



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 1013

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1013, AS AMENDED,  
3 by inserting the following in its proper numeric sequence in  
4 Article 1:

5 "Section 1-5. The Criminal Code of 1961 is amended by  
6 adding Article 33G as follows:

7 (720 ILCS 5/Art. 33G heading new)

8 ARTICLE 33G. Corruption Influenced and Criminal Organizations

9 Law

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

11 Sec. 33G-1. Short title. This Article may be cited as the  
12 Corruption Influenced and Criminal Organizations Law, or  
13 ("CICO").

14 (720 ILCS 5/33G-2 new)

1       Sec. 33G-2. Legislative declaration. The substantial harm,  
2 public and private, inflicted on the people and economy of this  
3 State by pervasive public corruption, violent street gangs,  
4 organized sexual predators and hate crime offenders,  
5 identity-theft rings, criminal commercial schemes, and all  
6 other forms of enterprise criminality, is legitimately a matter  
7 of grave concern to the people of this State who have a basic  
8 right to be protected from such criminal activity and to be  
9 given adequate criminal and civil remedies to redress its  
10 harms. Whereas the current laws of this State provide  
11 inadequate criminal and civil remedies, procedures and  
12 punishments, the Illinois General Assembly hereby gives the  
13 supplemental remedies of the Corruption Influenced and  
14 Criminal Organizations Law full force and effect under law for  
15 the common good of this State and its people.

16           (720 ILCS 5/33G-3 new)

17       Sec. 33G-3. Definitions. As used in this Article:

18       (a) "Another state" means any state of the United States  
19 (other than the State of Illinois), or the District of  
20 Columbia, or the Commonwealth of Puerto Rico, or any territory  
21 or possession of the United States, or any political  
22 subdivision, or any department, agency, or instrumentality  
23 thereof.

24       (b) "Enterprise" includes (1) any individual, sole  
25 proprietorship, partnership, corporation, association,

1 business or charitable trust or other legal entity, and (2) any  
2 union or group of individuals, sole proprietorships,  
3 partnerships, corporations, associations, business or  
4 charitable trusts or other legal entities, or any combination  
5 thereof, associated in fact although not itself a legal entity.

6 An association in fact must be held together by a common  
7 purpose, apart from an individual purpose or purposes, but it  
8 need not be hierarchically structured or otherwise specially  
9 configured. As used in this Article, "enterprise" includes  
10 licit and illicit enterprises, as well as the State of Illinois  
11 and any political subdivision, or any department, agency, or  
12 instrumentality thereof.

13 (c) "Predicate activity" means:

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

22 (i) Section 7 of the Currency Reporting Act  
23 (financial structuring);

24 (ii) Illinois Vehicle Code: Section 4-103  
25 (possession of stolen vehicles), 4-103.1 (stolen  
26 vehicle conspiracy), 4-103.2 (aggravated possession of

1           stolen vehicles), 4-103.3 (organizer of a stolen  
2           vehicle conspiracy), 4-104 (stolen vehicle documents),  
3           4-105 (altered vehicle documents), or 4-105.1 (false  
4           vehicle documents);

5           (iii) Criminal Code of 1961: Section 8-1  
6           (solicitation), 8-1.1 (solicitation of murder), 8-1.2  
7           (solicitation of murder for hire), 8-2 (conspiracy),  
8           8-4 (attempt), 9-1 (first degree murder), 9-3.1  
9           (concealment of homicidal death), 9-3.3 (drug-induced  
10           homicide), 10-1 (kidnaping), 10-2 (aggravated  
11           kidnaping), 10-3 (unlawful restraint), 10-3.1  
12           (aggravated unlawful restraint), 10-4 (forcible  
13           detention), 10-5 (child abduction), 10-7 (aiding and  
14           abetting child abduction), 10A-10 (trafficking of  
15           persons and involuntary servitude), 11-6 (indecent  
16           solicitation of a child), 11-9.1 (sexual exploitation  
17           of a child), 11-9.2 (custodial sexual misconduct),  
18           11-15.1 (soliciting for a juvenile prostitute), 11-16  
19           (pandering), 11-17.1 (keeping a place of juvenile  
20           prostitution), 11-18.1 (patronizing a juvenile  
21           prostitute), 11-19.1 (juvenile pimping and aggravated  
22           juvenile pimping), 11-19.2 (exploitation of a child),  
23           12-2 (aggravated assault), 12-4 (aggravated battery),  
24           12-4.1 (heinous battery), 12-4.2 (aggravated battery  
25           with a firearm), 12-4.2-5 (aggravated battery with a  
26           machine gun or silencer-equipped firearm), 12-4.5

1           (tampering with food, drugs or cosmetics), 12-4.7  
2           (drug-induced infliction of great bodily harm), 12-6  
3           (intimidation), 12-6.1 (compelling organization  
4           membership of persons), 12-6.2 (aggravated  
5           intimation), 12-6.4 (criminal street gang  
6           recruitment), 12-7.1 (hate crime), 12-7.3 (stalking),  
7           12-7.4 (aggravated stalking), 12-7.5 (cyberstalking),  
8           12-9 (threatening public officials), 12-11 (home  
9           invasion), 12-11.1 (vehicular invasion), 12-13  
10           (criminal sexual assault), 12-14 (aggravated criminal  
11           sexual assault), 12-14.1 (predatory criminal sexual  
12           assault of a child), 12-16 (aggravated criminal sexual  
13           abuse), 12-20 (sale of body parts), 16-1 (theft), 16-7  
14           (piracy of recorded sounds or images), 16-16.1  
15           (aggravated possession of a stolen firearm), 16D-4  
16           (aggravated computer tampering), 16D-5 (computer  
17           fraud), 16G-15 (identity theft), 16G-20 (aggravated  
18           identity theft), 16H-60 (financial crime), 17-3  
19           (forgery), 17-5 (deceptive collection practices), 17-6  
20           (state benefits fraud), 17-9 (public aid wire fraud),  
21           17-10 (public aid mail fraud), 17-15 (fraudulent  
22           conveyance), 17-24 (fraudulent schemes and artifices),  
23           17-25 (use of scanning devices to defraud), 17-26  
24           (corporate misconduct), 17-27 (fraud in insolvency),  
25           17-29 (fraudulent disadvantaged business contracts),  
26           18-1 (robbery), 18-2 (armed robbery), 18-3 (vehicular

1 hijacking), 18-4 (aggravated vehicular hijacking),  
2 18-5 (aggravated robbery), 19-1 (burglary), 19-2  
3 (possession of burglary tools), 19-3 (residential  
4 burglary), 20-1 (arson), 20-1.1 (aggravated arson),  
5 20-1.2 (residential arson), 20-1.3 (place of worship  
6 arson), 20-2 (possession of explosives), 20.5-5  
7 (causing a catastrophe), 20.5-6 (possession of a  
8 deadly substance), 24-1.2 (aggravated discharge of a  
9 firearm), 24-1.2-5 (aggravated discharge of a machine  
10 gun or silencer equipped firearm), 24-1.6 (aggravated  
11 unlawful use of a weapon), 24-2.2 (unlawful  
12 ammunition), 24-3 (unlawful sale of firearms), 24-3.2  
13 (unlawful discharge of firearm projectiles), 24-3A  
14 (gunrunning), 24-5 (defacing a firearm), 28-1.1  
15 (syndicated gambling), 29-1 (offering a sports bribe),  
16 29-2 (accepting a sports bribe), 29A-1 (offering a  
17 commercial bribe), 29A-2 (accepting a commercial  
18 bribe), 29B-1 (money laundering), 29D-15 (soliciting  
19 support for terrorism), 29D-20 (making a terrorist  
20 threat), 29D-25 (falsely making a terrorist threat),  
21 29D-30 (terrorism), 29D-35 (hindering prosecution of  
22 terrorism), 30-1 (treason), 31-4 (obstruction of  
23 justice), 31A-1.2 (unauthorized contraband in a penal  
24 institution), 32-2 (perjury), 32-3 (subornation of  
25 perjury), 32-4 (communication with jurors or  
26 witnesses), 32-4a (harassment of jurors or witnesses),

1           32-4b (juror bribery), 32-5 (false personation of a  
2           government official), 32-5.1 (false personation of a  
3           peace officer), 32-5.1-1 (false personation of a peace  
4           officer with a deadly weapon), 32-5.2 (aggravated  
5           false personation of a peace officer), 32-5.4 (false  
6           personation of a fire fighter), 32-5.5 (aggravated  
7           false personation of a firefighter), 33-1 (bribery),  
8           33A-3 (armed violence), 33C-1 (fraudulent  
9           certification of disadvantaged business), 33C-2 (false  
10           statement regarding a disadvantaged business), 33C-3  
11           (obstruction of a disadvantaged business  
12           investigation), 33C-4 (obtaining fraudulent payments  
13           for a disadvantaged business), 33E-3 (bid-rigging),  
14           33E-4 (bid-rotating), 33E-5 (unlawful acquisition or  
15           disclosure of bid information), 33E-6 (interference  
16           with contract submission or award), 33E-7 (kickbacks),  
17           33E-8 (bribery of inspectors), 33E-9 (unlawful change  
18           orders), 33E-11 (unlawful certification), 33E-14  
19           (false statements on vendor applications), 33E-15  
20           (false entries), 33E-16 (misapplication of funds),  
21           33E-17 (unlawful participation), 33E-18 (unlawful  
22           stringing of bids), 39-1 (criminal usury), 46-2  
23           (insurance fraud), 46-1.1 (fraud on a governmental  
24           entity), or 46-2 (aggravated insurance fraud);

25           (iv) Illinois Credit Card and Debit Card Act:  
26           Section 3 (false statement in procuring a credit card),

1           7 (obtaining or transferring a credit card with intent  
2           to defraud), 8 (credit card fraud), 12 (use of account  
3           information with intent to defraud), 15 (alteration of  
4           a credit card), 16 (counterfeit credit card), 17  
5           (unlawful possession of credit card machinery), 17.01  
6           (fraudulent deposit), or 17.02 (fraudulent  
7           transmission);

8           (v) Cannabis Control Act: Section 5 (manufacture  
9           or delivery of cannabis), 5.1 (cannabis trafficking),  
10          8 (production or possession of cannabis plants);

11          (vi) Illinois Controlled Substances Act: 401  
12          (manufacture or delivery of a controlled substance),  
13          401.1 (controlled substance trafficking), 405  
14          (calculated criminal drug conspiracy), 405.1 (criminal  
15          drug conspiracy), 405.2 (streetgang criminal drug  
16          conspiracy), or 406.1 (unlawful use of buildings to  
17          produce controlled substances);

18          (vii) Methamphetamine Control and Community  
19          Protection Act: Section 15 (methamphetamine  
20          manufacturing) or 55 (methamphetamine delivery); or

21          (viii) Home Repair Fraud Act: Section 3 (home  
22          repair fraud) or 5 (aggravated home repair fraud); or  
23          (2) any act, attempt, endeavor, solicitation, or  
24          conspiracy involving murder, kidnaping, gambling, arson,  
25          robbery, bribery, extortion, dealing in obscene matter, or  
26          dealing in a controlled substance or listed chemical (as



1 defined under the laws of the United States in Title 21,  
2 United States Code, Section 802), that is chargeable under  
3 the laws of Another State and punishable by imprisonment  
4 for more than one year. Under this Article, "chargeable"  
5 means the act, attempt or endeavor, solicitation, or  
6 conspiracy constitutes an offense under the substantive  
7 criminal law of Another State, as such laws exist as of the  
8 date the activity occurred or, in the instance of a  
9 continuing offense, the date that charges under this  
10 Article are filed in a particular matter in the State of  
11 Illinois, but it does not include any procedural defenses  
12 under the laws of Another State; or

13 (3) any act, attempt, endeavor, solicitation, or  
14 conspiracy that is chargeable under any of the provisions  
15 referenced in Title 18, United States Code, Sections  
16 1961(1)(B) through (G). Under this Article, "chargeable"  
17 means the act, attempt or endeavor, solicitation, or  
18 conspiracy constitutes an offense under the referenced  
19 provisions, as such provisions exist as of the date the  
20 activity occurred or, in the instance of a continuing  
21 offense, the date that charges under this Article are filed  
22 in a particular matter in the State of Illinois, but it  
23 does not include any procedural defenses under the laws of  
24 the United States.

25 (d) "Pattern of predicate activity" means: (1) at least 2  
26 occurrences of predicate activity related to the affairs of an

1 enterprise in the form of an act, attempt, endeavor,  
2 solicitation, or conspiracy, or any combination thereof; and  
3 (2) at least one of which falls after the effective date of  
4 this Article, and the last of which falls within 10 years  
5 (excluding any period of imprisonment) after the prior  
6 occurrence of predicate activity.

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

20 (f) "Unlawful death" includes the following offenses under  
21 the Criminal Code of 1961: Section 9-1 (first degree murder),  
22 9-2 (second degree murder), 9-3 (voluntary manslaughter and  
23 reckless homicide), or 9-3.2 (involuntary manslaughter).

24 (g) "Corruption prosecutor" means any Illinois State's  
25 Attorney, or any of his or her representatives so designated by  
26 such Illinois State's Attorney, under the laws or regulations

1 of the State of Illinois or any political subdivision thereof,  
2 who is charged with the duty of enforcing or carrying into  
3 effect this Article. "Corruption prosecutor" also includes the  
4 Attorney General of the State of Illinois upon the granting of  
5 an application pursuant to the Statewide Grand Jury Act.

6 (h) "Corruption investigator" means any peace officer or  
7 law enforcement agent of the United States, Another State, the  
8 State of Illinois, or any political subdivision thereof, or any  
9 member or attorney of a law enforcement office, agency,  
10 commission, or other entity that is empowered to investigate or  
11 prosecute any criminal violation of the laws of the United  
12 States, another state, the State of Illinois, or any political  
13 subdivision thereof.

14 (i) "Corruption investigation" means any inquiry conducted  
15 by any corruption prosecutor or corruption investigator for the  
16 purpose of ascertaining whether, or to what degree, any person  
17 has been involved in any violation of this Article, or any  
18 inquiry concerning any final order, judgment, or decree of any  
19 court, duly entered in any case or proceeding arising under  
20 this Article.

21 (720 ILCS 5/33G-4 new)

22 Sec. 33G-4. Prohibited activities. Under this Article:

23 (a) It is unlawful for any person: (1) who is employed by  
24 or associated with any enterprise, knowingly to conduct or  
25 participate, directly or indirectly, in such enterprise's

1 affairs through either a pattern of predicate activity or the  
2 collection of unlawful debt; or (2) knowingly to acquire or  
3 maintain, directly or indirectly, through either a pattern of  
4 predicate activity or the collection of unlawful debt, any  
5 interest in, or control of, to any degree, of any enterprise,  
6 real property, or personal property of any character, including  
7 money.

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

17 (c) The application of a remedy under this Article shall  
18 not preclude the application of other criminal, civil or  
19 administrative remedies under this Article or any other  
20 provision of law. Any person prosecuted under this Article may  
21 be convicted and sentenced either: (1) for the offense of  
22 attempting or conspiring to violate this Article, and for any  
23 other particular offense or offenses that may constitute an  
24 object of the attempt or conspiracy to violate this Article; or  
25 (2) for the substantive offense of violating this Article, and  
26 for any other particular offense or offenses that may

1 constitute predicate activity underlying a violation of this  
2 Article.

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

13 (720 ILCS 5/33G-5 new)

14 Sec. 33G-5. Penalties. Under this Article, notwithstanding  
15 any other provision of law:

16 (a) Any violation of this Article shall be sentenced as a  
17 Class X felony with a term of imprisonment of not less than 6  
18 years and not more than 30 years, and the sentence imposed  
19 shall also include restitution, and/or a criminal fine, jointly  
20 and severally, up to \$250,000 or twice the gross amount of any  
21 intended loss of the violation, if any, whichever is higher.

22 (b) Wherever the unlawful death of any person or persons  
23 results as a necessary or natural consequence of any violation  
24 of this Article, the sentence imposed on the defendant shall  
25 include an enhanced term of imprisonment of at least 25 years

1 up to natural life, in addition to any other penalty imposed by  
2 the court, provided: (1) the death or deaths were reasonably  
3 foreseeable to the defendant to be sentenced; and (2) the death  
4 or deaths occurred when such defendant was otherwise engaged in  
5 the violation of this Article as a whole.

6 (c) A sentence of probation, periodic imprisonment,  
7 conditional discharge, impact incarceration or county impact  
8 incarceration, court supervision, withheld adjudication, or  
9 any pretrial diversionary sentence or suspended sentence, is  
10 not authorized for a violation of this Article.

11 (720 ILCS 5/33G-6 new)

12 Sec. 33G-6. Remedial proceedings, procedures, and  
13 forfeiture. Under this Article:

14 (a) The courts shall have jurisdiction to prevent and  
15 restrain violations of this Article by issuing appropriate  
16 orders, including: (1) ordering any person to disgorge illicit  
17 proceeds obtained by a violation of this Article or divest  
18 himself or herself of any interest, direct or indirect, in any  
19 enterprise or real or personal property of any character,  
20 including money, obtained, directly or indirectly, by a  
21 violation of this Article; (2) imposing reasonable  
22 restrictions on the future activities or investments of any  
23 person or enterprise, including prohibiting any person or  
24 enterprise from engaging in the same type of endeavor as the  
25 person or enterprise engaged in, that violated this Article; or

1 (3) ordering dissolution or reorganization of any enterprise,  
2 making due provision for the rights of innocent persons.

3 (b) The United States, Another State, or the State of  
4 Illinois, or any political subdivision, or any department,  
5 agency, or instrumentality thereof, or any person (subject to a  
6 substantially equal involvement defense) or such person's  
7 estate, injured in his or her person, business, or property by  
8 reason of a violation, directly or indirectly, of this Article,  
9 may sue in any appropriate court and shall recover threefold  
10 any damages sustained and the costs of the suit, including a  
11 reasonable attorney's fee at the trial and appellate level, and  
12 any equitable remedy justice requires, including injunctions,  
13 declaratory judgments, divestiture, accounting or  
14 disgorgement. Pending final determination thereof, the court  
15 may at any time enter such restraining orders or prohibitions,  
16 or take such other actions, including the acceptance of  
17 satisfactory performance bonds, as it shall deem proper.  
18 Satisfactory performance bonds shall not be required of the  
19 United States, Another State, or the State of Illinois, or any  
20 political subdivision, or any department, agency, or  
21 instrumentality thereof. The existence of a criminal  
22 conviction or corruption investigation for the alleged  
23 violation of this Article is not a prerequisite to any  
24 proceeding hereunder, but a final judgment entered in favor of  
25 the People of the State of Illinois in any criminal proceeding  
26 brought under this Article shall estop the defendant in the

1 criminal case from denying the material allegations of the  
2 criminal violation in any subsequent civil or administrative  
3 proceeding brought under this Article.

4 (c) Notwithstanding any other provision of law, the court  
5 shall, for any violation of this Article, order criminal or  
6 civil forfeiture, in personam or in rem, jointly and severally,  
7 of any interest or property the person has acquired or  
8 maintained in violation of this Article, or any interest in,  
9 security of, or claim against, or property or contractual right  
10 of any kind affording a source of influence of any degree over,  
11 any enterprise that the person has established, operated,  
12 controlled, conducted, or participated in, in violation of this  
13 Article, as well as any property constituting, or derived from,  
14 any proceeds, including money, that the person obtained,  
15 directly or indirectly, from predicate activity or unlawful  
16 debt collection in violation of this Article. Any court, in  
17 imposing sentence on such person, shall order, in addition to  
18 any other sentence imposed pursuant to this Article, that the  
19 person forfeit to the State of Illinois all property described  
20 herein. The property and interests subject to criminal or civil  
21 forfeiture under this Article include any real property,  
22 including things growing on, affixed to, and found in land, and  
23 any tangible and intangible personal property, including  
24 rights, privileges, interests, claims, and securities. All  
25 right, title, and interest in property described in this  
26 Article vests in the State of Illinois upon the inception of



1 the illicit agreement or commission of any act otherwise giving  
2 rise to forfeiture under this Article. The court shall further  
3 order the criminal or civil forfeiture of any other property of  
4 the defendant up to the value of the property described herein  
5 if, as a result of any act or omission of the defendant, such  
6 property subject to forfeiture: (1) cannot be located upon the  
7 exercise of due diligence; (2) has been transferred or sold to,  
8 or deposited with, a third party; (3) has been placed beyond  
9 the jurisdiction of the court; (4) has been substantially  
10 diminished in value; or (5) has been commingled with other  
11 property that cannot be divided without difficulty.

12 (d) Any property subject to criminal or civil forfeiture  
13 under this Article that is subsequently transferred to a person  
14 other than a defendant may be the subject of a special verdict  
15 of forfeiture and thereafter shall be ordered forfeited to the  
16 State of Illinois, unless the transferee petitions the court  
17 and establishes in a hearing before the court, without a jury,  
18 that he or she is a bona fide purchaser for value of such  
19 property who at the time of purchase was reasonably without  
20 cause to believe that the property was subject to forfeiture  
21 under this Article. The petition shall be signed by the  
22 petitioner under penalty of perjury and shall set forth the  
23 nature and extent of the petitioner's right, title, or interest  
24 in the property, the time and circumstances of the petitioner's  
25 acquisition of the right, title, or interest in the property,  
26 any additional facts supporting the petitioner's claim, and the

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

20 (1) the petitioner has a legal right, title, or  
21 interest in the property, and such right, title, or  
22 interest renders the order of forfeiture invalid in whole  
23 or in part because the right, title, or interest was vested  
24 in the petitioner rather than the defendant or was superior  
25 to any right, title, or interest of the defendant at the  
26 time of the commission of the acts that gave rise to the

1 forfeiture of the property under this Article; or

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

7 (e) Upon application of a corruption prosecutor, the court  
8 may enter a restraining order or injunction, require the  
9 execution of a satisfactory performance bond, or take any other  
10 action to preserve the availability of property described  
11 herein for forfeiture under this Article:

12 (1) upon the filing of an indictment or information  
13 charging a violation of this Article and alleging that the  
14 property with respect to which the order is sought would,  
15 in the event of conviction, be subject to forfeiture under  
16 this Article; or

17 (2) prior to the filing of such an indictment or  
18 information, if, after notice to persons appearing to have  
19 an interest in the property and opportunity for a hearing,  
20 the court determines that: (A) there is a substantial  
21 probability that the corruption prosecutor will prevail on  
22 the issue of forfeiture and that failure to enter the order  
23 will result in the property being destroyed, removed from  
24 the jurisdiction of the court, or otherwise made  
25 unavailable for forfeiture; and (B) the need to preserve  
26 the availability of the property through the entry of the

1       requested order outweighs the hardship on any party against  
2       whom the order is to be entered; Provided that any such  
3       order entered be effective for not more than ninety days,  
4       unless extended by the court for good cause shown or unless  
5       an indictment or information described herein has been  
6       filed.

7       A temporary restraining order under this Article may be  
8       entered upon application of a corruption prosecutor without  
9       notice or opportunity for a hearing when an information or  
10      indictment has not yet been filed with respect to the property,  
11      if the corruption prosecutor demonstrates that there is  
12      probable cause to believe that the property with respect to  
13      which the order is sought would, in the event of conviction, be  
14      subject to forfeiture under this Article and that provision of  
15      notice will jeopardize the integrity of a corruption  
16      investigation, the safety of any persons, or the availability  
17      of the property for forfeiture. Such a temporary order shall  
18      expire not more than 10 days after the date on which it is  
19      entered, unless extended for good cause shown or unless the  
20      party against whom it is entered consents to an extension for a  
21      longer period. A hearing requested concerning an order entered  
22      herein under this Article shall be held at the earliest  
23      possible time, and prior to the expiration of the temporary  
24      order. The court may receive and consider, at a hearing held  
25      pursuant to this Article, evidence and information that would  
26      be otherwise inadmissible under the rules of evidence, and such

1 a hearing shall be heard by the court without a jury.

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

22 (g) Following the seizure of property ordered forfeited  
23 under this Article, the corruption prosecutor or his or her  
24 agent shall direct the disposition of the property by sale or  
25 any other commercially feasible means, making due provision for  
26 the rights of any innocent persons. Any property right or

1 interest not exercisable by, or transferable for value to, the  
2 State of Illinois shall expire and shall not revert to the  
3 defendant, nor shall the defendant or any person acting in  
4 concert with or on behalf of the defendant be eligible to  
5 purchase forfeited property at any sale held by the corruption  
6 prosecutor or his or her agent. Upon application of a person,  
7 other than the defendant or a person acting in concert with or  
8 on behalf of the defendant, the court may restrain or stay the  
9 sale or disposition of the property pending the conclusion of  
10 any appeal of the criminal case giving rise to the forfeiture,  
11 if the applicant demonstrates that proceeding with the sale or  
12 disposition of the property will result in irreparable injury,  
13 harm or loss to him or her. At the direction of the court, the  
14 proceeds of any sale or other disposition of property forfeited  
15 under this Article and any moneys forfeited shall be used to  
16 pay all proper expenses consisting of the costs of the  
17 corruption investigation, the prosecution thereof, and any  
18 related remedial proceedings under this Article, as well as the  
19 forfeiture and sale, including any expenses of seizure,  
20 maintenance or custody of the property pending its disposition,  
21 advertising and court costs. The corruption prosecutor shall  
22 deposit in the treasury of the State of Illinois 75% of any  
23 amounts of the proceeds or moneys remaining after the payment  
24 of such proper expenses, which money or proceeds shall  
25 thereafter be disposed of as prescribed by law, and the  
26 corruption prosecutor shall retain directly the final 25% of

1 such proceeds or moneys for the general purposes of fulfilling  
2 the duties of his or her office, or for equitable sharing, as  
3 directed by the corruption prosecutor, among those corruption  
4 investigators participating in the corruption investigation,  
5 the prosecution thereof, and or any related remedial  
6 proceedings under this Article.

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

23 (i) Except as provided herein, no party claiming an  
24 interest in property subject to forfeiture under this Article  
25 may: (1) intervene in any trial or appeal of a criminal case  
26 involving the forfeiture of such property under this Article;

1 or (2) commence an action at law or equity against the State of  
2 Illinois, or against any corruption prosecutor or corruption  
3 investigator, concerning the actions taken under this Article  
4 or concerning the validity of an alleged interest in the  
5 property subsequent to the filing of an indictment or  
6 information alleging that the property is subject to forfeiture  
7 under this Article.

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

20 (720 ILCS 5/33G-7 new)

21 Sec. 33G-7. Severability. If any clause, sentence, Section  
22 or provision, or part of this Article or the application  
23 thereof to any person or circumstance shall be adjudged to be  
24 unconstitutional, the remainder of this Article or its  
25 application to any person or circumstances other than those to



1 which it is held invalid shall not be affected thereby.

2 (720 ILCS 5/33G-8 new)

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

18 (720 ILCS 5/33G-9 new)

19 Sec. 33G-9. Limitations. Under this Article,  
20 notwithstanding any other provision of law, but otherwise  
21 subject to the periods of exclusion from limitation as provided  
22 in Section 3-7 of this Code, the following limitations apply:

23 (a) Any action, proceeding, or prosecution brought by a  
24 corruption prosecutor under this Article must commence within 5

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

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

21 (c) Any action or proceeding brought by a private party  
22 under subsection (b) of Section 33G-6 of this Article must  
23 commence within 3 years of one of the following dates,  
24 whichever is latest: (1) the date of the commission of the last  
25 occurrence of predicate activity in a pattern of such activity,  
26 in the form of an act, attempt, endeavor, or solicitation,

1 underlying the alleged violation of this Article; or (2) in the  
2 case of an action, proceeding, or prosecution, based upon a  
3 conspiracy to violate this Article, the date that the last  
4 objective of the alleged conspiracy was accomplished, defeated  
5 or abandoned (whichever is later); or (3) the date any minor  
6 victim of the violation attains the age of 18 years or the date  
7 any victim of the violation subject to a legal disability  
8 thereafter gains legal capacity; or (4) the date that any  
9 alleged violation of this Article, including injury, cause,  
10 pattern, or identity of the violator or violators, was  
11 otherwise discovered in the exercise of good faith.

12 Section 1-10. The Code of Criminal Procedure of 1963 is  
13 amended by changing Sections 108A-1, 108A-3, 108A-4, 108A-5,  
14 and 108B-3 as follows:

15 (725 ILCS 5/108A-1) (from Ch. 38, par. 108A-1)

16 Sec. 108A-1. Authorization for use of eavesdropping  
17 device. The State's Attorney or an Assistant State's Attorney  
18 authorized by the State's Attorney may authorize an application  
19 to a circuit judge or an associate judge assigned by the Chief  
20 Judge of the circuit for, and such judge may grant in  
21 conformity with this Article, an order authorizing or approving  
22 the use of an eavesdropping device by a law enforcement officer  
23 or agency having the responsibility for the investigation of  
24 any felony under Illinois law where any one party to a

1 conversation to be monitored, or previously monitored in the  
2 case of an emergency situation as defined in this Article, has  
3 consented to such monitoring.

4 The Chief Judge of the circuit may assign to associate  
5 judges the power to issue orders authorizing or approving the  
6 use of eavesdropping devices by law enforcement officers or  
7 agencies in accordance with this Article. After assignment by  
8 the Chief Judge, an associate judge shall have plenary  
9 authority to issue such orders without additional  
10 authorization for each specific application made to him by the  
11 State's Attorney until such time as the associate judge's power  
12 is rescinded by the Chief Judge. The Chief Judge of the  
13 circuit, or any circuit judge or an associate judge assigned by  
14 the Chief Judge, shall remain available on an expedited basis  
15 to review applications and issue orders authorizing or  
16 approving the use of eavesdropping devices in accordance with  
17 this Article during non-business hours.

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

19 (725 ILCS 5/108A-3) (from Ch. 38, par. 108A-3)

20 Sec. 108A-3. Procedure for Obtaining Judicial Approval of  
21 Use of Eavesdropping Device. (a) Where any one party to a  
22 conversation to occur in the future has consented to the use of  
23 an eavesdropping device to overhear or record the conversation,  
24 a judge may grant approval to an application to use an  
25 eavesdropping device pursuant to the provisions of this

1 section.

2 Each application for an order authorizing or subsequently  
3 approving the use of an eavesdropping device shall be made in  
4 writing upon oath or affirmation to a circuit judge, or an  
5 associate judge assigned for such purpose pursuant to Section  
6 108A-1 of this Code, and shall state the applicant's authority  
7 to make such application. Each application shall include the  
8 following:

9 (1) the identity of the investigative or law enforcement  
10 officer making the application and the State's Attorney  
11 authorizing the application;

12 (2) a statement of the facts and circumstances relied upon  
13 by the applicant to justify his belief that an order should be  
14 issued including: (a) details as to the felony that has been,  
15 is being, or is about to be committed, or a brief statement of  
16 the nature of the felony investigation; (b) a description of  
17 the type of communication sought to be monitored; (c) the  
18 identity of the party to the expected conversation consenting  
19 to the use of an eavesdropping device; (d) the identity of the  
20 person, if known, whose conversations are to be overheard by  
21 the eavesdropping device;

22 (3) a statement of the period of time for which the use of  
23 the device is to be maintained ~~or, if the nature of the~~  
24 ~~investigation is such that the authorization for use of the~~  
25 ~~device should not terminate automatically when the described~~  
26 ~~type of communication is overheard or recorded, a description~~

1 ~~of facts establishing reasonable cause to believe that~~  
2 ~~additional conversations of the same type will occur~~  
3 ~~thereafter;~~

4 (4) a statement of the existence of all previous  
5 applications known to the individual making the application  
6 which have been made to any judge requesting permission to use  
7 an eavesdropping device involving the same persons in the  
8 present application, and the action taken by the judge on the  
9 previous applications.†

10 ~~(5) when the application is for an extension of an order, a~~  
11 ~~statement setting forth the results so far obtained from the~~  
12 ~~use of the eavesdropping device or an explanation of the~~  
13 ~~failure to obtain such results.~~

14 ~~(b) The judge may request the applicant to furnish~~  
15 ~~additional testimony, witnesses, or evidence in support of the~~  
16 ~~application.~~

17 (Source: P.A. 86-391.)

18 (725 ILCS 5/108A-4) (from Ch. 38, par. 108A-4)

19 Sec. 108A-4. Grounds for Approval or Authorization. The  
20 judge may authorize or approve the use of the eavesdropping  
21 device where it is found that:

22 (a) one party to the conversation has or will have  
23 consented to the use of the device;

24 (b) the use of the device is relevant to an ongoing felony  
25 investigation or otherwise facilitates the safety of any person

1 ~~conducting or assisting in such felony investigation; and there~~  
2 ~~is reasonable cause for believing that an individual is~~  
3 ~~committing, has committed, or is about to commit a felony under~~  
4 ~~Illinois law;~~

5 ~~(c) there is reasonable cause for believing that particular~~  
6 ~~conversations concerning that felony offense will be obtained~~  
7 ~~through such use; and~~

8 (c) ~~(d)~~ for any extension authorized, that further use of a  
9 device is warranted on similar grounds.

10 (Source: P.A. 79-1159.)

11 (725 ILCS 5/108A-5) (from Ch. 38, par. 108A-5)

12 Sec. 108A-5. Orders Authorizing Use of an Eavesdropping  
13 Device.

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

16 (1) the identity of the person who has consented to the  
17 use of the device to monitor any of his conversations and a  
18 requirement that any conversation overheard or received  
19 must include this person;

20 (2) the identity of the other person or persons, if  
21 known, who will participate in the conversation;

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

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

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

9 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

10 Sec. 108B-3. Authorization for the interception of private  
11 communication.

12 (a) The State's Attorney, or a person designated in writing  
13 or by law to act for him and to perform his duties during his  
14 absence or disability, may authorize, in writing, an ex parte  
15 application to the chief judge of a court of competent  
16 jurisdiction for an order authorizing the interception of a  
17 private communication when no party has consented to the  
18 interception and (i) the interception may provide evidence of,  
19 or may assist in the apprehension of a person who has  
20 committed, is committing or is about to commit, a violation of  
21 Section 8-1.1 (solicitation of murder), 8-1.2 (solicitation of  
22 murder for hire), 9-1 (first degree murder), or 29B-1 (money  
23 laundering) of the Criminal Code of 1961, Section 401, 401.1  
24 (controlled substance trafficking), 405, 405.1 (criminal drug  
25 conspiracy) or 407 of the Illinois Controlled Substances Act or



1 any Section of the Methamphetamine Control and Community  
2 Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3,  
3 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a) (4),  
4 24-1(a) (6), 24-1(a) (7), 24-1(a) (9), 24-1(a) (10), or 24-1(c) of  
5 the Criminal Code of 1961, or an offense listed as predicate  
6 activity under subsection 33G-3(c), or conspiracy to commit  
7 money laundering or conspiracy to commit first degree murder;  
8 (ii) in response to a clear and present danger of imminent  
9 death or great bodily harm to persons resulting from: (1) a  
10 kidnapping or the holding of a hostage by force or the threat  
11 of the imminent use of force; or (2) the occupation by force or  
12 the threat of the imminent use of force of any premises, place,  
13 vehicle, vessel or aircraft; (iii) to aid an investigation or  
14 prosecution of a civil action brought under the Illinois  
15 Streetgang Terrorism Omnibus Prevention Act when there is  
16 probable cause to believe the interception of the private  
17 communication will provide evidence that a streetgang is  
18 committing, has committed, or will commit a second or  
19 subsequent gang-related offense or that the interception of the  
20 private communication will aid in the collection of a judgment  
21 entered under that Act; or (iv) upon information and belief  
22 that a streetgang has committed, is committing, or is about to  
23 commit a felony.

24 (b) The State's Attorney or a person designated in writing  
25 or by law to act for the State's Attorney and to perform his or  
26 her duties during his or her absence or disability, may

1 authorize, in writing, an ex parte application to the chief  
2 judge of a circuit court for an order authorizing the  
3 interception of a private communication when no party has  
4 consented to the interception and the interception may provide  
5 evidence of, or may assist in the apprehension of a person who  
6 has committed, is committing or is about to commit, a violation  
7 of an offense under Article 29D of the Criminal Code of 1961.

8 (b-1) Subsection (b) is inoperative on and after January 1,  
9 2005.

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

13 (c) As used in this Section, "streetgang" and  
14 "gang-related" have the meanings ascribed to them in Section 10  
15 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

16 (Source: P.A. 94-468, eff. 8-4-05; 94-556, eff. 9-11-05;  
17 95-331, eff. 8-21-07.)

18 Section 1-15. The Statewide Grand Jury Act is amended by  
19 changing Section 3 as follows:

20 (725 ILCS 215/3) (from Ch. 38, par. 1703)

21 Sec. 3. Written application for the appointment of a  
22 Circuit Judge to convene and preside over a Statewide Grand  
23 Jury, with jurisdiction extending throughout the State, shall  
24 be made to the Chief Justice of the Supreme Court. Upon such

1 written application, the Chief Justice of the Supreme Court  
2 shall appoint a Circuit Judge from the circuit where the  
3 Statewide Grand Jury is being sought to be convened, who shall  
4 make a determination that the convening of a Statewide Grand  
5 Jury is necessary.

6 In such application the Attorney General shall state that  
7 the convening of a Statewide Grand Jury is necessary because of  
8 an alleged offense or offenses set forth in this Section  
9 involving more than one county of the State and identifying any  
10 such offense alleged; and

11 (a) that he or she believes that the grand jury  
12 function for the investigation and indictment of the  
13 offense or offenses cannot effectively be performed by a  
14 county grand jury together with the reasons for such  
15 belief, and

16 (b) (1) that each State's Attorney with jurisdiction  
17 over an offense or offenses to be investigated has  
18 consented to the impaneling of the Statewide Grand  
19 Jury, or

20 (2) if one or more of the State's Attorneys having  
21 jurisdiction over an offense or offenses to be  
22 investigated fails to consent to the impaneling of the  
23 Statewide Grand Jury, the Attorney General shall set  
24 forth good cause for impaneling the Statewide Grand  
25 Jury.

26 If the Circuit Judge determines that the convening of a

1 Statewide Grand Jury is necessary, he or she shall convene and  
2 impanel the Statewide Grand Jury with jurisdiction extending  
3 throughout the State to investigate and return indictments:

4 (a) For violations of any of the following or for any  
5 other criminal offense committed in the course of violating  
6 any of the following: Article 29D of the Criminal Code of  
7 1961, the Illinois Controlled Substances Act, the Cannabis  
8 Control Act, the Methamphetamine Control and Community  
9 Protection Act, the Narcotics Profit Forfeiture Act, or the  
10 Cannabis and Controlled Substances Tax Act; a streetgang  
11 related felony offense; Section 24-2.1, 24-2.2, 24-3,  
12 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection  
13 24-1(a) (4), 24-1(a) (6), 24-1(a) (7), 24-1(a) (9),  
14 24-1(a) (10), or 24-1(c) of the Criminal Code of 1961; or a  
15 money laundering offense; or any violation of the  
16 Corruption Influenced and Criminal Organizations Law;  
17 provided that the violation or offense involves acts  
18 occurring in more than one county of this State; and

19 (a-5) For violations facilitated by the use of a  
20 computer, including the use of the Internet, the World Wide  
21 Web, electronic mail, message board, newsgroup, or any  
22 other commercial or noncommercial on-line service, of any  
23 of the following offenses: indecent solicitation of a  
24 child, sexual exploitation of a child, soliciting for a  
25 juvenile prostitute, keeping a place of juvenile  
26 prostitution, juvenile pimping, or child pornography; and

1           (b) For the offenses of perjury, subornation of  
2           perjury, communicating with jurors and witnesses, and  
3           harassment of jurors and witnesses, as they relate to  
4           matters before the Statewide Grand Jury.

5           "Streetgang related" has the meaning ascribed to it in  
6           Section 10 of the Illinois Streetgang Terrorism Omnibus  
7           Prevention Act.

8           Upon written application by the Attorney General for the  
9           convening of an additional Statewide Grand Jury, the Chief  
10          Justice of the Supreme Court shall appoint a Circuit Judge from  
11          the circuit for which the additional Statewide Grand Jury is  
12          sought. The Circuit Judge shall determine the necessity for an  
13          additional Statewide Grand Jury in accordance with the  
14          provisions of this Section. No more than 2 Statewide Grand  
15          Juries may be empaneled at any time.

16          (Source: P.A. 94-556, eff. 9-11-05.)".