Section shall be disposed

1 of in accordance with Section 36-7 of Article 36 of the
2 Criminal Code of 2012 for the forfeiture of vehicles, vessels,
3 and aircraft.

4 (e) Within 60 days of the date of the seizure of contraband
5 under this Section, the State's Attorney shall initiate
6 forfeiture proceedings as provided in Article 36 of the
7 Criminal Code of 2012. An owner or person who has a lien on the
8 property may establish as a defense to the forfeiture of
9 property that is subject to forfeiture under this Section that
10 the owner or lienholder had no knowledge that the property was
11 acquired through a pattern of streetgang related activity.
12 Property that is forfeited under this Section shall be disposed
13 of as provided in Article 36 of the Criminal Code of 2012 for
14 the forfeiture of vehicles, vessels, and aircraft. The proceeds
15 of the disposition shall be paid to the Gang Violence Victims
16 and Witnesses Fund to be used to assist in the prosecution of
17 gang crimes.

18 (f) Property seized or forfeited under this Section is
19 subject to reporting under the Seizure and Forfeiture Reporting
20 Act.

21 (g) The changes made to this Section by Public Act 100-512
22 ~~100-0512~~ only apply to property seized on and after July 1,
23 2018.

24 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.