



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1528

Introduced 2/15/2019, by Sen. Laura Fine

#### SYNOPSIS AS INTRODUCED:

See Index

Amends various Acts concerning forfeiture, including the Criminal Code of 2012, Code of Criminal Procedure of 1963, and the Drug Asset Forfeiture Procedure Act. Changes terminology of forfeiture and seizure to terms including property taken by the government during an arrest and government taking. Provides that standardized forms regarding property taken by the government during an arrest, including a hardship motion, verified claim, and answer to a complaint, as determined by the Supreme Court, shall be used statewide. Amends the Statute on Statutes. Provides that no prior precedent or case law is intended to be affected by the amendatory Act by the changing of statutory language related to what was previously known as civil asset forfeiture.

LRB101 06797 SLF 51824 b

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 Statute on Statutes is amended by adding  
5 Section 1.39-5 as follows:

6 (5 ILCS 70/1.39-5 new)

7 Sec. 1.39-5. Forfeiture terminology. No prior precedent or  
8 case law is intended to be affected by this amendatory Act of  
9 the 101st General Assembly by the changing of statutory  
10 language related to what was previously known as civil asset  
11 forfeiture.

12 Section 10. The Seizure and Forfeiture Reporting Act is  
13 amended by changing Sections 5, 10, and 20 as follows:

14 (5 ILCS 810/5)

15 Sec. 5. Applicability. This Act is applicable to property  
16 taken by the government during an arrest ~~seized or forfeited~~  
17 under the following provisions of law:

- 18 (1) Section 3.23 of the Illinois Food, Drug and  
19 Cosmetic Act;
- 20 (2) Section 44.1 of the Environmental Protection Act;
- 21 (3) Section 105-55 of the Herptiles-Herps Act;

- 1 (4) Section 1-215 of the Fish and Aquatic Life Code;
- 2 (5) Section 1.25 of the Wildlife Code;
- 3 (6) Section 17-10.6 of the Criminal Code of 2012  
4 (financial institution fraud);
- 5 (7) Section 28-5 of the Criminal Code of 2012  
6 (gambling);
- 7 (8) Article 29B of the Criminal Code of 2012 (money  
8 laundering);
- 9 (9) Article 33G of the Criminal Code of 2012 (Illinois  
10 Street Gang and Racketeer Influenced And Corrupt  
11 Organizations Law);
- 12 (10) Article 36 of the Criminal Code of 2012  
13 (government taking seizure and forfeiture of vessels,  
14 vehicles, and aircraft);
- 15 (11) Section 47-15 of the Criminal Code of 2012  
16 (dumping garbage upon real property);
- 17 (12) Article 124B of the Code of Criminal procedure  
18 (government taking forfeiture);
- 19 (13) Drug Asset Forfeiture Procedure Act;
- 20 (14) Narcotics Profit Forfeiture Act;
- 21 (15) Illinois Streetgang Terrorism Omnibus Prevention  
22 Act; and
- 23 (16) Illinois Securities Law of 1953.

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

25 (5 ILCS 810/10)

1           Sec. 10. Reporting by law enforcement agency.

2           (a) Each law enforcement agency that takes ~~seizes~~ property  
3 during an arrest is subject to reporting under this Act shall  
4 report the following information about property taken by the  
5 government during an arrest ~~seized or forfeited~~ under State  
6 law:

7           (1) the name of the law enforcement agency that took  
8 ~~seized~~ the property;

9           (2) the date of the government taking ~~seizure~~;

10          (3) the type of property taken ~~seized~~, including a  
11 building, vehicle, boat, cash, negotiable security, or  
12 firearm, except reporting is not required for government  
13 takings ~~seizures~~ of contraband including alcohol, gambling  
14 devices, drug paraphernalia, and controlled substances;

15          (4) a description of the property subject to government  
16 taking during an arrest ~~seized~~ and the estimated value of  
17 the property and if the property is a conveyance, the  
18 description shall include the make, model, year, and  
19 vehicle identification number or serial number; and

20          (5) the location where the government taking ~~seizure~~  
21 occurred.

22          The filing requirement shall be met upon filing Illinois  
23 State Police Notice/Inventory of Seized Property (Form 4-64)  
24 with the State's Attorney's Office in the county where the  
25 government taking ~~forfeiture~~ action is being commenced or with  
26 the Attorney General's Office if the ~~forfeiture~~ action is being

1 commenced by that office, and the forwarding of Form 4-64 upon  
2 approval of the State's Attorney's Office or the Attorney  
3 General's Office to the Department of State Police Asset  
4 Forfeiture Section. With regard to property taken by the  
5 government during an arrest ~~seizures~~ for which Form 4-64 is not  
6 required to be filed, the filing requirement shall be met by  
7 the filing of an annual summary report with the Department of  
8 State Police no later than 60 days after December 31 of that  
9 year.

10 (b) Each law enforcement agency, including a drug task  
11 force or Metropolitan Enforcement Group (MEG) unit, that  
12 receives proceeds from property taken by the government during  
13 an arrest ~~forfeitures~~ subject to reporting under this Act shall  
14 file an annual report with the Department of State Police no  
15 later than 60 days after December 31 of that year. The format  
16 of the report shall be developed by the Department of State  
17 Police and shall be completed by the law enforcement agency.  
18 The report shall include, at a minimum, the amount of funds and  
19 other property distributed to the law enforcement agency by the  
20 Department of State Police, the amount of funds expended by the  
21 law enforcement agency, and the category of expenditure,  
22 including:

23 (1) crime, gang, or abuse prevention or intervention  
24 programs;

25 (2) compensation or services for crime victims;

26 (3) witness protection, informant fees, and controlled

1 purchases of contraband;

2 (4) salaries, overtime, and benefits, as permitted by  
3 law;

4 (5) operating expenses, including, but not limited to,  
5 capital expenditures for vehicles, firearms, equipment,  
6 computers, furniture, office supplies, postage, printing,  
7 membership fees paid to trade associations, and fees for  
8 professional services including auditing, court reporting,  
9 expert witnesses, and attorneys;

10 (6) travel, meals, entertainment, conferences,  
11 training, and continuing education seminars; and

12 (7) other expenditures of ~~forfeiture~~ proceeds.

13 (c) The Department of State Police shall establish and  
14 maintain on its official website a public database that  
15 includes annual aggregate data for each law enforcement agency  
16 that reports government takings ~~seizures~~ of property under  
17 subsection (a) of this Section, that receives distributions of  
18 ~~forfeiture~~ proceeds subject to reporting under this Act, or  
19 reports expenditures under subsection (b) of this Section. This  
20 aggregate data shall include, for each law enforcement agency:

21 (1) the total number of government takings ~~asset~~  
22 ~~seizures~~ reported by each law enforcement agency during the  
23 calendar year;

24 (2) the monetary value of all currency or its  
25 equivalent taken ~~seized~~ by the law enforcement agency  
26 during the calendar year;

1           (3) the number of conveyances taken ~~seized~~ by the law  
2 enforcement agency during the calendar year, and the  
3 aggregate estimated value;

4           (4) the aggregate estimated value of all other property  
5 subject to government taking during an arrest ~~seized~~ by the  
6 law enforcement agency during the calendar year;

7           (5) the monetary value of distributions by the  
8 Department of State Police of ~~forfeited~~ currency subject to  
9 government taking or auction proceeds from taken ~~forfeited~~  
10 property to the law enforcement agency during the calendar  
11 year; and

12           (6) the total amount of the law enforcement agency's  
13 expenditures of ~~forfeiture~~ proceeds during the calendar  
14 year, categorized as provided under subsection (b) of this  
15 Section.

16           The database shall not provide names, addresses, phone  
17 numbers, or other personally identifying information of owners  
18 or interest holders, persons, business entities, covert office  
19 locations, or business entities involved in the government  
20 taking ~~forfeiture~~ action and shall not disclose the vehicle  
21 identification number or serial number of any conveyance.

22           (d) The Department of State Police shall adopt rules to  
23 administer the government taking ~~asset forfeiture~~ program,  
24 including the categories of authorized expenditures consistent  
25 with the statutory guidelines for each of the ~~included~~  
26 ~~forfeiture~~ statutes, the use of ~~forfeited~~ funds, other

1 expenditure requirements, and the reporting of ~~seizure and~~  
2 ~~forfeiture~~ information related to property taken by government  
3 during an arrest. The Department may adopt rules necessary to  
4 implement this Act through the use of emergency rulemaking  
5 under Section 5-45 of the Illinois Administrative Procedure Act  
6 for a period not to exceed 180 days after the effective date of  
7 this Act.

8 (e) The Department of State Police shall have authority and  
9 oversight over all law enforcement agencies receiving  
10 ~~forfeited~~ funds subject to government taking from the  
11 Department. This authority shall include enforcement of rules  
12 and regulations adopted by the Department and sanctions for  
13 violations of any rules and regulations, including the  
14 withholding of distributions of ~~forfeiture~~ proceeds from the  
15 law enforcement agency in violation.

16 (f) Upon application by a law enforcement agency to the  
17 Department of State Police, the reporting of a particular asset  
18 subject to government taking ~~forfeited~~ under this Section may  
19 be delayed if the asset in question was taken ~~seized~~ from a  
20 person who has become a confidential informant under the  
21 agency's confidential informant policy, or if the asset was  
22 taken ~~seized~~ as part of an ongoing investigation. This delayed  
23 reporting shall be granted by the Department of State Police  
24 for a maximum period of 6 months if the confidential informant  
25 is still providing cooperation to law enforcement or the  
26 investigation is still ongoing, after which the asset shall be



1 reported as required under this Act.

2 (g) The Department of State Police shall, on or before  
3 January 1, 2019, establish and implement the requirements of  
4 this Act. In order to implement the reporting and public  
5 database requirements under this Act, the Department of State  
6 Police Asset Forfeiture Section requires a one-time upgrade of  
7 its information technology software and hardware. This  
8 one-time upgrade shall be funded by a temporary allocation of  
9 5% of all ~~forfeited~~ currency subject to government taking and  
10 5% of the auction proceeds from each ~~forfeited~~ asset, which are  
11 to be distributed after the effective date of this Act. The  
12 Department of State Police shall transfer these funds at the  
13 time of distribution to a separate fund established by the  
14 Department of State Police. Moneys deposited in this fund shall  
15 be accounted for and shall be used only to pay for the actual  
16 one-time cost of purchasing and installing the hardware and  
17 software required to comply with this new reporting and public  
18 database requirement. Moneys deposited in the fund shall not be  
19 subject to reappropriation, reallocation, or redistribution  
20 for any other purpose. After sufficient funds are transferred  
21 to the fund to cover the actual one-time cost of purchasing and  
22 installing the hardware and software required to comply with  
23 this new reporting and public database requirement, no  
24 additional funds shall be transferred to the fund for any  
25 purpose. At the completion of the one-time upgrade of the  
26 information technology hardware and software to comply with

1 this new reporting and public database requirement, any  
2 remaining funds in the fund shall be returned to the  
3 participating agencies under the distribution requirements of  
4 the statutes from which the funds were transferred, and the  
5 fund shall no longer exist.

6 (h) (1) The Department of State Police, in consultation with  
7 and subject to the approval of the Chief Procurement Officer,  
8 may procure a single contract or multiple contracts to  
9 implement this Act.

10 (2) A contract or contracts under this subsection (h) are  
11 not subject to the Illinois Procurement Code, except for  
12 Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of that  
13 Code, provided that the Chief Procurement Officer may, in  
14 writing with justification, waive any certification required  
15 under Article 50 of the Illinois Procurement Code. The  
16 provisions of this paragraph (2), other than this sentence, are  
17 inoperative on and after July 1, 2019.

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

19 (5 ILCS 810/20)

20 Sec. 20. Applicability. This Act and the changes made to  
21 this Act by Public Act 100-699 only apply to property taken by  
22 the government during an arrest ~~seized~~ on and after July 1,  
23 2018.

24 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

1 Section 15. The Illinois Food, Drug and Cosmetic Act is  
2 amended by changing Section 3.23 as follows:

3 (410 ILCS 620/3.23)

4 Sec. 3.23. Legend drug prohibition.

5 (a) In this Section:

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

9 (1) habit forming;

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

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

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

16 "Deliver" or "delivery" means the actual, constructive, or  
17 attempted transfer of possession of a legend drug, with or  
18 without consideration, whether or not there is an agency  
19 relationship.

20 "Manufacture" means the production, preparation,  
21 propagation, compounding, conversion, or processing of a  
22 legend drug, either directly or indirectly, by extraction from  
23 substances of natural origin, or independently by means of  
24 chemical synthesis, or by a combination of extraction and  
25 chemical synthesis, and includes any packaging or repackaging

1 of the substance or labeling of its container. "Manufacture"  
2 does not include:

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

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

8 (A) as an incident to his or her administering or  
9 dispensing of a legend drug in the course of his or her  
10 professional practice; or

11 (B) as an incident to lawful research, teaching, or  
12 chemical analysis and not for sale.

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

15 (b) It is unlawful for any person to knowingly manufacture  
16 or deliver or possess with the intent to manufacture or deliver  
17 a legend drug of 6 or more pills, tablets, capsules, or caplets  
18 or 30 ml or more of a legend drug in liquid form who is not  
19 licensed by applicable law to prescribe or dispense legend  
20 drugs or is not an employee of the licensee operating in the  
21 normal course of business under the supervision of the  
22 licensee. Any person who violates this Section is guilty of a  
23 Class 3 felony, the fine for which shall not exceed \$100,000. A  
24 person convicted of a second or subsequent violation of this  
25 Section is guilty of a Class 1 felony, the fine for which shall  
26 not exceed \$250,000.

1 (c) The following are subject to taking by the government  
2 during an arrest ~~forfeiture~~:

3 (1) (blank);

4 (2) all raw materials, products, and equipment of any  
5 kind which are used, or intended for use, in manufacturing,  
6 distributing, dispensing, administering, or possessing any  
7 substance in violation of this Section;

8 (3) all conveyances, including aircraft, vehicles, or  
9 vessels, which are used, or intended for use, to transport,  
10 or in any manner to facilitate the transportation, sale,  
11 receipt, possession, or concealment of any substance  
12 manufactured, distributed, dispensed, or possessed in  
13 violation of this Section or property described in  
14 paragraph (2) of this subsection (c), but:

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

22 (B) no conveyance is subject to taking during an  
23 arrest by the government ~~forfeiture~~ under this Section  
24 by reason of any act or omission which the owner proves  
25 to have been committed or omitted without his or her  
26 knowledge or consent; and

1 (C) taking ~~a forfeiture~~ of a conveyance encumbered  
2 by a bona fide security interest is subject to the  
3 interest of the secured party if he or she neither had  
4 knowledge 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 that are used, or intended to be  
8 used, in violation of this Section;

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

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

25 (d) Property subject to taking during an arrest by the  
26 government ~~forfeiture~~ under this Act may be taken ~~seized~~ under

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

4 (e) Property taken by the government during an arrest  
5 ~~Forfeiture~~ under this Act is subject to an 8th Amendment to the  
6 United States Constitution disproportionate penalties analysis  
7 as provided under Section 9.5 of the Drug Asset Forfeiture  
8 Procedure Act.

9 (f) With regard to possession of legend drug offenses only,  
10 a sum of currency with a value of less than \$500 shall not be  
11 subject to government taking forfeiture under this Act. For all  
12 other offenses under this Act, a sum of currency with a value  
13 of less than \$100 shall not be subject to government taking  
14 ~~forfeiture~~ under this Act. In the case of seizures of currency  
15 in excess of these amounts, this Section shall not create an  
16 exemption for these amounts.

17 (f-5) For felony offenses involving possession of legend  
18 drug only, no property shall be subject to government taking  
19 during an arrest forfeiture under this Act because of the  
20 possession of less than 2 single unit doses of a legend drug.  
21 This exemption shall not apply in instances when the possessor,  
22 or another person at the direction of the possessor, is engaged  
23 in the destruction of any amount of a legend drug. The amount  
24 of a single unit dose shall be the State's burden to prove in  
25 its case in chief.

26 (g) If the Department suspends or revokes a registration,

1 all legend drugs owned or possessed by the registrant at the  
2 time of suspension or the effective date of the revocation  
3 order may be placed under seal. No disposition may be made of  
4 substances under seal until the time for taking an appeal has  
5 elapsed or until all appeals have been concluded unless a  
6 court, upon application therefor, orders the sale of perishable  
7 substances and the deposit of the proceeds of the sale with the  
8 court. Upon a revocation rule becoming final, all substances  
9 are subject to government taking ~~seizure and forfeiture~~ under  
10 the Drug Asset Forfeiture Procedure Act.

11 (h) (Blank).

12 (i) (Blank).

13 (j) Contraband, including legend drugs possessed without a  
14 prescription or other authorization under State or federal law,  
15 is not subject to government taking during an arrest  
16 ~~forfeiture~~. No property right exists in contraband. Contraband  
17 is subject to government taking ~~seizure~~ and shall be disposed  
18 of according to State law.

19 (k) The changes made to this Section by Public Act 100-512  
20 and Public Act 100-699 only apply to property taken by the  
21 government during an arrest ~~seized~~ on and after July 1, 2018.

22 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
23 100-1163, eff. 12-20-18.)

24 Section 20. The Environmental Protection Act is amended by  
25 changing Section 44.1 as follows:



1 (415 ILCS 5/44.1)

2 Sec. 44.1. (a) In addition to all other civil and criminal  
3 penalties provided by law, any person convicted of a criminal  
4 violation of this Act or the regulations adopted ~~thereunder~~  
5 shall be subject to government taking during an arrest by  
6 ~~forfeit to~~ the State (1) an amount equal to the value of all  
7 profits earned, savings realized, and benefits incurred as a  
8 direct or indirect result of such violation, and (2) any  
9 vehicle or conveyance used in the perpetration of such  
10 violation, except as provided in subsection (b).

11 (b) Government taking ~~Forfeiture~~ of conveyances shall be  
12 subject to the following exceptions:

13 (1) No conveyance used by any person as a common  
14 carrier in the transaction of business as a common carrier  
15 is subject to government taking ~~forfeiture~~ under this  
16 Section unless it is proven that the owner or other person  
17 in charge of the conveyance consented to or was privy to  
18 the covered violation.

19 (2) No conveyance is subject to government taking  
20 ~~forfeiture~~ under this Section by reason of any covered  
21 violation which the owner proves to have been committed  
22 without his or her knowledge or consent.

23 (3) Government taking ~~A forfeiture~~ of a conveyance  
24 encumbered by a bona fide security interest is subject to  
25 the interest of the secured party if he or she neither had

1 knowledge of nor consented to the covered violation.

2 (c) Except as provided in subsection (d), all property  
3 subject to government taking ~~forfeiture~~ under this Section  
4 shall be taken ~~seized~~ pursuant to the order of a circuit court.

5 (d) Property subject to government taking ~~forfeiture~~ under  
6 this Section may be taken ~~seized~~ by the Director or any peace  
7 officer without process:

8 (1) if the government taking ~~seizure~~ is incident to an  
9 inspection under an administrative inspection warrant, or  
10 incident to the execution of a criminal search or arrest  
11 warrant;

12 (2) if the property subject to government taking  
13 ~~seizure~~ has been the subject of a prior judgment in favor  
14 of the State in a criminal proceeding, or in an injunction  
15 or ~~forfeiture~~ proceeding based upon this Act; or

16 (3) if there is probable cause to believe that the  
17 property is directly or indirectly dangerous to health or  
18 safety.

19 (e) Property taken or detained under this Section shall not  
20 be subject to eviction or replevin, but is deemed to be in the  
21 custody of the Director subject only to the order and judgments  
22 of the circuit court having jurisdiction over the ~~forfeiture~~  
23 proceedings. When property is subject to government taking  
24 ~~seized~~ under this Act, the Director may:

25 (1) place the property under seal;

26 (2) secure the property or remove the property to a

1 place designated by him or her; or

2 (3) require the sheriff of the county in which the  
3 government taking seizure occurs to take custody of the  
4 property and secure or remove it to an appropriate location  
5 for disposition in accordance with law.

6 (f) All amounts taken ~~forfeited~~ under item (1) of  
7 subsection (a) shall be apportioned in the following manner:

8 (1) 40% shall be deposited in the Hazardous Waste Fund  
9 created in Section 22.2;

10 (2) 30% shall be paid to the office of the Attorney  
11 General or the State's Attorney of the county in which the  
12 violation occurred, whichever brought and prosecuted the  
13 action; and

14 (3) 30% shall be paid to the law enforcement agency  
15 which investigated the violation.

16 Any funds received under this subsection (f) shall be used  
17 solely for the enforcement of the environmental protection laws  
18 of this State.

19 (g) When property is subject to government taking ~~forfeited~~  
20 under this Section the court may order:

21 (1) that the property shall be made available for the  
22 official use of the Agency, the Office of the Attorney  
23 General, the State's Attorney of the county in which the  
24 violation occurred, or the law enforcement agency which  
25 investigated the violation, to be used solely for the  
26 enforcement of the environmental protection laws of this

1 State;

2 (2) the sheriff of the county in which the government  
3 taking forfeiture occurs to take custody of the property  
4 and remove it for disposition in accordance with law; or

5 (3) the sheriff of the county in which the government  
6 taking forfeiture occurs to sell that which is not required  
7 to be destroyed by law and which is not harmful to the  
8 public. The proceeds of such sale shall be used for payment  
9 of all proper expenses of the proceedings for government  
10 taking forfeiture and sale, including expenses ~~of seizure,~~  
11 maintenance of custody, advertising and court costs, and  
12 the balance, if any, shall be apportioned pursuant to  
13 subsection (f).

14 (h) Property taken by the government during an arrest  
15 ~~seized or forfeited~~ under this Section is subject to reporting  
16 under the Seizure and Forfeiture Reporting Act.

17 (Source: P.A. 100-173, eff. 1-1-18; 100-512, eff. 7-1-18;  
18 100-863, eff. 8-14-18.)

19 Section 25. The Fish and Aquatic Life Code is amended by  
20 changing Section 1-215 as follows:

21 (515 ILCS 5/1-215) (from Ch. 56, par. 1-215)

22 Sec. 1-215. Illegal fishing devices; public nuisance.  
23 Every fishing device, including seines, nets, or traps, or any  
24 electrical device or any other devices, including vehicles,

1 watercraft, or aircraft, used or operated illegally or  
2 attempted to be used or operated illegally by any person in  
3 taking, transporting, holding, or conveying any aquatic life  
4 contrary to this Code, including administrative rules, shall be  
5 deemed a public nuisance and therefore illegal and subject to  
6 government taking during an arrest ~~seizure and confiscation~~ by  
7 any authorized employee of the Department. Upon the government  
8 taking ~~seizure~~ of such an item the Department shall take and  
9 hold the item until disposed of as provided in this Code.

10 Upon the government taking ~~seizure~~ of any device because of  
11 its illegal use, the officer or authorized employee of the  
12 Department taking the property ~~making the seizure~~ shall, as  
13 soon as reasonably possible, cause a complaint to be filed  
14 before the Circuit Court and a summons to be issued requiring  
15 the owner or person in possession of the property to appear in  
16 court and show cause why the device ~~seized~~ should not be be  
17 subject to government taking by ~~forfeited to~~ the State. Upon  
18 the return of the summons duly served or upon posting or  
19 publication of notice as provided in this Code, the court shall  
20 proceed to determine the question of the illegality of the use  
21 of the taken ~~seized~~ property. Upon judgment being entered to  
22 the effect that the property was illegally used, an order shall  
23 be entered providing for the government taking ~~forfeiture~~ of  
24 the ~~seized~~ property to the State. The owner of the property,  
25 however, may have a jury determine the illegality of its use,  
26 and shall have the right of an appeal as in other civil cases.

1 Government taking ~~Confiscation or forfeiture~~ shall not  
2 preclude or mitigate against prosecution and assessment of  
3 penalties provided in Section 20-35 of this Code.

4       Upon government taking ~~seizure~~ of any property under  
5 circumstances supporting a reasonable belief that the property  
6 was abandoned, lost, stolen, or otherwise illegally possessed  
7 or used contrary to this Code, except property taken ~~seized~~  
8 during a search or arrest, and ultimately returned, destroyed,  
9 or otherwise disposed of under order of a court in accordance  
10 with this Code, the authorized employee of the Department shall  
11 make reasonable inquiry and efforts to identify and notify the  
12 owner or other person entitled to possession of the property  
13 and shall return the property after the person provides  
14 reasonable and satisfactory proof of his or her ownership or  
15 right to possession and reimburses the Department for all  
16 reasonable expenses of custody. If the identity or location of  
17 the owner or other person entitled to possession of the  
18 property has not been ascertained within 6 months after the  
19 Department obtains possession, the Department shall effectuate  
20 the sale of the property for cash to the highest bidder at a  
21 public auction. The owner or other person entitled to  
22 possession of the property may claim and recover possession of  
23 the property at any time before its sale at public auction upon  
24 providing reasonable and satisfactory proof of ownership or  
25 right of possession and reimbursing the Department for all  
26 reasonable expenses of custody.

1           Any property subject to government taking by ~~forfeited to~~  
2 the State by court order under this Section may be disposed of  
3 by public auction, except that any property that is the subject  
4 of a court order shall not be disposed of pending appeal of the  
5 order. The proceeds of the sales at auction shall be deposited  
6 in the Wildlife and Fish Fund.

7           The Department shall pay all costs of posting or  
8 publication of notices required by this Section.

9           Property taken by the government during an arrest ~~seized or~~  
10 ~~forfeited~~ under this Section is subject to reporting under the  
11 Seizure and Forfeiture Reporting Act.

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

13           Section 30. The Wildlife Code is amended by changing  
14 Section 1.25 as follows:

15           (520 ILCS 5/1.25) (from Ch. 61, par. 1.25)

16           Sec. 1.25. Every hunting or trapping device, vehicle or  
17 conveyance, when used or operated illegally, or attempted to be  
18 used or operated illegally by any person in taking,  
19 transporting, holding, or conveying any wild bird or wild  
20 mammal, contrary to the provisions of this Act, including  
21 administrative rules, is a public nuisance and subject to  
22 government taking during an arrest ~~seizure and confiscation~~ by  
23 any authorized employee of the Department; upon the government  
24 taking ~~seizure~~ of such item the Department shall take and hold

1 the same until disposed of as hereinafter provided.

2 Upon the government taking ~~seizure~~ of any property as  
3 herein provided, the authorized employee of the Department  
4 making the government taking ~~such seizure~~ shall forthwith cause  
5 a complaint to be filed before the Circuit Court and a summons  
6 to be issued requiring the person who illegally used or  
7 operated or attempted to use or operate such property and the  
8 owner and person in possession of such property to appear in  
9 court and show cause why the property taken ~~seized~~ should not  
10 be subject to government taking by ~~forfeited to~~ the State. Upon  
11 the return of the summons duly served or other notice as herein  
12 provided, the court shall proceed to determine the question of  
13 the illegality of the use of the taken ~~seized~~ property subject  
14 to government taking and upon judgment being entered to the  
15 effect that such property was illegally used, an order may be  
16 entered providing for the government taking ~~forfeiture~~ of the  
17 ~~such seized~~ property to the Department and shall thereupon  
18 become the property of the Department; but the owner of such  
19 property may have a jury determine the illegality of its use,  
20 and shall have the right of an appeal, as in other cases.  
21 Government taking ~~Such confiscation or forfeiture~~ shall not  
22 preclude or mitigate against prosecution and assessment of  
23 penalties otherwise provided in this Act.

24 Upon government taking ~~seizure~~ of any property under  
25 circumstances supporting a reasonable belief that such  
26 property was abandoned, lost or stolen or otherwise illegally



1 possessed or used contrary to the provisions of this Act,  
2 except property taken ~~seized~~ during a search or arrest, and  
3 ultimately returned, destroyed, or otherwise disposed of  
4 pursuant to order of a court in accordance with this Act, the  
5 authorized employee of the Department shall make reasonable  
6 inquiry and efforts to identify and notify the owner or other  
7 person entitled to possession thereof, and shall return the  
8 property after such person provides reasonable and  
9 satisfactory proof of his ownership or right to possession and  
10 reimburses the Department for all reasonable expenses of such  
11 custody. If the identity or location of the owner or other  
12 person entitled to possession of the property has not been  
13 ascertained within 6 months after the Department obtains such  
14 possession, the Department shall effectuate the sale of the  
15 property for cash to the highest bidder at a public auction.  
16 The owner or other person entitled to possession of such  
17 property may claim and recover possession of the property at  
18 any time before its sale at public auction, upon providing  
19 reasonable and satisfactory proof of ownership or right of  
20 possession and reimbursing the Department for all reasonable  
21 expenses of custody thereof.

22 Any property, including guns, taken by ~~forfeited to~~ the  
23 State by court order pursuant to this Section, may be disposed  
24 of by public auction, except that any property which is the  
25 subject of such a court order shall not be disposed of pending  
26 appeal of the order. The proceeds of the sales at auction shall

1 be deposited in the Wildlife and Fish Fund.

2 The Department shall pay all costs of notices required by  
3 this Section.

4 Property taken by the government during an arrest ~~seized or~~  
5 ~~forfeited~~ under this Section is subject to reporting under the  
6 Seizure and Forfeiture Reporting Act.

7 (Source: P.A. 100-512, eff. 7-1-18.)

8 Section 35. The Criminal Code of 2012 is amended by  
9 changing Sections 28-5, 29B-4, 29B-5, 29B-6, 29B-7, 29B-8,  
10 29B-9, 29B-10, 29B-11, 29B-12, 29B-13, 29B-14, 29B-15, 29B-16,  
11 29B-17, 29B-18, 29B-19, 29B-20, 29B-21, 29B-22, 29B-23,  
12 29B-25, 29B-26, 29B-27, 33G-6, 36-1, 36-1.1, 36-1.2, 36-1.3,  
13 36-1.4, 36-1.5, 36-1a, 36-2, 36-2.1, 36-2.2, 36-2.5, 36-2.7,  
14 36-3, 36-3.1, 36-4, 36.5-5, 36-6, 36-7, 36-9, and 47-15 as  
15 follows:

16 (720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

17 Sec. 28-5. Government taking ~~Seizure~~ of gambling devices  
18 and gambling funds.

19 (a) Every device designed for gambling which is incapable  
20 of lawful use or every device used unlawfully for gambling  
21 shall be considered a "gambling device", and shall be subject  
22 to government taking during an arrest ~~seizure, confiscation~~ and  
23 destruction by the Department of State Police or by any  
24 municipal, or other local authority, within whose jurisdiction

1 the same may be found. As used in this Section, a "gambling  
2 device" includes any slot machine, and includes any machine or  
3 device constructed for the reception of money or other thing of  
4 value and so constructed as to return, or to cause someone to  
5 return, on chance to the player thereof money, property or a  
6 right to receive money or property. With the exception of any  
7 device designed for gambling which is incapable of lawful use,  
8 no gambling device shall be subject to government taking  
9 ~~forfeited~~ or destroyed unless an individual with a property  
10 interest in said device knows of the unlawful use of the  
11 device.

12 (b) Every gambling device shall be subject to government  
13 taking in ~~seized and forfeited to~~ the county wherein the  
14 government taking ~~such seizure~~ occurs. Any money or other thing  
15 of value integrally related to acts of gambling shall be  
16 subject to government taking in ~~seized and forfeited to~~ the  
17 county wherein the government taking ~~such seizure~~ occurs.

18 (c) If, within 60 days after any property taken by the  
19 government during an arrest ~~seizure~~ pursuant to subparagraph  
20 (b) of this Section, a person having any property interest in  
21 the ~~seized~~ property is charged with an offense, the court which  
22 renders judgment upon such charge shall, within 30 days after  
23 such judgment, conduct a government taking ~~forfeiture~~ hearing  
24 to determine whether such property was a gambling device at the  
25 time of government taking ~~seizure~~. Such hearing shall be  
26 commenced by a written petition by the State, including

1 material allegations of fact, the name and address of every  
2 person determined by the State to have any property interest in  
3 the ~~seized~~ property, a representation that written notice of  
4 the date, time and place of such hearing has been mailed to  
5 every such person by certified mail at least 10 days before  
6 such date, and a request for a hearing ~~forfeiture~~. Every such  
7 person may appear as a party and present evidence at such  
8 hearing. The quantum of proof required shall be a preponderance  
9 of the evidence, and the burden of proof shall be on the State.  
10 If the court determines that the ~~seized~~ property was a gambling  
11 device at the time of government taking seizure, an order of  
12 government taking ~~of forfeiture~~ and disposition of the ~~seized~~  
13 property shall be entered: a gambling device shall be received  
14 by the State's Attorney, who shall effect its destruction,  
15 except that valuable parts thereof may be liquidated and the  
16 resultant money shall be deposited in the general fund of the  
17 county wherein the government taking ~~such seizure~~ occurred;  
18 money and other things of value shall be received by the  
19 State's Attorney and, upon liquidation, shall be deposited in  
20 the general fund of the county wherein the government taking  
21 ~~such seizure~~ occurred. However, in the event that a defendant  
22 raises the defense that the taken ~~seized~~ slot machine is an  
23 antique slot machine described in subparagraph (b) (7) of  
24 Section 28-1 of this Code and therefore he is exempt from the  
25 charge of a gambling activity participant, the ~~seized~~ antique  
26 slot machine shall not be destroyed or otherwise altered until

1 a final determination is made by the Court as to whether it is  
2 such an antique slot machine. Upon a final determination by the  
3 Court of this question in favor of the defendant, such slot  
4 machine shall be immediately returned to the defendant. Such  
5 order of government taking ~~forfeiture~~ and disposition shall,  
6 for the purposes of appeal, be a final order and judgment in a  
7 civil proceeding.

8 (d) If a government taking ~~seizure~~ pursuant to subparagraph  
9 (b) of this Section is not followed by a charge pursuant to  
10 subparagraph (c) of this Section, or if the prosecution of such  
11 charge is permanently terminated or indefinitely discontinued  
12 without any judgment of conviction or acquittal (1) the State's  
13 Attorney shall commence an in rem proceeding for the government  
14 taking ~~forfeiture~~ and destruction of a gambling device, or for  
15 the government taking ~~forfeiture~~ and deposit in the general  
16 fund of the county of any ~~seized~~ money or other things of  
17 value, or both, in the circuit court and (2) any person having  
18 any property interest in such ~~seized~~ gambling device, money or  
19 other thing of value may commence separate civil proceedings in  
20 the manner provided by law.

21 (e) Any gambling device displayed for sale to a riverboat  
22 gambling operation or used to train occupational licensees of a  
23 riverboat gambling operation as authorized under the Riverboat  
24 Gambling Act is exempt from government taking ~~seizure~~ under  
25 this Section.

26 (f) Any gambling equipment, devices and supplies provided

1 by a licensed supplier in accordance with the Riverboat  
2 Gambling Act which are removed from the riverboat for repair  
3 are exempt from government taking ~~seizure~~ under this Section.

4 (g) The following video gaming terminals are exempt from  
5 government taking ~~seizure~~ under this Section:

6 (1) Video gaming terminals for sale to a licensed  
7 distributor or operator under the Video Gaming Act.

8 (2) Video gaming terminals used to train licensed  
9 technicians or licensed terminal handlers.

10 (3) Video gaming terminals that are removed from a  
11 licensed establishment, licensed truck stop establishment,  
12 licensed fraternal establishment, or licensed veterans  
13 establishment for repair.

14 (h) Property taken by the government during an arrest  
15 ~~seized or forfeited~~ under this Section is subject to reporting  
16 under the Seizure and Forfeiture Reporting Act.

17 (Source: P.A. 100-512, eff. 7-1-18.)

18 (720 ILCS 5/29B-4)

19 Sec. 29B-4. Protective orders and warrants for government  
20 taking ~~forfeiture~~ purposes.

21 (a) Upon application of the State, the court may enter a  
22 restraining order or injunction, require the execution of a  
23 satisfactory performance bond, or take any other action to  
24 preserve the availability of property described in Section  
25 29B-5 of this Article for government taking during an arrest

1 ~~forfeiture~~ under this Article:

2 (1) upon the filing of an indictment, information, or  
3 complaint charging a violation of this Article for which  
4 government taking ~~forfeiture~~ may be ordered under this  
5 Article and alleging that the property with respect to  
6 which the order is sought would be subject to government  
7 taking ~~forfeiture~~ under this Article; or

8 (2) prior to the filing of the indictment, information,  
9 or complaint, if, after notice to persons appearing to have  
10 an interest in the property and opportunity for a hearing,  
11 the court determines that:

12 (A) there is probable cause to believe that the  
13 State will prevail on the issue of government taking of  
14 property ~~forfeiture~~ and that failure to enter the order  
15 will result in the property being destroyed, removed  
16 from the jurisdiction of the court, or otherwise made  
17 unavailable ~~for forfeiture~~; and

18 (B) the need to preserve the availability of the  
19 property through the entry of the requested order  
20 outweighs the hardship on any party against whom the  
21 order is to be entered.

22 Provided, however, that an order entered under  
23 paragraph (2) of this Section shall be effective for not  
24 more than 90 days, unless extended by the court for good  
25 cause shown or unless an indictment, information,  
26 complaint, or administrative notice has been filed.

1 (b) A temporary restraining order under this subsection (b)  
2 may be entered upon application of the State without notice or  
3 opportunity for a hearing when an indictment, information,  
4 complaint, or administrative notice has not yet been filed with  
5 respect to the property, if the State demonstrates that there  
6 is probable cause to believe that the property with respect to  
7 which the order is sought would be subject to government taking  
8 during an arrest ~~forfeiture~~ under this Article and that  
9 provision of notice will jeopardize the availability of the  
10 property for government taking ~~forfeiture~~. The temporary order  
11 shall expire not more than 30 days after the date on which it  
12 is entered, unless extended for good cause shown or unless the  
13 party against whom it is entered consents to an extension for a  
14 longer period. A hearing requested concerning an order entered  
15 under this subsection (b) shall be held at the earliest  
16 possible time and prior to the expiration of the temporary  
17 order.

18 (c) The court may receive and consider, at a hearing held  
19 under this Section, evidence and information that would be  
20 inadmissible under the Illinois rules of evidence.

21 (d) Under its authority to enter a pretrial restraining  
22 order under this Section, the court may order a defendant to  
23 repatriate any property that may be taken by the government  
24 during an arrest ~~seized and forfeited~~ and to deposit that  
25 property pending trial with the Department of State Police or  
26 another law enforcement agency designated by the Department of



1 State Police. Failure to comply with an order under this  
2 Section is punishable as a civil or criminal contempt of court.

3 (e) The State may request the issuance of a warrant  
4 authorizing the government taking ~~seizure~~ of property  
5 described in Section 29B-5 of this Article in the same manner  
6 as provided for a search warrant. If the court determines that  
7 there is probable cause to believe that the property to be  
8 taken ~~seized~~ would be subject to government taking during an  
9 arrest forfeiture, the court shall issue a warrant authorizing  
10 the government taking ~~seizure~~ of that property.

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

12 (720 ILCS 5/29B-5)

13 Sec. 29B-5. Property subject to government taking  
14 ~~forfeiture~~. The following are subject to government taking  
15 during an arrest forfeiture:

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

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

23 (3) all conveyances, including aircraft, vehicles, or  
24 vessels, which are used, or intended for use, to transport,  
25 or in any manner to facilitate the transportation, sale,

1 receipt, possession, or concealment of property described  
2 in paragraphs (1) and (2) of this Section, 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 government taking during an  
6 arrest forfeiture under this Section unless it appears  
7 that the owner or other person in charge of the  
8 conveyance is a consenting party or privy to a  
9 violation of this Article;

10 (B) no conveyance is subject to government taking  
11 during an arrest forfeiture under this Article by  
12 reason of any act or omission which the owner proves to  
13 have been committed or omitted without his or her  
14 knowledge or consent;

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

20 (4) all real property, including any right, title, and  
21 interest, including, but not limited to, any leasehold  
22 interest or the beneficial interest in a land trust, in the  
23 whole of any lot or tract of land and any appurtenances or  
24 improvements, which is used or intended to be used, in any  
25 manner or part, to commit, or in any manner to facilitate  
26 the commission of, any violation of this Article or that is

1 the proceeds of any violation or act that constitutes a  
2 violation of this Article.

3 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

4 (720 ILCS 5/29B-6)

5 Sec. 29B-6. Seizure.

6 (a) Property subject to government taking during an arrest  
7 ~~forfeiture~~ under this Article may be taken ~~seized~~ by the  
8 Director or any peace officer upon process or ~~seizure~~ warrant  
9 issued by any court having jurisdiction over the property.  
10 Government taking ~~Seizure~~ by the Director or any peace officer  
11 without process may be made:

12 (1) if the government taking ~~seizure~~ is incident to a  
13 ~~seizure~~ warrant;

14 (2) if the property subject to government taking  
15 ~~seizure~~ has been the subject of a prior judgment in favor  
16 of the State in a criminal proceeding, or in an injunction  
17 or government taking ~~forfeiture~~ proceeding based upon this  
18 Article;

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

22 (4) if there is probable cause to believe that the  
23 property is subject to government taking ~~forfeiture~~ under  
24 this Article and the property is taken ~~seized~~ under  
25 circumstances in which a warrantless government taking

1       ~~seizure~~ or arrest would be reasonable; or

2           (5) in accordance with the Code of Criminal Procedure  
3       of 1963.

4       (b) In the event of a government taking ~~seizure~~ under  
5       subsection (a) of this Section, government taking ~~forfeiture~~  
6       proceedings shall be instituted in accordance with this  
7       Article.

8       (c) Actual physical taking ~~seizure~~ of real property subject  
9       to government taking during an arrest ~~forfeiture~~ requires the  
10      issuance of a ~~seizure~~ warrant. Nothing in this Article  
11      prohibits the constructive government taking ~~seizure~~ of real  
12      property through the filing of a complaint ~~for forfeiture~~ in  
13      circuit court and the recording of a lis pendens against the  
14      real property that is subject to government taking ~~forfeiture~~  
15      without any hearing, warrant application, or judicial  
16      approval.

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

18           (720 ILCS 5/29B-7)

19           Sec. 29B-7. Safekeeping of taken ~~seized~~ property pending  
20      disposition.

21           (a) If property is subject to government taking during an  
22      arrest ~~seized~~ under this Article, the ~~seizing~~ agency shall  
23      promptly conduct an inventory of the ~~seized~~ property and  
24      estimate the property's value and shall forward a copy of the  
25      inventory of the ~~seized~~ property and the estimate of the

1 property's value to the Director. Upon receiving notice of the  
2 government taking seizure, the Director may:

3 (1) place the property under seal;

4 (2) remove the property to a place designated by the  
5 Director;

6 (3) keep the property in the possession of the ~~seizing~~  
7 agency;

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

12 (5) place the property under constructive government  
13 taking seizure by posting notice of government taking of  
14 ~~pending forfeiture~~ on it, by giving notice ~~of pending~~  
15 ~~forfeiture~~ to its owners and interest holders, or by filing  
16 notice of government taking of pending forfeiture in any  
17 appropriate public record relating to the property; or

18 (6) provide for another agency or custodian, including  
19 an owner, secured party, or lienholder, to take custody of  
20 the property upon the terms and conditions set by the  
21 Director.

22 (b) When property is subject to government taking forfeited  
23 under this Article, the Director shall sell all the property  
24 unless the property is required by law to be destroyed or is  
25 harmful to the public and shall distribute the proceeds of the  
26 sale, together with any moneys ~~forfeited or seized~~, under

1 Section 29B-26 of this Article.

2 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

3 (720 ILCS 5/29B-8)

4 Sec. 29B-8. Notice to State's Attorney. The law enforcement  
5 agency taking ~~seizing~~ property ~~for forfeiture~~ under this  
6 Article shall, within 60 days after the government taking  
7 during an arrest ~~seizure~~, notify the State's Attorney for the  
8 county, either where an act or omission giving rise to the  
9 government taking ~~forfeiture~~ occurred or where the property was  
10 taken ~~seized~~, of the government taking ~~seizure~~ of the property  
11 and the facts and circumstances giving rise to the taking  
12 ~~seizure~~ and shall provide the State's Attorney with the  
13 inventory of the property and its estimated value. If the  
14 property taken by the government during an arrest ~~seized for~~  
15 ~~forfeiture~~ is a vehicle, the law enforcement agency taking  
16 ~~seizing~~ the property shall immediately notify the Secretary of  
17 State that government taking ~~forfeiture~~ proceedings are  
18 pending regarding the vehicle. This notice shall be by Form  
19 4-64.

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

21 (720 ILCS 5/29B-9)

22 Sec. 29B-9. Preliminary review.

23 (a) Within 28 days of property taken by government during  
24 an arrest ~~the seizure~~, the State shall seek a preliminary

1 determination from the circuit court as to whether there is  
2 probable cause that the property may be subject to government  
3 taking forfeiture.

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

6 (c) The court may conduct the review under subsection (a)  
7 of this Section simultaneously with a proceeding under Section  
8 109-1 of the Code of Criminal Procedure of 1963 for a related  
9 criminal offense if a prosecution is commenced by information  
10 or complaint.

11 (d) The court may accept a finding of probable cause at a  
12 preliminary hearing following the filing of an information or  
13 complaint charging a related criminal offense or following the  
14 return of indictment by a grand jury charging the related  
15 offense as sufficient evidence of probable cause as required  
16 under subsection (a) of this Section.

17 (e) Upon a finding of probable cause as required under this  
18 Section, the circuit court shall order the property subject to  
19 the applicable ~~forfeiture~~ Act held until the conclusion of any  
20 government taking forfeiture proceeding.

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

22 (720 ILCS 5/29B-10)

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

24 (a) The first attempted service of notice shall be  
25 commenced within 28 days of the latter of filing of the

1 verified claim or the receipt of the notice from the ~~seizing~~  
2 agency by Form 4-64. A complaint for government taking  
3 ~~forfeiture~~ or a notice of pending government taking ~~forfeiture~~  
4 shall be served on a claimant if the owner's or interest  
5 holder's name and current address are known, then by either:  
6 (1) personal service; or (2) mailing a copy of the notice by  
7 certified mail, return receipt requested, and first class mail  
8 to that address.

9 (b) If no signed return receipt is received by the State's  
10 Attorney within 28 days of mailing or no communication from the  
11 owner or interest holder is received by the State's Attorney  
12 documenting actual notice by the parties, the State's Attorney  
13 shall, within a reasonable period of time, mail a second copy  
14 of the notice by certified mail, return receipt requested, and  
15 first class mail to that address. If no signed return receipt  
16 is received by the State's Attorney within 28 days of the  
17 second mailing, or no communication from the owner or interest  
18 holder is received by the State's Attorney documenting actual  
19 notice by the parties, the State's Attorney shall have 60 days  
20 to attempt to serve the notice by personal service, including  
21 substitute service by leaving a copy at the usual place of  
22 abode with some person of the family or a person residing  
23 there, of the age of 13 years or upwards. If, after 3 attempts  
24 at service in this manner, no service of the notice is  
25 accomplished, the notice shall be posted in a conspicuous  
26 manner at the address and service shall be made by the posting.



1 The attempts at service and the posting, if required, shall be  
2 documented by the person attempting service which shall be made  
3 part of a return of service returned to the State's Attorney.  
4 The State's Attorney may utilize any Sheriff or Deputy Sheriff,  
5 a peace officer, a private process server or investigator, or  
6 an employee, agent, or investigator of the State's Attorney's  
7 Office to attempt service without seeking leave of court.

8 (c) After the procedures listed are followed, service shall  
9 be effective on the owner or interest holder on the date of  
10 receipt by the State's Attorney of a return receipt, or on the  
11 date of receipt of a communication from an owner or interest  
12 holder documenting actual notice, whichever is first in time,  
13 or on the date of the last act performed by the State's  
14 Attorney in attempting personal service. For purposes of notice  
15 under this Section, if a person has been arrested for the  
16 conduct giving rise to the government taking forfeiture, the  
17 address provided to the arresting agency at the time of arrest  
18 shall be deemed to be that person's known address. Provided,  
19 however, if an owner or interest holder's address changes prior  
20 to the effective date of the notice of pending government  
21 taking forfeiture, the owner or interest holder shall promptly  
22 notify the ~~seizing~~ agency of the change in address or, if the  
23 owner or interest holder's address changes subsequent to the  
24 effective date of the notice of pending government taking  
25 ~~forfeiture~~, the owner or interest holder shall promptly notify  
26 the State's Attorney of the change in address. If the property

1 ~~seized~~ is a conveyance, notice shall also be directed to the  
2 address reflected in the office of the agency or official in  
3 which title to or interest in the conveyance is required by law  
4 to be recorded.

5 (d) If the owner's or interest holder's address is not  
6 known, and is not on record as provided in this Section,  
7 service by publication for 3 successive weeks in a newspaper of  
8 general circulation in the county in which the government  
9 taking ~~seizure~~ occurred shall suffice for service  
10 requirements.

11 (e) Notice to any business entity, corporation, limited  
12 liability company, limited liability partnership, or  
13 partnership shall be completed by a single mailing of a copy of  
14 the notice by certified mail, return receipt requested, and  
15 first class mail to that address. This notice is complete  
16 regardless of the return of a signed return receipt.

17 (f) Notice to a person whose address is not within the  
18 State shall be completed by a single mailing of a copy of the  
19 notice by certified mail, return receipt requested, and first  
20 class mail to that address. This notice is complete regardless  
21 of the return of a signed return receipt.

22 (g) Notice to a person whose address is not within the  
23 United States shall be completed by a single mailing of a copy  
24 of the notice by certified mail, return receipt requested, and  
25 first class mail to that address. This notice is complete  
26 regardless of the return of a signed return receipt. If

1 certified mail is not available in the foreign country where  
2 the person has an address, notice shall proceed by publication  
3 requirements under subsection (d) of this Section.

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

10 (i) After a claimant files a verified claim with the  
11 State's Attorney and provides an address at which the claimant  
12 will accept service, the complaint shall be served and notice  
13 shall be complete upon the mailing of the complaint to the  
14 claimant at the address the claimant provided via certified  
15 mail, return receipt requested, and first class mail. No return  
16 receipt need be received, or any other attempts at service need  
17 be made to comply with service and notice requirements under  
18 this Section. This certified mailing, return receipt  
19 requested, shall be proof of service of the complaint on the  
20 claimant. If notice is to be shown by actual notice from  
21 communication with a claimant, then the State's Attorney shall  
22 file an affidavit as proof of service, providing details of the  
23 communication, which shall be accepted as proof of service by  
24 the court.

25 (j) If the property ~~seized~~ is a conveyance, notice shall  
26 also 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 by mailing a copy  
3 of the notice by certified mail, return receipt requested, to  
4 that address.

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

8 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

9 (720 ILCS 5/29B-11)

10 Sec. 29B-11. Replevin prohibited. Property taken or  
11 detained under this Article shall not be subject to replevin,  
12 but is deemed to be in the custody of the Director subject only  
13 to the order and judgments of the circuit court having  
14 jurisdiction over the government taking ~~forfeiture~~ proceedings  
15 and the decisions of the State's Attorney under this Article.

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

17 (720 ILCS 5/29B-12)

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

1 taking during an arrest seizure from the ~~seizing~~ agency under  
2 Section 29B-8 of this Article. However, if non-real property  
3 that does not exceed \$20,000 in value excluding the value of  
4 any conveyance is taken seized, the following procedure shall  
5 be used:

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

15 (2) The notice ~~of pending forfeiture~~ shall include a  
16 description of the property, the estimated value of the  
17 property, the date and place of the government taking  
18 ~~seizure~~, the conduct giving rise to government taking  
19 during an arrest forfeiture or the violation of law  
20 alleged, and a summary of procedures and procedural rights  
21 applicable to the government taking forfeiture action.

22 (3) (A) Any person claiming an interest in property that  
23 is the subject of notice under paragraph (1) of this  
24 Section, must, in order to preserve any rights or claims to  
25 the property, within 45 days after the effective date of  
26 notice as described in Section 29B-10 of this Article, file

1 a verified claim with the State's Attorney expressing his  
2 or her interest in the property. The claim shall set forth:

3 (i) the caption of the proceedings as set forth on  
4 the notice ~~of pending forfeiture~~ and the name of the  
5 claimant;

6 (ii) the address at which the claimant will accept  
7 mail;

8 (iii) the nature and extent of the claimant's  
9 interest in the property;

10 (iv) the date, identity of the transferor, and  
11 circumstances of the claimant's acquisition of the  
12 interest in the property;

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

15 (vi) the specific provision of law relied on in  
16 asserting the property is not subject to government  
17 taking forfeiture;

18 (vii) all essential facts supporting each  
19 assertion; and

20 (viii) the relief sought.

21 (B) If a claimant files the claim, then the State's  
22 Attorney shall institute judicial in rem government taking  
23 ~~forfeiture~~ proceedings with the clerk of the court as  
24 described in Section 29B-13 of this Article within 28 days  
25 after receipt of the claim.

26 (4) If no claim is filed within the 28-day period as

1 described in paragraph (3) of this Section, the State's  
2 Attorney shall declare the property subject to government  
3 taking ~~forfeited~~ and shall promptly notify the owner and  
4 all known interest holders of the property and the Director  
5 of State Police of the declaration of government taking  
6 ~~forfeiture~~ and the Director shall dispose of the property  
7 in accordance with law.

8 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

9 (720 ILCS 5/29B-13)

10 Sec. 29B-13. Judicial in rem procedures. If property taken  
11 by the government during an arrest ~~seized~~ under this Article is  
12 non-real property that exceeds \$20,000 in value excluding the  
13 value of any conveyance, or is real property, or a claimant has  
14 filed a claim under paragraph (3) of Section 29B-12 of this  
15 Article, the following judicial in rem procedures shall apply:

16 (1) If, after a review of the facts surrounding the  
17 government taking ~~seizure~~, the State's Attorney is of the  
18 opinion that the ~~seized~~ property is subject to government  
19 taking during an arrest ~~forfeiture~~, then, within 28 days of  
20 the receipt of notice of government taking ~~seizure~~ by the  
21 ~~seizing~~ agency or the filing of the claim, whichever is  
22 later, the State's Attorney shall institute judicial  
23 government taking ~~forfeiture~~ proceedings by filing a  
24 verified complaint for government taking ~~forfeiture~~. If  
25 authorized by law, property taken by the government during

1        an arrest ~~a forfeiture~~ shall be ordered by a court on an  
2        action in rem brought by a State's Attorney under a  
3        verified complaint for government taking ~~forfeiture~~.

4            (2) A complaint of government taking ~~forfeiture~~ shall  
5        include:

6            (A) a description of the property taken ~~seized~~;

7            (B) the date and place of the government taking  
8        ~~seizure~~ of the property;

9            (C) the name and address of the law enforcement  
10        agency who took the property ~~making the seizure~~; and

11           (D) the specific statutory and factual grounds for  
12        the government taking ~~seizure~~.

13           (3) The complaint shall be served upon the person from  
14        whom the property was taken ~~seized~~ and all persons known or  
15        reasonably believed by the State to claim an interest in  
16        the property, as provided in Section 29B-10 of this  
17        Article. The complaint shall be accompanied by the  
18        following written notice:

19           "This is a civil court proceeding subject to the Code  
20        of Civil Procedure. You received this Complaint of  
21        Government Taking ~~Forfeiture~~ because the State's  
22        Attorney's office has brought a legal action seeking taking  
23        ~~forfeiture~~ of your ~~seized~~ property. This complaint starts  
24        the court process where the State seeks to prove that your  
25        property should be taken ~~forfeited~~ and not returned to you.  
26        This process is also your opportunity to try to prove to a



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

16 (4) Proceedings ~~Forfeiture proceedings~~ under this  
17 Article shall be subject to the Code of Civil Procedure and  
18 the rules of evidence relating to civil actions shall apply  
19 to proceedings under this Article with the following  
20 exception. The parties shall be allowed to use, and the  
21 court shall receive and consider, all relevant hearsay  
22 evidence that relates to evidentiary foundation, chain of  
23 custody, business records, recordings, laboratory  
24 analysis, laboratory reports, and relevant hearsay related  
25 to the use of technology in the investigation that resulted  
26 in the government taking ~~seizure~~ of property that is

1 subject to the ~~forfeiture~~ action.

2 (5) Only an owner of or interest holder in the property  
3 may file an answer asserting a claim against the property  
4 in the action in rem. For purposes of this Section, the  
5 owner or interest holder shall be referred to as claimant.  
6 Upon motion of the State, the court shall first hold a  
7 hearing, in which a claimant shall establish by a  
8 preponderance of the evidence, that he or she has a lawful,  
9 legitimate ownership interest in the property and that it  
10 was obtained through a lawful source.

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

13 (A) the caption of the proceedings as set forth on  
14 the notice of pending government taking ~~forfeiture~~ and  
15 the name of the claimant;

16 (B) the address at which the claimant will accept  
17 mail;

18 (C) the nature and extent of the claimant's  
19 interest in the property;

20 (D) the date, identity of transferor, and  
21 circumstances of the claimant's acquisition of the  
22 interest in the property;

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

25 (F) all essential facts supporting each assertion;

26 (G) the precise relief sought; and

1 (H) in an ~~a forfeiture~~ action involving currency or  
2 its equivalent, a claimant shall provide the State with  
3 notice of his or her intent to allege that the currency  
4 or its equivalent is not related to the alleged factual  
5 basis for the government taking forfeiture, and why.

6 The answer shall follow the rules under the Code of  
7 Civil Procedure.

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

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

12 (9) At the judicial in rem proceeding, in the State's  
13 case in chief, the State shall show by a preponderance of  
14 the evidence that the property is subject to government  
15 taking during an arrest forfeiture. If the State makes such  
16 a showing, the claimant shall have the burden of production  
17 to set forth evidence that the property is not related to  
18 the alleged factual basis of the government taking  
19 ~~forfeiture~~. After this production of evidence, the State  
20 shall maintain the burden of proof to overcome this  
21 assertion. A claimant shall provide the State notice of its  
22 intent to allege that the currency or its equivalent is not  
23 related to the alleged factual basis of the government  
24 taking forfeiture and why. As to conveyances, at the  
25 judicial in rem proceeding, in its case in chief, the State  
26 shall show by a preponderance of the evidence:

1 (A) that the property is subject to government  
2 taking forfeiture; and

3 (B) at least one of the following:

4 (i) that the claimant was legally accountable  
5 for the conduct giving rise to the government  
6 taking forfeiture;

7 (ii) that the claimant knew or reasonably  
8 should have known of the conduct giving rise to the  
9 government taking forfeiture;

10 (iii) that the claimant knew or reasonably  
11 should have known that the conduct giving rise to  
12 the government taking forfeiture was likely to  
13 occur;

14 (iv) that the claimant held the property for  
15 the benefit of, or as nominee for, any person whose  
16 conduct gave rise to the government taking its  
17 forfeiture;

18 (v) that if the claimant acquired the interest  
19 through any person engaging in any of the conduct  
20 described above or conduct giving rise to the  
21 government taking forfeiture:

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

24 (b) the claimant acquired the interest  
25 under the circumstances that the claimant  
26 reasonably should have known the property was

1                   derived from, or used in, the conduct giving  
2                   rise to the government taking forfeiture; or  
3                   (vi) that the claimant is not the true owner of  
4                   the property that is subject to government taking  
5                   ~~forfeiture~~.

6                   (10) If the State does not meet its burden to show that  
7                   the property is subject to government taking during an  
8                   arrest forfeiture, the court shall order the interest in  
9                   the property returned or conveyed to the claimant and shall  
10                  order all other property taken by ~~forfeited to~~ the State.  
11                  If the State does meet its burden to show that the property  
12                  is subject to government taking forfeiture, the court shall  
13                  order all property taken by ~~forfeited to~~ the State.

14                  (11) A defendant convicted in any criminal proceeding  
15                  is precluded from later denying the essential allegations  
16                  of the criminal offense of which the defendant was  
17                  convicted in any proceeding under this Article regardless  
18                  of the pendency of an appeal from that conviction. However,  
19                  evidence of the pendency of an appeal is admissible.

20                  (12) On a motion by the parties, the court may stay  
21                  government taking ~~civil forfeiture~~ proceedings during the  
22                  criminal trial for a related criminal indictment or  
23                  information alleging a money laundering violation. Such a  
24                  stay shall not be available pending an appeal. Property  
25                  subject to government taking ~~forfeiture~~ under this Article  
26                  shall not be subject to return or release by a court

1 exercising jurisdiction over a criminal case involving the  
2 taking seizure of the property unless the return or release  
3 is consented to by the State's Attorney.

4 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

5 (720 ILCS 5/29B-14)

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

7 (a) After a complaint for government taking forfeiture has  
8 been filed and all claimants have appeared and answered, a  
9 claimant may file a motion with the court for an innocent owner  
10 hearing prior to trial. This motion shall be made and supported  
11 by sworn affidavit and shall assert the following along with  
12 specific facts that support each assertion:

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

15 (2) that the claimant was not legally accountable for  
16 the conduct giving rise to the government taking forfeiture  
17 or acquiesced in the conduct;

18 (3) that the claimant did not solicit, conspire, or  
19 attempt to commit the conduct giving rise to the government  
20 taking forfeiture;

21 (4) that the claimant did not know or did not have  
22 reason to know that the conduct giving rise to the  
23 government taking forfeiture was likely to occur; and

24 (5) that the claimant did not hold the property for the  
25 benefit of, or as nominee for, any person whose conduct

1 gave rise to government taking during an arrest ~~its~~  
2 ~~forfeiture~~, or if the claimant acquired the interest  
3 through any person, the claimant acquired it as a bona fide  
4 purchaser for value or acquired the interest without  
5 knowledge of the taking ~~seizure~~ of the property ~~for~~  
6 ~~forfeiture~~.

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

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

17 (1) After discovery is complete and the court has  
18 allowed for sufficient time to review and investigate the  
19 discovery responses, the court shall conduct a hearing. At  
20 the hearing, the fact that the conveyance is subject to  
21 government taking ~~forfeiture~~ shall not be at issue. The  
22 court shall only hear evidence relating to the issue of  
23 innocent ownership.

24 (2) At the hearing on the motion, it shall be the  
25 burden of the claimant to prove each of the assertions  
26 listed in subsection (a) of this Section by a preponderance

1 of the evidence.

2 (3) If a claimant meets his or her burden of proof, the  
3 court shall grant the motion and order the property  
4 returned to the claimant. If the claimant fails to meet his  
5 or her burden of proof, then the court shall deny the  
6 motion and the ~~forfeiture~~ case shall proceed according to  
7 the Code of Civil Procedure.

8 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

9 (720 ILCS 5/29B-15)

10 Sec. 29B-15. Burden and commencement of ~~forfeiture~~ action  
11 related to the government taking of property.

12 (a) Notwithstanding any other provision of this Article,  
13 the State's burden of proof at the trial of an ~~the forfeiture~~  
14 action related to government taking of property during an  
15 arrest shall be by clear and convincing evidence if:

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

19 (2) the State receives an adverse finding at a  
20 preliminary hearing and fails to secure an indictment in a  
21 criminal proceeding relating to the factual allegations of  
22 the ~~forfeiture~~ action.

23 (b) All property declared subject to government taking  
24 ~~forfeited~~ under this Article vests in the State on the  
25 commission of the conduct giving rise to the government taking



1 of property during an arrest forfeiture together with the  
2 proceeds of the property after that time. Except as otherwise  
3 provided in this Article, title to any property or proceeds  
4 subject to government taking of property during an arrest  
5 ~~forfeiture~~ subsequently transferred to any person remain  
6 subject to government taking of property during an arrest  
7 ~~forfeiture~~ and thereafter shall be ordered taken ~~forfeited~~  
8 unless the person to whom the property was transferred makes an  
9 appropriate claim and has his or her claim adjudicated at the  
10 judicial in rem hearing.

11 (c) A civil action under this Article shall be commenced  
12 within 5 years after the last conduct giving rise to the  
13 government taking of property during an arrest forfeiture  
14 became known or should have become known or 5 years after the  
15 ~~forfeitable~~ property is discovered, whichever is later,  
16 excluding any time during which either the property or claimant  
17 is out of the State or in confinement or during which criminal  
18 proceedings relating to the same conduct are in progress.

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

20 (720 ILCS 5/29B-16)

21 Sec. 29B-16. Joint tenancy or tenancy in common. If  
22 property is ordered subject to government taking during an  
23 arrest ~~forfeited~~ under this Section from a claimant who held  
24 title to the property in joint tenancy or tenancy in common  
25 with another claimant, the court shall determine the amount of

1 each owner's interest in the property according to principles  
2 of property law.

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

4 (720 ILCS 5/29B-17)

5 Sec. 29B-17. Exception for bona fide purchasers. No  
6 property shall be subject to government taking during an arrest  
7 ~~forfeited~~ under this Article from a person who, without actual  
8 or constructive notice that the property was the subject of the  
9 government taking ~~forfeiture~~ proceedings, obtained possession  
10 of the property as a bona fide purchaser for value. A person  
11 who purports to effect transfer of property after receiving  
12 actual or constructive notice that the property is subject to  
13 government taking of property during an arrest ~~seizure or~~  
14 ~~forfeiture~~ is guilty of contempt of court and shall be liable  
15 to the State for a penalty in the amount of the fair market  
16 value of the property.

17 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

18 (720 ILCS 5/29B-18)

19 Sec. 29B-18. Proportionality. Property that is subject to  
20 government taking during an arrest ~~forfeited~~ shall be subject  
21 to an 8th Amendment to the United States Constitution  
22 disproportionate penalties analysis and the property  
23 ~~forfeiture~~ may be denied in whole or in part if the court finds  
24 that the government taking ~~forfeiture~~ would constitute an

1 excessive fine in violation of the 8th Amendment as interpreted  
2 by case law.

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

4 (720 ILCS 5/29B-19)

5 Sec. 29B-19. Stay of time periods. If property is taken by  
6 the government during an arrest ~~seized~~ for evidence ~~and for~~  
7 ~~forfeiture~~, the time periods for instituting judicial and  
8 non-judicial government taking ~~forfeiture~~ proceedings shall  
9 not begin until the property is no longer necessary for  
10 evidence.

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

12 (720 ILCS 5/29B-20)

13 Sec. 29B-20. Settlement of claims. Notwithstanding other  
14 provisions of this Article, the State's Attorney and a claimant  
15 of ~~seized~~ property taken by the government during an arrest may  
16 enter into an agreed-upon settlement concerning the taken  
17 ~~seized~~ property in such an amount and upon such terms as are  
18 set out in writing in a settlement agreement. All proceeds from  
19 a settlement agreement shall be tendered to the Department of  
20 State Police and distributed under Section 29B-26 of this  
21 Article.

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

23 (720 ILCS 5/29B-21)

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

12           (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

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 government taking  
18 ~~forfeiture~~ of property and other remedies under this Article  
19 shall be considered to be in addition to, and not exclusive of,  
20 any sentence or other remedy provided by law.

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

24           (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

1 (720 ILCS 5/29B-23)

2 Sec. 29B-23. Judicial review. If property has been declared  
3 subject to government taking during an arrest ~~forfeited~~ under  
4 Section 29B-12 of this Article, any person who has an interest  
5 in the property ordered subject to government taking ~~declared~~  
6 ~~forfeited~~ may, within 30 days after the effective date of the  
7 notice of the declaration of government taking ~~forfeiture~~, file  
8 a claim as described in paragraph (3) of Section 29B-12 of this  
9 Article. If a claim is filed under this Section, then the  
10 procedures described in Section of 29B-13 of this Article  
11 apply.

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

13 (720 ILCS 5/29B-25)

14 Sec. 29B-25. Return of property, damages, and costs.

15 (a) The law enforcement agency that holds custody of  
16 property taken by the government during an arrest ~~seized for~~  
17 ~~forfeiture~~ shall deliver property ordered by the court to be  
18 returned or conveyed to the claimant within a reasonable time  
19 not to exceed 7 days, unless the order is stayed by the trial  
20 court or a reviewing court pending an appeal, motion to  
21 reconsider, or other reason.

22 (b) The law enforcement agency that holds custody of  
23 property is responsible for any damages, storage fees, and  
24 related costs applicable to property returned. The claimant  
25 shall not be subject to any charges by the State for storage of

1 the property or expenses incurred in the preservation of the  
2 property. Charges for the towing of a conveyance shall be borne  
3 by the claimant unless the conveyance was towed for the sole  
4 reason of government taking ~~of seizure for forfeiture~~. This  
5 Section does not prohibit the imposition of any fees or costs  
6 by a home rule unit of local government related to the  
7 impoundment of a conveyance under an ordinance enacted by the  
8 unit of government.

9 (c) A law enforcement agency shall not retain taken  
10 ~~forfeited~~ property for its own use or transfer the property to  
11 any person or entity, except as provided under this Section. A  
12 law enforcement agency may apply in writing to the Director of  
13 State Police to request that taken ~~forfeited~~ property be  
14 awarded to the agency for a specifically articulated official  
15 law enforcement use in an investigation. The Director shall  
16 provide a written justification in each instance detailing the  
17 reasons why the taken ~~forfeited~~ property was placed into  
18 official use and the justification shall be retained for a  
19 period of not less than 3 years.

20 (d) A claimant or a party interested in personal property  
21 contained within a taken ~~seized~~ conveyance may file a request  
22 with the State's Attorney in a non-judicial government taking  
23 ~~forfeiture~~ action, or a motion with the court in a judicial  
24 government taking ~~forfeiture~~ action for the return of any  
25 personal property contained within a conveyance that is taken  
26 ~~seized~~ under this Article. The return of personal property

1 shall not be unreasonably withheld if the personal property is  
2 not mechanically or electrically coupled to the conveyance,  
3 needed for evidentiary purposes, or otherwise contraband. Any  
4 law enforcement agency that returns property under a court  
5 order under this Section shall not be liable to any person who  
6 claims ownership to the property if it is returned to an  
7 improper party.

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

9 (720 ILCS 5/29B-26)

10 Sec. 29B-26. Distribution of proceeds. All moneys and the  
11 sale proceeds of all other property taken by the government  
12 during an arrest ~~forfeited and seized~~ under this Article shall  
13 be distributed as follows:

14 (1) 65% shall be distributed to the metropolitan  
15 enforcement group, local, municipal, county, or State law  
16 enforcement agency or agencies that conducted or  
17 participated in the investigation resulting in the  
18 government taking ~~forfeiture~~. The distribution shall bear  
19 a reasonable relationship to the degree of direct  
20 participation of the law enforcement agency in the effort  
21 resulting in the government taking ~~forfeiture~~, taking into  
22 account the total value of the property taken ~~forfeited~~ and  
23 the total law enforcement effort with respect to the  
24 violation of the law upon which the government taking  
25 ~~forfeiture~~ is based. Amounts distributed to the agency or

1 agencies shall be used for the enforcement of laws.

2 (2) (i) 12.5% shall be distributed to the Office of the  
3 State's Attorney of the county in which the prosecution  
4 resulting in the government taking forfeiture was  
5 instituted, deposited in a special fund in the county  
6 treasury and appropriated to the State's Attorney for use  
7 in the enforcement of laws. In counties over 3,000,000  
8 population, 25% shall be distributed to the Office of the  
9 State's Attorney for use in the enforcement of laws. If the  
10 prosecution is undertaken solely by the Attorney General,  
11 the portion provided under this subparagraph (i) shall be  
12 distributed to the Attorney General for use in the  
13 enforcement of laws.

14 (ii) 12.5% shall be distributed to the Office of the  
15 State's Attorneys Appellate Prosecutor and deposited in  
16 the Narcotics Profit Forfeiture Fund of that office to be  
17 used for additional expenses incurred in the  
18 investigation, prosecution, and appeal of cases arising  
19 under laws. The Office of the State's Attorneys Appellate  
20 Prosecutor shall not receive distribution from cases  
21 brought in counties with over 3,000,000 population.

22 (3) 10% shall be retained by the Department of State  
23 Police for expenses related to the administration and sale  
24 of taken ~~seized and forfeited~~ property.

25 Moneys and the sale proceeds distributed to the Department  
26 of State Police under this Article shall be deposited in the



1 Money Laundering Asset Recovery Fund created in the State  
2 treasury and shall be used by the Department of State Police  
3 for State law enforcement purposes. All moneys and sale  
4 proceeds of property taken by the government during an arrest  
5 ~~forfeited and seized~~ under this Article and distributed  
6 according to this Section may also be used to purchase opioid  
7 antagonists as defined in Section 5-23 of the Substance Use  
8 Disorder Act.

9 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

10 (720 ILCS 5/29B-27)

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

12 (a) The changes made to this Article by Public Act 100-512  
13 and Public Act 100-699 only apply to property taken by the  
14 government during an arrest ~~seized~~ on and after July 1, 2018.

15 (b) The changes made to this Article by Public Act 100-699  
16 are subject to Section 4 of the Statute on Statutes.

17 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

18 (720 ILCS 5/33G-6)

19 (Section scheduled to be repealed on June 11, 2022)

20 Sec. 33G-6. Remedial proceedings, procedures, and taken by  
21 the government during an arrest ~~forfeiture. Under this Article:~~

22 (a) Under this Article, the ~~The~~ circuit court shall have  
23 jurisdiction to prevent and restrain violations of this Article  
24 by issuing appropriate orders, including:

1 (1) ordering any person to disgorge illicit proceeds  
2 obtained by a violation of this Article or divest himself  
3 or herself of any interest, direct or indirect, in any  
4 enterprise or real or personal property of any character,  
5 including money, obtained, directly or indirectly, by a  
6 violation of this Article;

7 (2) imposing reasonable restrictions on the future  
8 activities or investments of any person or enterprise,  
9 including prohibiting any person or enterprise from  
10 engaging in the same type of endeavor as the person or  
11 enterprise engaged in, that violated this Article; or

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

15 (b) Any violation of this Article is subject to the  
16 remedies, procedures, and government taking ~~forfeiture~~ as set  
17 forth in Article 29B of this Code.

18 (c) Property taken by the government during an arrest  
19 ~~seized or forfeited~~ under this Article is subject to reporting  
20 under the Seizure and Forfeiture Reporting Act.

21 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
22 revised 10-3-18.)

23 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

24 Sec. 36-1. Property subject to government taking during an  
25 arrest forfeiture.

1 (a) Any vessel or watercraft, vehicle, or aircraft is  
2 subject to government taking during an arrest ~~forfeiture~~ under  
3 this Article if the vessel or watercraft, vehicle, or aircraft  
4 is used with the knowledge and consent of the owner in the  
5 commission of or in the attempt to commit as defined in Section  
6 8-4 of this Code:

7 (1) an offense prohibited by Section 9-1 (first degree  
8 murder), Section 9-3 (involuntary manslaughter and  
9 reckless homicide), Section 10-2 (aggravated kidnaping),  
10 Section 11-1.20 (criminal sexual assault), Section 11-1.30  
11 (aggravated criminal sexual assault), Section 11-1.40  
12 (predatory criminal sexual assault of a child), subsection  
13 (a) of Section 11-1.50 (criminal sexual abuse), subsection  
14 (a), (c), or (d) of Section 11-1.60 (aggravated criminal  
15 sexual abuse), Section 11-6 (indecent solicitation of a  
16 child), Section 11-14.4 (promoting juvenile prostitution  
17 except for keeping a place of juvenile prostitution),  
18 Section 11-20.1 (child pornography), paragraph (a)(1),  
19 (a)(2), (a)(4), (b)(1), (b)(2), (e)(1), (e)(2), (e)(3),  
20 (e)(4), (e)(5), (e)(6), or (e)(7) of Section 12-3.05  
21 (aggravated battery), Section 12-7.3 (stalking), Section  
22 12-7.4 (aggravated stalking), Section 16-1 (theft if the  
23 theft is of precious metal or of scrap metal), subdivision  
24 (f)(2) or (f)(3) of Section 16-25 (retail theft), Section  
25 18-2 (armed robbery), Section 19-1 (burglary), Section  
26 19-2 (possession of burglary tools), Section 19-3

1 (residential burglary), Section 20-1 (arson; residential  
2 arson; place of worship arson), Section 20-2 (possession of  
3 explosives or explosive or incendiary devices),  
4 subdivision (a) (6) or (a) (7) of Section 24-1 (unlawful use  
5 of weapons), Section 24-1.2 (aggravated discharge of a  
6 firearm), Section 24-1.2-5 (aggravated discharge of a  
7 machine gun or a firearm equipped with a device designed or  
8 used for silencing the report of a firearm), Section 24-1.5  
9 (reckless discharge of a firearm), Section 28-1  
10 (gambling), or Section 29D-15.2 (possession of a deadly  
11 substance) of this Code;

12 (2) an offense prohibited by Section 21, 22, 23, 24 or  
13 26 of the Cigarette Tax Act if the vessel or watercraft,  
14 vehicle, or aircraft contains more than 10 cartons of such  
15 cigarettes;

16 (3) an offense prohibited by Section 28, 29, or 30 of  
17 the Cigarette Use Tax Act if the vessel or watercraft,  
18 vehicle, or aircraft contains more than 10 cartons of such  
19 cigarettes;

20 (4) an offense prohibited by Section 44 of the  
21 Environmental Protection Act;

22 (5) an offense prohibited by Section 11-204.1 of the  
23 Illinois Vehicle Code (aggravated fleeing or attempting to  
24 elude a peace officer);

25 (6) an offense prohibited by Section 11-501 of the  
26 Illinois Vehicle Code (driving while under the influence of

1 alcohol or other drug or drugs, intoxicating compound or  
2 compounds or any combination thereof) or a similar  
3 provision of a local ordinance, and:

4 (A) during a period in which his or her driving  
5 privileges are revoked or suspended if the revocation  
6 or suspension was for:

7 (i) Section 11-501 (driving under the  
8 influence of alcohol or other drug or drugs,  
9 intoxicating compound or compounds or any  
10 combination thereof),

11 (ii) Section 11-501.1 (statutory summary  
12 suspension or revocation),

13 (iii) paragraph (b) of Section 11-401 (motor  
14 vehicle accidents involving death or personal  
15 injuries), or

16 (iv) reckless homicide as defined in Section  
17 9-3 of this Code;

18 (B) has been previously convicted of reckless  
19 homicide or a similar provision of a law of another  
20 state relating to reckless homicide in which the person  
21 was determined to have been under the influence of  
22 alcohol, other drug or drugs, or intoxicating compound  
23 or compounds as an element of the offense or the person  
24 has previously been convicted of committing a  
25 violation of driving under the influence of alcohol or  
26 other drug or drugs, intoxicating compound or

1 compounds or any combination thereof and was involved  
2 in a motor vehicle accident that resulted in death,  
3 great bodily harm, or permanent disability or  
4 disfigurement to another, when the violation was a  
5 proximate cause of the death or injuries;

6 (C) the person committed a violation of driving  
7 under the influence of alcohol or other drug or drugs,  
8 intoxicating compound or compounds or any combination  
9 thereof under Section 11-501 of the Illinois Vehicle  
10 Code or a similar provision for the third or subsequent  
11 time;

12 (D) he or she did not possess a valid driver's  
13 license or permit or a valid restricted driving permit  
14 or a valid judicial driving permit or a valid  
15 monitoring device driving permit; or

16 (E) he or she knew or should have known that the  
17 vehicle he or she was driving was not covered by a  
18 liability insurance policy;

19 (7) an offense described in subsection (g) of Section  
20 6-303 of the Illinois Vehicle Code;

21 (8) an offense described in subsection (e) of Section  
22 6-101 of the Illinois Vehicle Code; or

23 (9) (A) operating a watercraft under the influence of  
24 alcohol, other drug or drugs, intoxicating compound or  
25 compounds, or combination thereof under Section 5-16 of the  
26 Boat Registration and Safety Act during a period in which

1 his or her privileges to operate a watercraft are revoked  
2 or suspended and the revocation or suspension was for  
3 operating a watercraft under the influence of alcohol,  
4 other drug or drugs, intoxicating compound or compounds, or  
5 combination thereof; (B) operating a watercraft under the  
6 influence of alcohol, other drug or drugs, intoxicating  
7 compound or compounds, or combination thereof and has been  
8 previously convicted of reckless homicide or a similar  
9 provision of a law in another state relating to reckless  
10 homicide in which the person was determined to have been  
11 under the influence of alcohol, other drug or drugs,  
12 intoxicating compound or compounds, or combination thereof  
13 as an element of the offense or the person has previously  
14 been convicted of committing a violation of operating a  
15 watercraft under the influence of alcohol, other drug or  
16 drugs, intoxicating compound or compounds, or combination  
17 thereof and was involved in an accident that resulted in  
18 death, great bodily harm, or permanent disability or  
19 disfigurement to another, when the violation was a  
20 proximate cause of the death or injuries; or (C) the person  
21 committed a violation of operating a watercraft under the  
22 influence of alcohol, other drug or drugs, intoxicating  
23 compound or compounds, or combination thereof under  
24 Section 5-16 of the Boat Registration and Safety Act or a  
25 similar provision for the third or subsequent time.

26 (b) In addition, any mobile or portable equipment used in

1 the commission of an act which is in violation of Section 7g of  
2 the Metropolitan Water Reclamation District Act shall be  
3 subject to government taking during an arrest ~~seizure and~~  
4 ~~forfeiture~~ under the same procedures provided in this Article  
5 for the government taking during an arrest of ~~seizure and~~  
6 ~~forfeiture~~ of vessels or watercraft, vehicles, and aircraft,  
7 and any such equipment shall be deemed a vessel or watercraft,  
8 vehicle, or aircraft for purposes of this Article.

9 (c) In addition, when a person discharges a firearm at  
10 another individual from a vehicle with the knowledge and  
11 consent of the owner of the vehicle and with the intent to  
12 cause death or great bodily harm to that individual and as a  
13 result causes death or great bodily harm to that individual,  
14 the vehicle shall be subject to government taking during an  
15 arrest ~~seizure and forfeiture~~ under the same procedures  
16 provided in this Article for the government taking during an  
17 arrest ~~seizure and forfeiture~~ of vehicles used in violations of  
18 clauses (1), (2), (3), or (4) of subsection (a) of this  
19 Section.

20 (d) If the spouse of the owner of a vehicle taken ~~seized~~  
21 for an offense described in subsection (g) of Section 6-303 of  
22 the Illinois Vehicle Code, a violation of subdivision  
23 (d) (1) (A), (d) (1) (D), (d) (1) (G), (d) (1) (H), or (d) (1) (I) of  
24 Section 11-501 of the Illinois Vehicle Code, or Section 9-3 of  
25 this Code makes a showing that the taken ~~seized~~ vehicle is the  
26 only source of transportation and it is determined that the



1 financial hardship to the family as a result of the government  
2 taking seizure outweighs the benefit to the State from the  
3 government taking seizure, the vehicle may be given forfeited  
4 to the spouse or family member and the title to the vehicle  
5 shall be transferred to the spouse or family member who is  
6 properly licensed and who requires the use of the vehicle for  
7 employment or family transportation purposes. A written  
8 declaration of ~~forfeiture of a vehicle~~ under this Section shall  
9 be sufficient cause for the title to be transferred to the  
10 spouse or family member. The provisions of this paragraph shall  
11 apply only to one forfeiture per vehicle. If the vehicle is the  
12 subject of a subsequent government taking forfeiture  
13 proceeding by virtue of a subsequent conviction of either  
14 spouse or the family member, the spouse or family member to  
15 whom the vehicle was taken forfeited under the first government  
16 taking forfeiture proceeding may not utilize the provisions of  
17 this paragraph in another government taking forfeiture  
18 proceeding. If the owner of the vehicle ~~seized~~ owns more than  
19 one vehicle, the procedure set out in this paragraph may be  
20 used for only one vehicle.

21 (e) In addition, property subject to government taking  
22 ~~forfeiture~~ under Section 40 of the Illinois Streetgang  
23 Terrorism Omnibus Prevention Act may be taken seized and  
24 ~~forfeited~~ under this Article.

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

1 (720 ILCS 5/36-1.1)

2 Sec. 36-1.1. Property taken by government during an arrest  
3 Seizure.

4 (a) Any property subject to taking by the government during  
5 an arrest ~~forfeiture~~ under this Article may be taken ~~seized~~ and  
6 impounded by the Director of State Police or any peace officer  
7 upon process or ~~seizure~~ warrant issued by any court having  
8 jurisdiction over the property.

9 (b) Any property subject to taking by the government during  
10 an arrest ~~forfeiture~~ under this Article may be taken ~~seized~~ and  
11 impounded by the Director of State Police or any peace officer  
12 without process if there is probable cause to believe that the  
13 property is subject to taking by the government during an  
14 arrest ~~forfeiture~~ under Section 36-1 of this Article and the  
15 property is taken ~~seized~~ under circumstances in which a  
16 warrantless government taking ~~seizure~~ or arrest would be  
17 reasonable.

18 (c) If the ~~seized~~ property is a conveyance, an  
19 investigation shall be made by the law enforcement agency as to  
20 any person whose right, title, interest, or lien is of record  
21 in the office of the agency or official in which title to or  
22 interest in the conveyance is required by law to be recorded.

23 (d) After taking ~~seizure~~ under this Section, notice shall  
24 be given to all known interest holders that government taking  
25 ~~forfeiture~~ proceedings, including a preliminary review, may be  
26 instituted and the proceedings may be instituted under this

1 Article.

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

3 (720 ILCS 5/36-1.2)

4 Sec. 36-1.2. Receipt for taken ~~seized~~ property. If a law  
5 enforcement officer takes ~~seizes~~ property for government  
6 taking forfeiture under this Article, the officer shall provide  
7 an itemized receipt to the person possessing the property or,  
8 in the absence of a person to whom the receipt could be given,  
9 shall leave the receipt in the place where the property was  
10 found, if possible.

11 (Source: P.A. 100-512, eff. 7-1-18.)

12 (720 ILCS 5/36-1.3)

13 Sec. 36-1.3. Safekeeping of taken ~~seized~~ property pending  
14 disposition.

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

20 (b) If property is taken ~~seized~~ under this Article, the  
21 ~~seizing~~ agency shall promptly conduct an inventory of the taken  
22 ~~seized~~ property and estimate the property's value and shall  
23 forward a copy of the inventory of taken ~~seized~~ property and  
24 the estimate of the property's value to the Director of State

1 Police. Upon receiving notice of government taking seizure, the  
2 Director of State Police may:

3 (1) place the property under seal;

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

6 (3) keep the property in the possession of the ~~seizing~~  
7 agency;

8 (4) remove the property to a storage area for  
9 safekeeping;

10 (5) place the property under constructive government  
11 taking seizure by posting notice of pending government  
12 taking forfeiture on it, by giving notice of pending  
13 government taking forfeiture to its owners and interest  
14 holders, or by filing notice of pending taking by the  
15 government during an arrest forfeiture in any appropriate  
16 public record relating to the property; or

17 (6) provide for another agency or custodian, including  
18 an owner, secured party, or lienholder, to take custody of  
19 the property upon the terms and conditions set by the  
20 ~~seizing~~ agency.

21 (c) The ~~seizing~~ agency shall exercise ordinary care to  
22 protect the property ~~subject of the forfeiture~~ from negligent  
23 loss, damage, or destruction.

24 (d) Property taken by the government during an arrest  
25 ~~seized or forfeited~~ under this Article is subject to reporting  
26 under the Seizure and Forfeiture Reporting Act.

1 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
2 100-1163, eff. 12-20-18.)

3 (720 ILCS 5/36-1.4)

4 Sec. 36-1.4. Notice to State's Attorney. The law  
5 enforcement agency taking ~~seizing~~ property ~~for forfeiture~~  
6 under this Article shall, as soon as practicable but not later  
7 than 28 days after the government taking seizure, notify the  
8 State's Attorney for the county in which an act or omission  
9 giving rise to the government taking during an arrest seizure  
10 occurred or in which the property was taken ~~seized~~ and the  
11 facts and circumstances giving rise to the government taking  
12 ~~seizure~~ and shall provide the State's Attorney with the  
13 inventory of the property and its estimated value. The notice  
14 shall be by the delivery of Illinois State Police  
15 Notice/Inventory of Seized Property (Form 4-64). If the  
16 property taken by the government during an arrest ~~seized for~~  
17 ~~forfeiture~~ is a vehicle, the law enforcement agency taking  
18 ~~seizing~~ the property shall immediately notify the Secretary of  
19 State that government taking ~~forfeiture~~ proceedings are  
20 pending regarding the vehicle.

21 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
22 100-1163, eff. 12-20-18.)

23 (720 ILCS 5/36-1.5)

24 Sec. 36-1.5. Preliminary review.

1           (a) Within 14 days of the government taking of property  
2 during an arrest ~~seizure~~, the State's Attorney of the county in  
3 which the taking ~~seizure~~ occurred shall seek a preliminary  
4 determination from the circuit court as to whether there is  
5 probable cause that the property may be subject to government  
6 taking during an arrest ~~forfeiture~~.

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

9           (c) The court may conduct the review under subsection (a)  
10 of this Section simultaneously with a proceeding under Section  
11 109-1 of the Code of Criminal Procedure of 1963 for a related  
12 criminal offense if a prosecution is commenced by information  
13 or complaint.

14           (d) The court may accept a finding of probable cause at a  
15 preliminary hearing following the filing of an information or  
16 complaint charging a related criminal offense or following the  
17 return of indictment by a grand jury charging the related  
18 offense as sufficient evidence of probable cause as required  
19 under subsection (a) of this Section.

20           (e) Upon making a finding of probable cause as required  
21 under this Section, the circuit court shall order the property  
22 subject to the provisions of the applicable ~~forfeiture~~ Act held  
23 until the conclusion of any government taking ~~forfeiture~~  
24 proceeding.

25           For takings ~~seizures~~ of conveyances, within 28 days of a  
26 finding of probable cause under subsection (a) of this Section,

1 the registered owner or other claimant may file a motion in  
2 writing supported by sworn affidavits claiming that denial of  
3 the use of the conveyance during the pendency of the government  
4 taking ~~forfeiture~~ proceedings creates a substantial hardship  
5 and alleges facts showing that the hardship was not due to his  
6 or her culpable negligence. The court shall consider the  
7 following factors in determining whether a substantial  
8 hardship has been proven:

9 (1) the nature of the claimed hardship;

10 (2) the availability of public transportation or other  
11 available means of transportation; and

12 (3) any available alternatives to alleviate the  
13 hardship other than the return of the ~~seized~~ conveyance.

14 If the court determines that a substantial hardship has  
15 been proven, the court shall then balance the nature of the  
16 hardship against the State's interest in safeguarding the  
17 conveyance. If the court determines that the hardship outweighs  
18 the State's interest in safeguarding the conveyance, the court  
19 may temporarily release the conveyance to the registered owner  
20 or the registered owner's authorized designee, or both, until  
21 the conclusion of the government taking ~~forfeiture~~ proceedings  
22 or for such shorter period as ordered by the court provided  
23 that the person to whom the conveyance is released provides  
24 proof of insurance and a valid driver's license and all State  
25 and local registrations for operation of the conveyance are  
26 current. The court shall place conditions on the conveyance

1 limiting its use to the stated hardship and providing  
2 transportation for employment, religious purposes, medical  
3 needs, child care, and restricting the conveyance's use to only  
4 those individuals authorized to use the conveyance by the  
5 registered owner. The use of the vehicle shall be further  
6 restricted to exclude all recreational and entertainment  
7 purposes. The court may order additional restrictions it deems  
8 reasonable and just on its own motion or on motion of the  
9 People. The court shall revoke the order releasing the  
10 conveyance and order that the conveyance be taken again  
11 ~~re seized~~ by law enforcement if the conditions of release are  
12 violated or if the conveyance is used in the commission of any  
13 offense identified in subsection (a) of Section 6-205 of the  
14 Illinois Vehicle Code.

15 If the court orders the release of the conveyance during  
16 the pendency of the government taking ~~forfeiture~~ proceedings,  
17 the court may order the registered owner or his or her  
18 authorized designee to post a cash security with the clerk of  
19 the court as ordered by the court. If cash security is ordered,  
20 the court shall consider the following factors in determining  
21 the amount of the cash security:

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

23 (B) the nature of the hardship;

24 (C) the extent and length of the usage of the  
25 conveyance;

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



1 (E) other conditions as the court deems necessary to  
2 safeguard the conveyance.

3 If the conveyance is released, the court shall order that  
4 the registered owner or his or her designee safeguard the  
5 conveyance, not remove the conveyance from the jurisdiction,  
6 not conceal, destroy, or otherwise dispose of the conveyance,  
7 not encumber the conveyance, and not diminish the value of the  
8 conveyance in any way. The court shall also make a  
9 determination of the full market value of the conveyance prior  
10 to it being released based on a source or sources defined in 50  
11 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

12 If the conveyance subject to government taking during an  
13 arrest forfeiture is released under this Section and is  
14 subsequently taken forfeited, the person to whom the conveyance  
15 was released shall return the conveyance to the law enforcement  
16 agency that took seized the conveyance within 7 days from the  
17 date of the declaration of government taking forfeiture or  
18 order of government taking forfeiture. If the conveyance is not  
19 returned within 7 days, the cash security shall be taken  
20 forfeited in the same manner as the conveyance subject to  
21 government taking during an arrest forfeiture. If the cash  
22 security was less than the full market value, a judgment shall  
23 be entered against the parties to whom the conveyance was  
24 released and the registered owner, jointly and severally, for  
25 the difference between the full market value and the amount of  
26 the cash security. If the conveyance is returned in a condition

1 other than the condition in which it was released, the cash  
2 security shall be returned to the surety who posted the  
3 security minus the amount of the diminished value, and that  
4 amount shall be taken ~~forfeited~~ in the same manner as the  
5 conveyance subject to government taking during an arrest  
6 ~~forfeiture~~. Additionally, the court may enter an order allowing  
7 any law enforcement agency in the State of Illinois to take  
8 ~~seize~~ the conveyance wherever it may be found in the State to  
9 satisfy the judgment if the cash security was less than the  
10 full market value of the conveyance.

11 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
12 100-1163, eff. 12-20-18.)

13 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

14 Sec. 36-2. Complaint for property taken by government  
15 during an arrest ~~forfeiture~~.

16 (a) If the State's Attorney of the county in which a  
17 government taking during an arrest ~~such seizure~~ occurs finds  
18 that the alleged violation of law giving rise to the taking  
19 ~~seizure~~ was incurred without willful negligence or without any  
20 intention on the part of the owner of the vessel or watercraft,  
21 vehicle, or aircraft or any person whose right, title, or  
22 interest is of record as described in Section 36-1 of this  
23 Article, to violate the law, or finds the existence of such  
24 mitigating circumstances as to justify remission of the  
25 government taking ~~forfeiture~~, he or she may cause the law

1 enforcement agency having custody of the property to return the  
2 property to the owner within a reasonable time not to exceed 7  
3 days. The State's Attorney shall exercise his or her discretion  
4 under this subsection (a) prior to or promptly after the  
5 preliminary review under Section 36-1.5.

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

24 (1) a description of the property ~~seized~~;

25 (2) the date and place of government taking seizure of  
26 the property;

1 (3) the name and address of the law enforcement agency  
2 making the government taking seizure; and

3 (4) the specific statutory and factual grounds for the  
4 government taking seizure.

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

16 "This is a civil court proceeding subject to the Code of  
17 Civil Procedure. You received this Complaint of Government  
18 Taking Forfeiture because the State's Attorney's office has  
19 brought a legal action seeking government taking forfeiture of  
20 your ~~seized~~ property. This complaint starts the court process  
21 where the State seeks to prove that your property should be  
22 taken forfeited and not returned to you. This process is also  
23 your opportunity to try to prove to a judge that you should get  
24 your property back. The complaint lists the date, time, and  
25 location of your first court date. You must appear in court on  
26 that day, or you may lose the case automatically. You must also

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

11 (c) (Blank).

12 (d) (Blank).

13 (e) (Blank).

14 (f) (Blank).

15 (g) (Blank).

16 (h) (Blank).

17 (Source: P.A. 99-78, eff. 7-20-15; 100-512, eff. 7-1-18;  
18 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

19 (720 ILCS 5/36-2.1)

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

1 title to or interest in the conveyance is required by law to be  
2 recorded. A complaint for government taking ~~forfeiture~~ shall be  
3 served upon the property owner or interest holder in the  
4 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 government taking forfeiture, the address provided  
10 to the arresting agency at the time of arrest shall be  
11 deemed to be that person's known address. Provided,  
12 however, if an owner or interest holder's address  
13 changes prior to the effective date of the complaint  
14 for government taking forfeiture, the owner or  
15 interest holder shall promptly notify the ~~seizing~~  
16 agency who took the property of the change in address  
17 or, if the owner or interest holder's address changes  
18 subsequent to the effective date of the notice of  
19 pending government taking forfeiture, the owner or  
20 interest holder shall promptly notify the State's  
21 Attorney of the change in address; or if the property  
22 ~~seized~~ is a conveyance, to the address reflected in the  
23 office of the agency or official in which title to or  
24 interest in the conveyance is required by law to be  
25 recorded.

26 (2) If the owner's or interest holder's address is not



1 known, and is not on record, then notice shall be served by  
2 publication for 3 successive weeks in a newspaper of  
3 general circulation in the county in which the government  
4 taking ~~seizure~~ occurred.

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

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

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

26 (6) Notice to any person whom the State's Attorney

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

6 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
7 100-1163, eff. 12-20-18.)

8 (720 ILCS 5/36-2.2)

9 Sec. 36-2.2. Replevin prohibited; return of personal  
10 property inside taken ~~seized~~ conveyance.

11 (a) Property taken ~~seized~~ under this Article shall not be  
12 subject to replevin, but is deemed to be in the custody of the  
13 Director of State Police, subject only to the order and  
14 judgments of the circuit court having jurisdiction over the  
15 government taking ~~forfeiture~~ proceedings and the decisions of  
16 the State's Attorney.

17 (b) A claimant or a party interested in personal property  
18 contained within a taken ~~seized~~ conveyance may file a motion  
19 with the court in a judicial ~~forfeiture~~ action for the return  
20 of any personal property contained within a conveyance taken  
21 ~~seized~~ under this Article. The return of personal property  
22 shall not be unreasonably withheld if the personal property is  
23 not mechanically or electrically coupled to the conveyance,  
24 needed for evidentiary purposes, or otherwise contraband. A law  
25 enforcement agency that returns property under a court order

1 under this Section shall not be liable to any person who claims  
2 ownership to the property if the property is returned to an  
3 improper party.

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 government taking ~~forfeiture~~ complaint who claims  
14 to have an interest in the property may petition to intervene  
15 as a claimant under Section 2-408 of the Code of Civil  
16 Procedure.

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

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

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

23 (1) the property is subject to government taking during  
24 an arrest ~~forfeiture~~; and

25 (2) at least one of the following:

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

3 (ii) the claimant is not the true owner of the  
4 property that is subject to government taking during an  
5 arrest forfeiture.

6 In any government taking forfeiture case under this  
7 Article, a claimant may present evidence to overcome evidence  
8 presented by the State that the property is subject to  
9 government taking during an arrest forfeiture.

10 (f) Notwithstanding any other provision of this Section,  
11 the State's burden of proof at the trial of the government  
12 taking forfeiture action shall be by clear and convincing  
13 evidence if:

14 (1) a finding of not guilty is entered as to all counts  
15 and all defendants in a criminal proceeding relating to the  
16 conduct giving rise to the government taking forfeiture  
17 action; or

18 (2) the State receives an adverse finding at a  
19 preliminary hearing and fails to secure an indictment in a  
20 criminal proceeding related to the factual allegations of  
21 the government taking forfeiture action.

22 (g) If the State does not meet its burden of proof, the  
23 court shall order the interest in the property returned or  
24 conveyed to the claimant and shall order all other property in  
25 which the State does meet its burden of proof taken by  
26 ~~forfeited to~~ the State. If the State does meet its burden of

1 proof, the court shall order all property taken by ~~forfeited to~~  
2 the State.

3 (h) A defendant convicted in any criminal proceeding is  
4 precluded from later denying the essential allegations of the  
5 criminal offense of which the defendant was convicted in any  
6 proceeding under this Article regardless of the pendency of an  
7 appeal from that conviction. However, evidence of the pendency  
8 of an appeal is admissible.

9 (i) An acquittal or dismissal in a criminal proceeding  
10 shall not preclude civil proceedings under this Act; however,  
11 for good cause shown, on a motion by either party, the court  
12 may stay civil government taking ~~forfeiture~~ proceedings during  
13 the criminal trial for a related criminal indictment or  
14 information alleging a violation of law authorizing government  
15 taking during an arrest ~~forfeiture~~ under Section 36-1 of this  
16 Article.

17 (j) Title to all property declared taken ~~forfeited~~ under  
18 this Act vests in this State on the commission of the conduct  
19 giving rise to government taking ~~forfeiture~~ together with the  
20 proceeds of the property after that time. Except as otherwise  
21 provided in this Article, any property or proceeds subsequently  
22 transferred to any person remain subject to government taking  
23 ~~forfeiture~~ unless a person to whom the property was transferred  
24 makes an appropriate claim under or has the claim adjudicated  
25 at the judicial in rem hearing.

26 (k) No property shall be subject to government taking

1 during an arrest ~~forfeited~~ under this Article from a person  
2 who, without actual or constructive notice that the property  
3 was the subject of government taking ~~forfeiture~~ proceedings,  
4 obtained possession of the property as a bona fide purchaser  
5 for value. A person who purports to transfer property after  
6 receiving actual or constructive notice that the property is  
7 subject to government taking during an arrest ~~seizure or~~  
8 ~~forfeiture~~ is guilty of contempt of court and shall be liable  
9 to the State for a penalty in the amount of the fair market  
10 value of the property.

11 (l) A civil action under this Article shall be commenced  
12 within 5 years after the last conduct giving rise to the  
13 government taking ~~forfeiture~~ became known or should have become  
14 known or 5 years after the taken ~~forfeitable~~ property is  
15 discovered, whichever is later, excluding any time during which  
16 either the property or claimant is out of the State or in  
17 confinement or during which criminal proceedings relating to  
18 the same conduct are in progress.

19 (m) If property is ordered taken ~~forfeited~~ under this  
20 Article from a claimant who held title to the property in joint  
21 tenancy or tenancy in common with another claimant, the court  
22 shall determine the amount of each owner's interest in the  
23 property according to principles of property law.

24 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
25 100-1163, eff. 12-20-18.)

1 (720 ILCS 5/36-2.7)

2 Sec. 36-2.7. Innocent owner hearing.

3 (a) After a complaint for government taking ~~forfeiture~~ has  
4 been filed and all claimants have appeared and answered, a  
5 claimant may file a motion with the court for an innocent owner  
6 hearing prior to trial. This motion shall be made and supported  
7 by sworn affidavit and shall assert the following along with  
8 specific facts that support each assertion:

9 (1) that the claimant filing the motion is the true  
10 owner of the conveyance as interpreted by case law; and

11 (2) that the claimant did not know or did not have  
12 reason to know the conduct giving rise to the government  
13 taking ~~forfeiture~~ was likely to occur.

14 The claimant's motion shall include specific facts that  
15 support these assertions.

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

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

1 the fact that the conveyance is subject to government taking  
2 ~~forfeiture~~ shall not be at issue. The court shall only hear  
3 evidence relating to the issue of innocent ownership.

4 (d) At the hearing on the motion, the claimant shall bear  
5 the burden of proving each of the assertions listed in  
6 subsection (a) of this Section by a preponderance of the  
7 evidence. If a claimant meets the burden of proof, the court  
8 shall grant the motion and order the conveyance returned to the  
9 claimant. If the claimant fails to meet the burden of proof,  
10 the court shall deny the motion and the ~~forfeiture~~ case shall  
11 proceed according to the Code of Civil Procedure.

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

13 (720 ILCS 5/36-3) (from Ch. 38, par. 36-3)

14 Sec. 36-3. Exemptions from government taking ~~forfeiture~~.

15 (a) No vessel or watercraft, vehicle, or aircraft used by  
16 any person as a common carrier in the transaction of business  
17 as such common carrier may be subject to government taking  
18 during an arrest ~~forfeited~~ under the provisions of Section 36-2  
19 unless the State proves by a preponderance of the evidence that  
20 (1) in the case of a railway car or engine, the owner, or (2) in  
21 the case of any other such vessel or watercraft, vehicle or  
22 aircraft, the owner or the master of such vessel or watercraft  
23 or the owner or conductor, driver, pilot, or other person in  
24 charge of such vehicle or aircraft was at the time of the  
25 alleged illegal act a consenting party or privy thereto.



1 (b) No vessel or watercraft, vehicle, or aircraft shall be  
2 subject to government taking during an arrest ~~forfeited~~ under  
3 the provisions of Section 36-2 of this Article by reason of any  
4 act or omission committed or omitted by any person other than  
5 such owner while such vessel or watercraft, vehicle, or  
6 aircraft was unlawfully in the possession of a person who  
7 acquired possession thereof in violation of the criminal laws  
8 of the United States, or of any state.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (720 ILCS 5/36-3.1)

11 Sec. 36-3.1. Proportionality. Property taken by the  
12 government during an arrest ~~forfeited~~ under this Article shall  
13 be subject to an 8th Amendment to the United States  
14 Constitution disproportionate penalties analysis, and the  
15 property subject to government taking ~~forfeiture~~ may be denied  
16 in whole or in part if the court finds that the government  
17 taking ~~forfeiture~~ would constitute an excessive fine in  
18 violation of the 8th Amendment to the United States  
19 Constitution, as interpreted by case law.

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

21 (720 ILCS 5/36-4) (from Ch. 38, par. 36-4)

22 Sec. 36-4. Remission by Attorney General. Whenever any  
23 owner of, or other person interested in, a vessel or  
24 watercraft, vehicle, or aircraft taken ~~seized~~ under the

1 provisions of this Act files with the Attorney General before  
2 the sale or destruction of such vessel or watercraft, vehicle,  
3 or aircraft, a petition for the remission of such government  
4 taking forfeiture the Attorney General if he finds that such  
5 government taking forfeiture was incurred without willful  
6 negligence or without any intention on the part of the owner or  
7 any person whose right, title or interest is of record as  
8 described in Section 36-1, to violate the law, or finds the  
9 existence of such mitigating circumstances as to justify the  
10 remission of government taking forfeiture, may cause the same  
11 to be remitted upon such terms and conditions as he deems  
12 reasonable and just, or order discontinuance of any government  
13 taking forfeiture proceeding relating thereto.

14 (Source: P.A. 98-699, eff. 1-1-15.)

15 (720 ILCS 5/36-6)

16 Sec. 36-6. Return of property, damages and costs.

17 (a) The law enforcement agency that holds custody of  
18 property taken by the government during an arrest ~~seized for~~  
19 ~~forfeiture~~ shall return to the claimant, within a reasonable  
20 period of time not to exceed 7 days unless the order is stayed  
21 by the trial court or a reviewing court pending an appeal,  
22 motion to reconsider, or other reason after the court orders  
23 the property to be returned or conveyed to the claimant:

24 (1) property ordered by the court to be conveyed or  
25 returned to the claimant; and

1           (2) property ordered by the court to be conveyed or  
2           returned to the claimant under subsection (d) of Section  
3           36-3.1 of this Article.

4           (b) The law enforcement agency that holds custody of  
5           property taken by the government during an arrest ~~seized~~ under  
6           this Article is responsible for any damages, storage fees, and  
7           related costs applicable to property returned to a claimant  
8           under this Article. The claimant shall not be subject to any  
9           charges by the State for storage of the property or expenses  
10          incurred in the preservation of the property. Charges for the  
11          towing of a conveyance shall be borne by the claimant unless  
12          the conveyance was towed for the sole reason of government  
13          taking ~~seizure for forfeiture~~. This subsection does not  
14          prohibit the imposition of any fees or costs by a home rule  
15          unit of local government related to the impoundment of a  
16          conveyance under an ordinance enacted by the unit of  
17          government.

18          (Source: P.A. 100-512, eff. 7-1-18.)

19           (720 ILCS 5/36-7)

20          Sec. 36-7. Distribution of proceeds; selling or retaining  
21          taken ~~seized~~ property prohibited.

22          (a) Except as otherwise provided in this Section, the court  
23          shall order that property subject to government taking  
24          ~~forfeited~~ under this Article be delivered to the Department of  
25          State Police within 60 days.

1 (b) The Department of State Police or its designee shall  
2 dispose of all property at public auction and shall distribute  
3 the proceeds of the sale, together with any moneys taken  
4 ~~forfeited or seized~~, under subsection (c) of this Section.

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

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

1 provided in Section 2-115 of the Illinois Vehicle Code.

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

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

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

13 (C) the government taking ~~seizure~~ took place  
14 within the geographical limits of the municipality;  
15 and

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

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

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

25 12.5% shall be distributed to the Office of the State's  
26 Attorneys Appellate Prosecutor and shall be used at the

1 discretion of the State's Attorneys Appellate Prosecutor  
2 for additional expenses incurred in the investigation,  
3 prosecution and appeal of cases arising in the enforcement  
4 of criminal laws; or for public education in the community  
5 or schools in the prevention or detection of the abuse of  
6 drugs or alcohol. The Office of the State's Attorneys  
7 Appellate Prosecutor shall not receive distribution from  
8 cases brought in counties with over 3,000,000 population.

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

12 (d) A law enforcement agency shall not retain taken  
13 ~~forfeited~~ property for its own use or transfer the property to  
14 any person or entity, except as provided under this Section. A  
15 law enforcement agency may apply in writing to the Director of  
16 State Police to request that taken ~~forfeited~~ property be  
17 awarded to the agency for a specifically articulated official  
18 law enforcement use in an investigation. The Director of State  
19 Police shall provide a written justification in each instance  
20 detailing the reasons why the taken ~~forfeited~~ property was  
21 placed into official use, and the justification shall be  
22 retained for a period of not less than 3 years.

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

24 (720 ILCS 5/36.5-5)

25 Sec. 36.5-5. Vehicle impoundment.

1           (a) In addition to any other penalty, fee or government  
2 taking forfeiture provided by law, a peace officer who arrests  
3 a person for a violation of Section 10-9, 11-14, 11-14.1,  
4 11-14.3, 11-14.4, 11-18, or 11-18.1 of this Code or related  
5 municipal ordinance, may tow and impound any vehicle used by  
6 the person in the commission of the violation. The person  
7 arrested for one or more such violations shall be charged a  
8 \$1,000 fee, to be paid to the law enforcement agency that made  
9 the arrest or its designated representative. The person may  
10 recover the vehicle from the impound after a minimum of 2 hours  
11 after arrest upon payment of the fee.

12           (b) \$500 of the fee shall be distributed to the law  
13 enforcement agency whose peace officers made the arrest, for  
14 the costs incurred by the law enforcement agency to investigate  
15 and to tow and impound the vehicle. Upon the defendant's  
16 conviction of one or more of the violations in connection with  
17 which the vehicle was impounded and the fee imposed under this  
18 Section, the remaining \$500 of the fee shall be deposited into  
19 the Specialized Services for Survivors of Human Trafficking  
20 Fund and disbursed in accordance with subsections (d), (e), and  
21 (f) of Section 5-9-1.21 of the Unified Code of Corrections.

22           (c) Upon the presentation by the defendant of a signed  
23 court order showing that the defendant has been acquitted of  
24 all of the violations in connection with which a vehicle was  
25 impounded and a fee imposed under this Section, or that the  
26 charges against the defendant for those violations have been



1 dismissed, the law enforcement agency shall refund the \$1,000  
2 fee to the defendant.

3 (Source: P.A. 97-333, eff. 8-12-11; 97-897, eff. 1-1-13;  
4 97-1109, eff. 1-1-13; 98-463, eff. 8-16-13; 98-1013, eff.  
5 1-1-15.)

6 (720 ILCS 5/47-15)

7 Sec. 47-15. Dumping garbage upon real property.

8 (a) It is unlawful for a person to dump, deposit, or place  
9 garbage, rubbish, trash, or refuse upon real property not owned  
10 by that person without the consent of the owner or person in  
11 possession of the real property.

12 (b) A person who violates this Section is liable to the  
13 owner or person in possession of the real property on which the  
14 garbage, rubbish, trash, or refuse is dumped, deposited, or  
15 placed for the reasonable costs incurred by the owner or person  
16 in possession for cleaning up and properly disposing of the  
17 garbage, rubbish, trash, or refuse, and for reasonable  
18 attorneys' fees.

19 (c) A person violating this Section is guilty of a Class B  
20 misdemeanor for which the court must impose a minimum fine of  
21 \$500. A second conviction for an offense committed after the  
22 first conviction is a Class A misdemeanor for which the court  
23 must impose a minimum fine of \$500. A third or subsequent  
24 violation, committed after a second conviction, is a Class 4  
25 felony for which the court must impose a minimum fine of \$500.

1 A person who violates this Section and who has an equity  
2 interest in a motor vehicle used in violation of this Section  
3 is presumed to have the financial resources to pay the minimum  
4 fine not exceeding his or her equity interest in the vehicle.  
5 Personal property used by a person in violation of this Section  
6 shall on the third or subsequent conviction of the person be  
7 taken ~~forfeited~~ to the county where the violation occurred and  
8 disposed of at a public sale. Before the government taking  
9 ~~forfeiture~~, the court shall conduct a hearing to determine  
10 whether property is subject to government taking ~~forfeiture~~  
11 under this Section. At the government taking ~~forfeiture~~ hearing  
12 the State has the burden of establishing by a preponderance of  
13 the evidence that property is subject to government taking  
14 ~~forfeiture~~ under this Section. Property taken by government  
15 during an arrest ~~seized or forfeited~~ under this Section is  
16 subject to reporting under the Seizure and Forfeiture Reporting  
17 Act.

18 (d) The statutory minimum fine required by subsection (c)  
19 is not subject to reduction or suspension unless the defendant  
20 is indigent. If the defendant files a motion with the court  
21 asserting his or her inability to pay the mandatory fine  
22 required by this Section, the court must set a hearing on the  
23 motion before sentencing. The court must require an affidavit  
24 signed by the defendant containing sufficient information to  
25 ascertain the assets and liabilities of the defendant. If the  
26 court determines that the defendant is indigent, the court must

1 require that the defendant choose either to pay the minimum  
2 fine of \$500 or to perform 100 hours of community service.

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

4 Section 40. The Code of Criminal Procedure of 1963 is  
5 amended by changing Sections 124B-5, 124B-10, 124B-15,  
6 124B-100, 124B-105, 124B-110, 124B-115, 124B-120, 124B-125,  
7 124B-130, 124B-135, 124B-140, 124B-145, 124B-150, 124B-155,  
8 124B-160, 124B-165, 124B-170, 124B-175, 124B-180, 124B-190,  
9 124B-195, 124B-300, 124B-305, 124B-310, 124B-400, 124B-405,  
10 124B-410, 124B-415, 124B-420, 124B-425, 124B-500, 124B-505,  
11 124B-510, 124B-600, 124B-605, 124B-610, 124B-615, 124B-700,  
12 124B-705, 124B-710, 124B-715, 124B-720, 124B-800, 124B-805,  
13 124B-810, 124B-815, 124B-820, 124B-825, 124B-830, 124B-900,  
14 124B-905, 124B-910, 124B-915, 124B-920, 124B-925, 124B-930,  
15 124B-935, 124B-940, 124B-1000, 124B-1010, 124B-1020,  
16 124B-1030, 124B-1040, 124B-1045, and 124B-1050 and by adding  
17 124B-7 as follows:

18 (725 ILCS 5/124B-5)

19 Sec. 124B-5. Purpose and scope. The purpose of this Article  
20 is to set forth in one place the provisions relating to  
21 government taking ~~forfeiture~~ of property in connection with  
22 violations of certain criminal statutes. Part 100 of this  
23 Article sets forth standard provisions that apply to these  
24 government taking ~~forfeiture~~ proceedings. In Parts 300 and

1 following, for each type of criminal violation, this Article  
2 sets forth (i) provisions that apply to property taken by the  
3 government during an arrest ~~forfeiture~~ only in connection with  
4 that type of violation and (ii) by means of incorporation by  
5 reference, the standard government taking ~~forfeiture~~  
6 provisions that apply to that type of violation.

7 (Source: P.A. 96-712, eff. 1-1-10.)

8 (725 ILCS 5/124B-7 new)

9 Sec. 124B-7. Standardized forms; property taken by the  
10 government. Standardized forms regarding property taken by the  
11 government during an arrest, including a hardship motion,  
12 verified claim, and answer to a complaint, as determined by the  
13 Supreme Court, shall be used statewide.

14 (725 ILCS 5/124B-10)

15 Sec. 124B-10. Applicability; offenses. This Article  
16 applies to property taken by the government during an arrest  
17 ~~forfeiture of property~~ in connection with the following:

18 (1) A violation of Section 10-9 or 10A-10 of the  
19 Criminal Code of 1961 or the Criminal Code of 2012  
20 (involuntary servitude; involuntary servitude of a minor;  
21 or trafficking in persons).

22 (2) A violation of subdivision (a)(1) of Section  
23 11-14.4 of the Criminal Code of 1961 or the Criminal Code  
24 of 2012 (promoting juvenile prostitution) or a violation of

1 Section 11-17.1 of the Criminal Code of 1961 (keeping a  
2 place of juvenile prostitution).

3 (3) A violation of subdivision (a)(4) of Section  
4 11-14.4 of the Criminal Code of 1961 or the Criminal Code  
5 of 2012 (promoting juvenile prostitution) or a violation of  
6 Section 11-19.2 of the Criminal Code of 1961 (exploitation  
7 of a child).

8 (4) A second or subsequent violation of Section 11-20  
9 of the Criminal Code of 1961 or the Criminal Code of 2012  
10 (obscenity).

11 (5) A violation of Section 11-20.1 of the Criminal Code  
12 of 1961 or the Criminal Code of 2012 (child pornography).

13 (6) A violation of Section 11-20.1B or 11-20.3 of the  
14 Criminal Code of 1961 (aggravated child pornography).

15 (6.5) A violation of Section 11-23.5 of the Criminal  
16 Code of 2012.

17 (7) A violation of Section 12C-65 of the Criminal Code  
18 of 2012 or Article 44 of the Criminal Code of 1961  
19 (unlawful transfer of a telecommunications device to a  
20 minor).

21 (8) A violation of Section 17-50 or Section 16D-5 of  
22 the Criminal Code of 2012 or the Criminal Code of 1961  
23 (computer fraud).

24 (9) A felony violation of Section 17-6.3 or Article 17B  
25 of the Criminal Code of 2012 or the Criminal Code of 1961  
26 (WIC fraud).

1 (10) A felony violation of Section 48-1 of the Criminal  
2 Code of 2012 or Section 26-5 of the Criminal Code of 1961  
3 (dog fighting).

4 (11) A violation of Article 29D of the Criminal Code of  
5 1961 or the Criminal Code of 2012 (terrorism).

6 (12) A felony violation of Section 4.01 of the Humane  
7 Care for Animals Act (animals in entertainment).

8 (Source: P.A. 97-897, eff. 1-1-13; 97-1108, eff. 1-1-13;  
9 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-1138, eff.  
10 6-1-15.)

11 (725 ILCS 5/124B-100)

12 Sec. 124B-100. Definition; "offense". For purposes of this  
13 Article, "offense" is defined as follows:

14 (1) In the case of government taking of property during  
15 an arrest forfeiture authorized under Section 10A-15 of the  
16 Criminal Code of 1961 or Section 10-9 of the Criminal Code  
17 of 2012, "offense" means the offense of involuntary  
18 servitude, involuntary servitude of a minor, or  
19 trafficking in persons in violation of Section 10-9 or  
20 10A-10 of those Codes.

21 (2) In the case of government taking of property during  
22 an arrest forfeiture authorized under subdivision (a)(1)  
23 of Section 11-14.4, or Section 11-17.1, of the Criminal  
24 Code of 1961 or the Criminal Code of 2012, "offense" means  
25 the offense of promoting juvenile prostitution or keeping a

1 place of juvenile prostitution in violation of subdivision  
2 (a)(1) of Section 11-14.4, or Section 11-17.1, of those  
3 Codes.

4 (3) In the case of government taking of property during  
5 an arrest ~~forfeiture~~ authorized under subdivision (a)(4)  
6 of Section 11-14.4, or Section 11-19.2, of the Criminal  
7 Code of 1961 or the Criminal Code of 2012, "offense" means  
8 the offense of promoting juvenile prostitution or  
9 exploitation of a child in violation of subdivision (a)(4)  
10 of Section 11-14.4, or Section 11-19.2, of those Codes.

11 (4) In the case of government taking of property during  
12 an arrest ~~forfeiture~~ authorized under Section 11-20 of the  
13 Criminal Code of 1961 or the Criminal Code of 2012,  
14 "offense" means the offense of obscenity in violation of  
15 that Section.

16 (5) In the case of government taking of property during  
17 an arrest ~~forfeiture~~ authorized under Section 11-20.1 of  
18 the Criminal Code of 1961 or the Criminal Code of 2012,  
19 "offense" means the offense of child pornography in  
20 violation of Section 11-20.1 of that Code.

21 (6) In the case of government taking or property during  
22 an arrest ~~forfeiture~~ authorized under Section 11-20.1B or  
23 11-20.3 of the Criminal Code of 1961, "offense" means the  
24 offense of aggravated child pornography in violation of  
25 Section 11-20.1B or 11-20.3 of that Code.

26 (7) In the case of government taking of property during

1        an arrest forfeiture authorized under Section 12C-65 of the  
2 Criminal Code of 2012 or Article 44 of the Criminal Code of  
3 1961, "offense" means the offense of unlawful transfer of a  
4 telecommunications device to a minor in violation of  
5 Section 12C-65 or Article 44 of those Codes.

6        (8) In the case of government taking of property during  
7 an arrest forfeiture authorized under Section 17-50 or  
8 16D-5 of the Criminal Code of 1961 or the Criminal Code of  
9 2012, "offense" means the offense of computer fraud in  
10 violation of Section 17-50 or 16D-5 of those Codes.

11        (9) In the case of government taking of property during  
12 an arrest forfeiture authorized under Section 17-6.3 or  
13 Article 17B of the Criminal Code of 1961 or the Criminal  
14 Code of 2012, "offense" means any felony violation of  
15 Section 17-6.3 or Article 17B of those Codes.

16        (10) In the case of government taking of property  
17 during an arrest forfeiture authorized under Section  
18 29D-65 of the Criminal Code of 1961 or the Criminal Code of  
19 2012, "offense" means any offense under Article 29D of that  
20 Code.

21        (11) In the case of government taking of property  
22 during an arrest forfeiture authorized under Section 4.01  
23 of the Humane Care for Animals Act, Section 26-5 of the  
24 Criminal Code of 1961, or Section 48-1 of the Criminal Code  
25 of 2012, "offense" means any felony offense under either of  
26 those Sections.



1           (12) In the case of government taking of property  
2           during an arrest ~~forfeiture~~ authorized under Section  
3           124B-1000(b) of the Code of Criminal Procedure of 1963,  
4           "offense" means an offense in violation of the Criminal  
5           Code of 1961, the Criminal Code of 2012, the Illinois  
6           Controlled Substances Act, the Cannabis Control Act, or the  
7           Methamphetamine Control and Community Protection Act, or  
8           an offense involving a telecommunications device possessed  
9           by a person on the real property of any elementary or  
10          secondary school without authority of the school  
11          principal.

12          (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;  
13          97-897, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.  
14          1-1-13; 97-1150, eff. 1-25-13.)

15           (725 ILCS 5/124B-110)

16          Sec. 124B-110. Definition; "owner". In this Article,  
17          "owner" means a person with an ownership interest in the  
18          specific property sought to be subject to taking by the  
19          government during an arrest ~~forfeited~~, including a leasehold,  
20          lien, mortgage, recorded security interest, or valid  
21          assignment of an ownership interest. "Owner" does not include  
22          any of the following:

23           (1) A person with only a general unsecured interest in,  
24           or claim against, the property or estate of another.

25           (2) A bailee, unless the bailor is identified and the

1           bailee shows a colorable legitimate interest in the  
2           property seized.

3           (3) A nominee who exercises no dominion or control over  
4           the property.

5           (Source: P.A. 96-712, eff. 1-1-10.)

6           (725 ILCS 5/124B-125)

7           Sec. 124B-125. Real property exempt from taking by  
8           government during an arrest forfeiture.

9           (a) An interest in real property is exempt from taking by  
10          the government during an arrest forfeiture under this Article  
11          if its owner or interest holder establishes by a preponderance  
12          of evidence that he or she meets all of the following  
13          requirements:

14               (1) He or she is not legally accountable for the  
15               conduct giving rise to the government taking forfeiture, or  
16               did not solicit, conspire, or attempt to commit the conduct  
17               giving rise to the government taking forfeiture.

18               (2) He or she had not acquired and did not stand to  
19               acquire substantial proceeds from the conduct giving rise  
20               to the government taking forfeiture other than as an  
21               interest holder in an arms-length commercial transaction.

22               (3) He or she does not hold the property for the  
23               benefit of or as a nominee for any person whose conduct  
24               gave rise to the government taking forfeiture, and, if he  
25               or she acquired the interest through any such person, he or

1 she acquired it as a bona fide purchaser for value without  
2 knowingly taking part in the conduct giving rise to the  
3 government taking forfeiture.

4 (4) He or she acquired the interest before a notice of  
5 government taking seizure for forfeiture or a lis pendens  
6 notice with respect to the property was filed in the office  
7 of the recorder of deeds of the county in which the  
8 property is located and either:

9 (A) acquired the interest before the commencement  
10 of the conduct giving rise to the government taking  
11 forfeiture, and the person whose conduct gave rise to  
12 the government taking forfeiture did not have the  
13 authority to convey the interest to a bona fide  
14 purchaser for value at the time of the conduct; or

15 (B) acquired the interest after the commencement  
16 of the conduct giving rise to the government taking  
17 forfeiture, and he or she acquired the interest as a  
18 mortgagee, secured creditor, lienholder, or bona fide  
19 purchaser for value without knowledge of the conduct  
20 that gave rise to the government taking forfeiture.

21 (5) With respect to a property interest in existence at  
22 the time the illegal conduct giving rise to the government  
23 taking forfeiture took place, he or she either:

24 (A) did not know of the conduct giving rise to the  
25 government taking forfeiture; or

26 (B) upon learning of the conduct giving rise to the

1           government taking forfeiture, did all that reasonably  
2           could be expected under the circumstances to terminate  
3           that use of the property.

4           (6) The property is not a type of property, possession  
5           of which is otherwise in violation of law.

6           (b) For purposes of paragraph (5) of subsection (a), ways  
7           in which a person may show that he or she did all that  
8           reasonably could be expected include demonstrating that he or  
9           she, to the extent permitted by law, did either of the  
10          following:

11          (1) Gave timely notice to an appropriate law  
12          enforcement agency of information that led the person to  
13          know that the conduct giving rise to a government taking  
14          ~~forfeiture~~ would occur or had occurred.

15          (2) In a timely fashion revoked or made a good faith  
16          attempt to revoke permission for those engaging in the  
17          conduct to use the property or took reasonable actions in  
18          consultation with a law enforcement agency to discourage or  
19          prevent the illegal use of the property.

20          A person is not required by this subsection (b) to take  
21          steps that the person reasonably believes would be likely to  
22          subject any person (other than the person whose conduct gave  
23          rise to the government taking forfeiture) to physical danger.

24          (Source: P.A. 96-712, eff. 1-1-10; 97-813, eff. 7-13-12.)

25                   (725 ILCS 5/124B-130)

1           Sec. 124B-130. Personal property exempt from taking by  
2 government during an arrest forfeiture.

3           (a) An interest in personal property is exempt from taking  
4 by the government during an arrest forfeiture under this  
5 Article if its owner or interest holder establishes by a  
6 preponderance of evidence that he or she meets all of the  
7 following requirements:

8           (1) He or she is not legally accountable for the  
9 conduct giving rise to the government taking forfeiture,  
10 did not acquiesce in it, and did not know and could not  
11 reasonably have known of the conduct or that the conduct  
12 was likely to occur.

13           (2) He or she had not acquired and did not stand to  
14 acquire substantial proceeds from the conduct giving rise  
15 to the government taking forfeiture other than as an  
16 interest holder in an arms-length commercial transaction.

17           (3) He or she does not hold the property for the  
18 benefit of or as a nominee for any person whose conduct  
19 gave rise to the government taking forfeiture, and, if he  
20 or she acquired the interest through any such person, he or  
21 she acquired it as a bona fide purchaser for value without  
22 knowingly taking part in the conduct giving rise to the  
23 government taking forfeiture.

24           (4) He or she acquired the interest without knowledge  
25 of the government taking seizure of the property for  
26 forfeiture and either:

1 (A) acquired the interest before the commencement  
2 of the conduct giving rise to the government taking  
3 ~~forfeiture~~, and the person whose conduct gave rise to  
4 the government taking ~~forfeiture~~ did not have the  
5 authority to convey the interest to a bona fide  
6 purchaser for value at the time of the conduct; or

7 (B) acquired the interest after the commencement  
8 of the conduct giving rise to the government taking  
9 ~~forfeiture~~, and he or she acquired the interest as a  
10 mortgagee, secured creditor, lienholder, or bona fide  
11 purchaser for value without knowledge of the conduct  
12 that gave rise to the government taking ~~forfeiture~~.

13 (5) With respect to a property interest in existence at  
14 the time the illegal conduct giving rise to the government  
15 taking ~~forfeiture~~ took place, he or she either:

16 (A) did not know of the conduct giving rise to the  
17 government taking ~~forfeiture~~; or

18 (B) upon learning of the conduct giving rise to the  
19 government taking ~~forfeiture~~, did all that reasonably  
20 could be expected under the circumstances to terminate  
21 that use of the property.

22 (6) With respect to conveyances, he or she did not hold  
23 the property jointly or in common with a person whose  
24 conduct gave rise to the government taking ~~forfeiture~~.

25 (7) The property is not a type of property, possession  
26 of which is otherwise in violation of law.

1 (b) For purposes of paragraph (5) of subsection (a), ways  
2 in which a person may show that he or she did all that  
3 reasonably could be expected include demonstrating that he or  
4 she, to the extent permitted by law, did either of the  
5 following:

6 (1) Gave timely notice to an appropriate law  
7 enforcement agency of information that led the person to  
8 know that the conduct giving rise to a government taking  
9 ~~forfeiture~~ would occur or had occurred.

10 (2) In a timely fashion revoked or made a good faith  
11 attempt to revoke permission for those engaging in the  
12 conduct to use the property or took reasonable actions in  
13 consultation with a law enforcement agency to discourage or  
14 prevent the illegal use of the property.

15 A person is not required by this subsection (b) to take  
16 steps that the person reasonably believes would be likely to  
17 subject any person (other than the person whose conduct gave  
18 rise to the government taking ~~forfeiture~~) to physical danger.

19 (Source: P.A. 96-712, eff. 1-1-10.)

20 (725 ILCS 5/124B-140)

21 Sec. 124B-140. Court order with respect to innocent owner.  
22 If the court determines, in accordance with Sections 124B-125  
23 through 124B-135, that an innocent owner has a partial interest  
24 in property otherwise subject to government taking during an  
25 arrest ~~forfeiture~~, or a joint tenancy or tenancy by the

1 entirety in that property, the court may enter an appropriate  
2 order doing any of the following:

3 (1) Severing and releasing the property.

4 (2) Transferring the property to the State with a  
5 provision that the State compensate the innocent owner to  
6 the extent of his or her ownership interest once a final  
7 order of government taking ~~forfeiture~~ has been entered and  
8 the property has been reduced to liquid assets.

9 (3) Permitting the innocent owner to retain the  
10 property subject to a lien in favor of the State to the  
11 extent of the ~~forfeitable~~ interest in the property.

12 (Source: P.A. 96-712, eff. 1-1-10.)

13 (725 ILCS 5/124B-145)

14 Sec. 124B-145. Property constituting attorney's fees;  
15 government taking ~~forfeiture~~ not applicable. Nothing in this  
16 Article applies to property that constitutes reasonable bona  
17 fide attorney's fees paid to an attorney for services rendered  
18 or to be rendered in a government taking ~~forfeiture~~ proceeding  
19 under this Article, or in a criminal proceeding relating  
20 directly to a government taking ~~forfeiture~~ proceeding under  
21 this Article, if (i) the property was paid before its taking  
22 ~~seizure~~ and before the issuance of any ~~seizure~~ warrant or court  
23 order prohibiting transfer of the property and (ii) the  
24 attorney, at the time he or she received the property, did not  
25 know that it was property subject to government taking



1 ~~forfeiture~~ under this Article.

2 (Source: P.A. 96-712, eff. 1-1-10.)

3 (725 ILCS 5/124B-150)

4 Sec. 124B-150. Protective order; probable cause.

5 (a) Upon application of the State, the circuit court  
6 presiding over the trial of the person or persons charged with  
7 the offense giving rise to government taking during an arrest  
8 ~~forfeiture~~ may enter a restraining order or injunction, or take  
9 other appropriate action, to preserve the availability of  
10 property for government taking ~~forfeiture~~ under this Article.  
11 Before entering such an order or taking such action, the court  
12 shall first determine the following:

13 (1) Whether there is probable cause to believe that the  
14 person or persons so charged have committed the offense.

15 (2) Whether the property is subject to government  
16 taking during an arrest ~~forfeiture~~ under this Article.

17 (b) In order to make the determinations of probable cause  
18 required under subsection (a), the court shall conduct a  
19 hearing without a jury. In that hearing, the State must  
20 establish both of the following:

21 (1) There is probable cause that the person or persons  
22 charged have committed the offense.

23 (2) There is probable cause that property may be  
24 subject to government taking during an arrest ~~forfeiture~~  
25 under this Article.

1 (c) The court may conduct the hearing under subsection (b)  
2 simultaneously with a preliminary hearing if the prosecution is  
3 commenced by information or complaint. The court may conduct  
4 the hearing under subsection (b) at any stage in the criminal  
5 proceedings upon the State's motion.

6 (d) The court may accept a finding of probable cause at a  
7 preliminary hearing following the filing of an information  
8 charging the offense or following the return of an indictment  
9 by a grand jury charging the offense as sufficient evidence of  
10 probable cause as required under paragraph (1) of subsection  
11 (b).

12 (e) Upon making a finding of probable cause as required  
13 under this Section, the circuit court shall enter a restraining  
14 order or injunction, or take other appropriate action, as  
15 necessary to ensure that the property is not removed from the  
16 court's jurisdiction and is not concealed, destroyed, or  
17 otherwise disposed of by the property owner or interest holder  
18 before a government taking ~~forfeiture~~ hearing under this  
19 Article.

20 (f) The Attorney General or State's Attorney shall file a  
21 certified copy of the restraining order, injunction, or other  
22 prohibition with the recorder of deeds or registrar of titles  
23 of each county where any property of the defendant subject to  
24 government taking ~~forfeiture~~ is located.

25 (Source: P.A. 96-712, eff. 1-1-10.)

1 (725 ILCS 5/124B-155)

2 Sec. 124B-155. Rights of certain parties unaffected by  
3 protective order; release of property.

4 (a) A restraining order or injunction entered, or other  
5 action taken, by the court under Section 124B-150 does not  
6 affect the rights of any bona fide purchaser, mortgagee,  
7 judgment creditor, or other lienholder that arose before the  
8 date on which a certified copy of the restraining order,  
9 injunction, or other prohibition was filed in accordance with  
10 subsection (f) of Section 124B-150.

11 (b) At any time, upon verified petition by the defendant or  
12 by an innocent owner or innocent bona fide third party  
13 lienholder who neither had knowledge of, nor consented to, the  
14 illegal act or omission, the court may conduct a hearing to  
15 release all or portions of any property that the court  
16 previously determined to be subject to government taking during  
17 an arrest ~~forfeiture~~ or subject to any restraining order,  
18 injunction, or other action. For good cause shown and in the  
19 court's sound discretion, the court may release the property to  
20 the defendant or innocent owner or innocent bona fide third  
21 party lienholder who neither had knowledge of, nor consented  
22 to, the illegal act or omission.

23 (Source: P.A. 96-712, eff. 1-1-10.)

24 (725 ILCS 5/124B-160)

25 Sec. 124B-160. Petition for government taking ~~forfeiture~~;

1 ~~forfeiture~~ hearing; burden of proof.

2 (a) The Attorney General or State's Attorney may file a  
3 petition for government taking ~~forfeiture~~ of property in  
4 connection with an offense as defined in this Article, and,  
5 within a reasonable time after sentencing, the court shall  
6 conduct a hearing to determine whether any property is subject  
7 to government taking ~~forfeiture~~ under this Article. Every  
8 person with any property interest in the property alleged to be  
9 subject to government taking ~~forfeiture~~ may appear as a party  
10 and present evidence at the hearing.

11 (b) At the government taking ~~forfeiture~~ hearing, the State  
12 has the burden of establishing, by a preponderance of the  
13 evidence, that the property is subject to government taking  
14 during an arrest ~~forfeiture~~ under this Article.

15 (Source: P.A. 96-712, eff. 1-1-10.)

16 (725 ILCS 5/124B-165)

17 Sec. 124B-165. Order of government taking ~~forfeiture~~; sale  
18 of taken ~~forfeited~~ property; publication of notice; challenge  
19 to government taking ~~forfeiture~~.

20 (a) Upon the court's determination that property is subject  
21 to government taking ~~forfeiture~~, the court shall enter an order  
22 of government taking ~~forfeiture~~ with respect to the property at  
23 issue. Except as provided in Section 124B-705, the order shall  
24 authorize the Attorney General or State's Attorney to take  
25 ~~seize~~ all property declared subject to government taking during

1 ~~an arrest forfeited~~ under this Article (if the property has not  
2 already been taken ~~seized~~) upon terms and conditions the court  
3 deems proper. The Attorney General or State's Attorney may then  
4 sell the taken ~~forfeited~~ property unless the court determines  
5 that the property is required by law to be destroyed or is  
6 harmful to the public.

7 (b) Following the entry of the order of government taking  
8 ~~forfeiture~~, the Attorney General or State's Attorney shall  
9 cause publication of notice of the order and his or her intent  
10 to dispose of the property. Publication shall be in a newspaper  
11 of general circulation in the county where the property was  
12 taken ~~seized~~, for a period of 3 successive weeks.

13 (c) Within 30 days after the publication, any person may  
14 petition the court to adjudicate the validity of his or her  
15 interest in the property and whether the interest is protected  
16 under this Article.

17 (Source: P.A. 96-712, eff. 1-1-10.)

18 (725 ILCS 5/124B-170)

19 Sec. 124B-170. Judicial review.

20 (a) Within 30 days after publication of the notice under  
21 Section 124B-165, any person claiming an interest in the  
22 property declared subject to government taking ~~forfeited~~ may  
23 file a verified claim with the court expressing his or her  
24 interest in the property. The claim must set forth the  
25 following:

1 (1) The caption of the proceedings as set forth in the  
2 notice of order of government taking ~~forfeiture~~.

3 (2) The claimant's name and address.

4 (3) The nature and extent of the claimant's interest in  
5 the property.

6 (4) The circumstances of the claimant's acquisition of  
7 the interest in the property, including the date of the  
8 transfer and the identity of the transferor.

9 (5) The names and addresses of all other persons known  
10 by the claimant to have an interest in the property.

11 (6) The specific provision of law relied on in  
12 asserting that the property is not subject to government  
13 taking ~~forfeiture~~.

14 (7) All essential facts supporting each assertion.

15 (8) The relief sought by the claimant.

16 (b) The claim must be accompanied by a cost bond in the  
17 form of a cashier's check payable to the clerk of the court in  
18 the amount of 10% of the reasonable value of the property as  
19 alleged by the Attorney General or State's Attorney or the  
20 amount of \$100, whichever is greater, conditioned upon the  
21 claimant's payment, in the case of government taking  
22 ~~forfeiture~~, of all costs and expenses of the proceeding under  
23 this Section.

24 (c) Upon the filing of a claim and cost bond as provided in  
25 this Section, the court shall determine whether the property is  
26 subject to government taking ~~forfeiture~~ in accordance with this

1 Article. If none of the ~~seized~~ property is declared subject to  
2 government taking during an arrest ~~forfeited~~ in a proceeding  
3 under this Section, then, unless the court orders otherwise,  
4 the clerk of the court shall return to the claimant 90% of the  
5 amount deposited with the clerk as a cost bond under this  
6 Section. If any of the ~~seized~~ property is declared subject to  
7 government taking ~~forfeited~~ in a proceeding under this Section,  
8 then the clerk of the court shall transfer 90% of the amount  
9 deposited with the clerk as a cost bond under this Section to  
10 the prosecuting authority. In either case, the clerk shall  
11 retain the remaining 10% of the amount deposited as costs for  
12 the proceeding under this Section.

13 (Source: P.A. 96-712, eff. 1-1-10.)

14 (725 ILCS 5/124B-175)

15 Sec. 124B-175. Distribution of taken ~~forfeited~~ moneys and  
16 proceeds from sale of ~~forfeited~~ property taken by government  
17 during an arrest. All moneys subject to government taking  
18 during an arrest ~~forfeited~~ under this Article, together with  
19 the proceeds from the sale of all property taken ~~forfeited~~  
20 under this Article, shall be distributed as set forth in this  
21 Article.

22 (Source: P.A. 96-712, eff. 1-1-10.)

23 (725 ILCS 5/124B-180)

24 Sec. 124B-180. Segregation of moneys from sale proceeds for

1 certain purposes. Before any distribution under Section  
2 124B-175 or as otherwise prescribed by law, the court may order  
3 the Attorney General or State's Attorney to segregate moneys  
4 from the proceeds of the sale sufficient to do any of the  
5 following:

6 (1) Satisfy any order of restitution, as the court may  
7 deem appropriate.

8 (2) Satisfy any legal right, title, or interest that  
9 the court deems superior to any right, title, or interest  
10 of the defendant at the time of the commission of the acts  
11 that gave rise to government taking ~~forfeiture~~ under this  
12 Article.

13 (3) Satisfy any bona fide purchaser for value of the  
14 right, title, or interest in the property who was without  
15 reasonable notice that the property was subject to  
16 government taking during an arrest ~~forfeiture~~.

17 (Source: P.A. 96-712, eff. 1-1-10.)

18 (725 ILCS 5/124B-190)

19 Sec. 124B-190. Construction. It is the intent of the  
20 General Assembly that the ~~forfeiture~~ provisions of this Article  
21 be liberally construed so as to effect their purpose. The  
22 government taking ~~forfeiture~~ of property and other remedies  
23 under this Article shall be considered to be in addition to,  
24 and not exclusive of, any sentence or other remedy provided by  
25 law.



1 (Source: P.A. 96-712, eff. 1-1-10.)

2 (725 ILCS 5/124B-195)

3 Sec. 124B-195. Reporting. Property taken by the government  
4 during an arrest ~~seized or forfeited~~ under this Article is  
5 subject to reporting under the Seizure and Forfeiture Reporting  
6 Act.

7 (Source: P.A. 100-512, eff. 7-1-18.)

8 (725 ILCS 5/124B-300)

9 Sec. 124B-300. Persons and property subject to government  
10 taking ~~forfeiture~~. A person who commits the offense of  
11 involuntary servitude, involuntary servitude of a minor, or  
12 trafficking of persons under Section 10A-10 or Section 10-9 of  
13 the Criminal Code of 1961 or the Criminal Code of 2012,  
14 promoting juvenile prostitution, keeping a place of juvenile  
15 prostitution, or promoting prostitution that involves keeping  
16 a place of prostitution under subsection (a)(1) or (a)(4) of  
17 Section 11-14.4 or under Section 11-14.3, 11-17.1, or 11-19.2  
18 of the Criminal Code of 1961 or of the Criminal Code of 2012  
19 shall be subject to government taking of ~~forfeit to the State~~  
20 ~~of Illinois~~ any profits or proceeds and any property he or she  
21 has acquired or maintained in violation of Section 10A-10 or  
22 Section 10-9 of the Criminal Code of 1961 or the Criminal Code  
23 of 2012, promoting juvenile prostitution, keeping a place of  
24 juvenile prostitution, or promoting prostitution that involves

1 keeping a place of prostitution under subsection (a)(1) or  
2 (a)(4) of Section 11-14.4 or under Section 11-14.3, 11-17.1, or  
3 11-19.2 of the Criminal Code of 1961 or of the Criminal Code of  
4 2012 that the sentencing court determines, after a government  
5 taking forfeiture hearing under this Article, to have been  
6 acquired or maintained as a result of maintaining a person in  
7 involuntary servitude or participating in trafficking of  
8 persons.

9 (Source: P.A. 97-1150, eff. 1-25-13; 98-1013, eff. 1-1-15.)

10 (725 ILCS 5/124B-305)

11 Sec. 124B-305. Distribution of property and sale proceeds.  
12 All moneys and the sale proceeds of all other property subject  
13 to government taking during an arrest ~~forfeited and seized~~  
14 under this Part 300 shall be distributed as follows:

15 (1) 45% shall be divided equally between all State  
16 agencies and units of local government whose officers or  
17 employees conducted the investigation or initiated the  
18 hearing that resulted in the government taking forfeiture.

19 (2) 50% shall be deposited into the Specialized  
20 Services for Survivors of Human Trafficking Fund and  
21 disbursed in accordance with subsections (d), (e), and (f)  
22 of Section 5-9-1.21 of the Unified Code of Corrections.

23 (3) 5% shall be paid to the Office of the State's  
24 Attorneys Appellate Prosecutor to train State's Attorneys  
25 on government taking forfeiture proceedings and topics

1 related to human trafficking.

2 (Source: P.A. 97-897, eff. 1-1-13; 98-1013, eff. 1-1-15.)

3 (725 ILCS 5/124B-400)

4 Sec. 124B-400. Legislative declaration. Obscenity is a  
5 far-reaching and extremely profitable crime. This crime  
6 persists despite the threat of prosecution and successful  
7 prosecution because existing sanctions do not effectively  
8 reach the money and other assets generated by it. It is  
9 therefore necessary to supplement existing sanctions by  
10 mandating government taking ~~forfeiture~~ of money and other  
11 assets generated by this crime. Government taking of property  
12 during an arrest ~~Forfeiture~~ diminishes the financial  
13 incentives that encourage and sustain obscenity and secures for  
14 the State, local government, and prosecutors a resource for  
15 prosecuting these crimes.

16 (Source: P.A. 96-712, eff. 1-1-10.)

17 (725 ILCS 5/124B-405)

18 Sec. 124B-405. Persons and property subject to government  
19 taking during an arrest ~~forfeiture~~. A person who has been  
20 convicted previously of the offense of obscenity under Section  
21 11-20 of the Criminal Code of 1961 or the Criminal Code of 2012  
22 and who is convicted of a second or subsequent offense of  
23 obscenity under that Section shall be subject to government  
24 taking of ~~forfeit the following to the State of Illinois:~~

1           (1) Any property constituting or derived from any  
2           proceeds that the person obtained, directly or indirectly,  
3           as a result of the offense.

4           (2) Any of the person's property used in any manner,  
5           wholly or in part, to commit the offense.

6           (Source: P.A. 96-712, eff. 1-1-10; 97-1150, eff. 1-25-13.)

7           (725 ILCS 5/124B-415)

8           Sec. 124B-415. Order to destroy property. If the Attorney  
9           General or State's Attorney believes any property taken  
10          ~~forfeited and seized~~ under this Part 400 describes, depicts, or  
11          portrays any of the acts or activities described in subsection  
12          (b) of Section 11-20 of the Criminal Code of 1961 or the  
13          Criminal Code of 2012, the Attorney General or State's Attorney  
14          shall apply to the court for an order to destroy that property.  
15          If the court determines that the property describes, depicts,  
16          or portrays such acts or activities it shall order the Attorney  
17          General or State's Attorney to destroy the property.

18          (Source: P.A. 96-712, eff. 1-1-10; 97-1150, eff. 1-25-13.)

19          (725 ILCS 5/124B-420)

20          Sec. 124B-420. Distribution of property and sale proceeds.

21          (a) All moneys and the sale proceeds of all other property  
22          subject to government during an arrest ~~forfeited and seized~~  
23          under this Part 400 shall be distributed as follows:

24                 (1) 50% shall be distributed to the unit of local

1 government whose officers or employees conducted the  
2 investigation into the offense and caused the arrest or  
3 arrests and prosecution leading to the government taking  
4 ~~forfeiture~~, except that if the investigation, arrest or  
5 arrests, and prosecution leading to the government taking  
6 ~~forfeiture~~ were undertaken by the sheriff, this portion  
7 shall be distributed to the county for deposit into a  
8 special fund in the county treasury appropriated to the  
9 sheriff. Amounts distributed to the county for the sheriff  
10 or to units of local government under this paragraph shall  
11 be used for enforcement of laws or ordinances governing  
12 obscenity and child pornography. If the investigation,  
13 arrest or arrests, and prosecution leading to the  
14 government taking ~~forfeiture~~ were undertaken solely by a  
15 State agency, however, the portion designated in this  
16 paragraph shall be paid into the State treasury to be used  
17 for enforcement of laws governing obscenity and child  
18 pornography.

19 (2) 25% shall be distributed to the county in which the  
20 prosecution resulting in the government taking ~~forfeiture~~  
21 was instituted, deposited into a special fund in the county  
22 treasury, and appropriated to the State's Attorney for use  
23 in the enforcement of laws governing obscenity and child  
24 pornography.

25 (3) 25% shall be distributed to the Office of the  
26 State's Attorneys Appellate Prosecutor and deposited into

1 the Obscenity Profits Forfeiture Fund, which is hereby  
2 created in the State treasury, to be used by the Office of  
3 the State's Attorneys Appellate Prosecutor for additional  
4 expenses incurred in prosecuting appeals arising under  
5 Sections 11-20, 11-20.1, 11-20.1B, and 11-20.3 of the  
6 Criminal Code of 1961 or the Criminal Code of 2012. Any  
7 amounts remaining in the Fund after all additional expenses  
8 have been paid shall be used by the Office to reduce the  
9 participating county contributions to the Office on a  
10 pro-rated basis as determined by the board of governors of  
11 the Office of the State's Attorneys Appellate Prosecutor  
12 based on the populations of the participating counties.

13 (b) Before any distribution under subsection (a), the  
14 Attorney General or State's Attorney shall retain from the  
15 ~~forfeited~~ moneys or sale proceeds subject to government taking  
16 during an arrest, or both, sufficient moneys to cover expenses  
17 related to the administration and sale of the ~~forfeited~~  
18 property.

19 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;  
20 97-1150, eff. 1-25-13.)

21 (725 ILCS 5/124B-500)

22 Sec. 124B-500. Persons and property subject to government  
23 taking forfeiture. A person who commits child pornography,  
24 aggravated child pornography, or non-consensual dissemination  
25 of private sexual images under Section 11-20.1, 11-20.1B,

1 11-20.3, or 11-23.5 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012 shall be subject to government taking of  
3 ~~forfeit~~ the following property to the State of Illinois:

4 (1) Any profits or proceeds and any property the person  
5 has acquired or maintained in violation of Section 11-20.1,  
6 11-20.1B, 11-20.3, or 11-23.5 of the Criminal Code of 1961  
7 or the Criminal Code of 2012 that the sentencing court  
8 determines, after a government taking ~~forfeiture~~ hearing  
9 under this Article, to have been acquired or maintained as  
10 a result of child pornography, aggravated child  
11 pornography, or non-consensual dissemination of private  
12 sexual images.

13 (2) Any interest in, securities of, claim against, or  
14 property or contractual right of any kind affording a  
15 source of influence over any enterprise that the person has  
16 established, operated, controlled, or conducted in  
17 violation of Section 11-20.1, 11-20.1B, 11-20.3, or  
18 11-23.5 of the Criminal Code of 1961 or the Criminal Code  
19 of 2012 that the sentencing court determines, after a  
20 government taking ~~forfeiture~~ hearing under this Article,  
21 to have been acquired or maintained as a result of child  
22 pornography, aggravated child pornography, or  
23 non-consensual dissemination of private sexual images.

24 (3) Any computer that contains a depiction of child  
25 pornography in any encoded or decoded format in violation  
26 of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal

1 Code of 1961 or the Criminal Code of 2012. For purposes of  
2 this paragraph (3), "computer" has the meaning ascribed to  
3 it in Section 17-0.5 of the Criminal Code of 2012.

4 (Source: P.A. 97-1150, eff. 1-25-13; 98-1013, eff. 1-1-15;  
5 98-1138, eff. 6-1-15.)

6 (725 ILCS 5/124B-505)

7 Sec. 124B-505. Distribution of property and sale proceeds.

8 (a) All moneys and the sale proceeds of all other property  
9 subject to government taking during an arrest ~~forfeited and~~  
10 ~~seized~~ under this Part 500 shall be distributed as follows:

11 (1) One-half shall be divided equally between all State  
12 agencies and units of local government whose officers or  
13 employees conducted the investigation that resulted in the  
14 government taking ~~forfeiture~~.

15 (2) One-half shall be deposited into the Violent Crime  
16 Victims Assistance Fund.

17 (b) Before any distribution under subsection (a), the  
18 Attorney General or State's Attorney shall retain from the  
19 ~~forfeited~~ moneys or sale proceeds, or both, sufficient moneys  
20 to cover expenses related to the administration and sale of the  
21 taken ~~forfeited~~ property.

22 (Source: P.A. 96-712, eff. 1-1-10.)

23 (725 ILCS 5/124B-600)

24 Sec. 124B-600. Persons and property subject to subject to



1 government taking forfeiture. A person who commits the offense  
2 of computer fraud as set forth in Section 16D-5 or Section  
3 17-50 of the Criminal Code of 1961 or the Criminal Code of 2012  
4 shall be subject to government taking of ~~forfeit~~ any property  
5 that the sentencing court determines, after a government taking  
6 ~~forfeiture~~ hearing under this Article, the person has acquired  
7 or maintained, directly or indirectly, in whole or in part, as  
8 a result of that offense. The person shall also lose ~~forfeit~~  
9 any interest in, securities of, claim against, or contractual  
10 right of any kind that affords the person a source of influence  
11 over any enterprise that the person has established, operated,  
12 controlled, conducted, or participated in conducting, if the  
13 person's relationship to or connection with any such thing or  
14 activity directly or indirectly, in whole or in part, is  
15 traceable to any item or benefit that the person has obtained  
16 or acquired through computer fraud.

17 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;  
18 97-1150, eff. 1-25-13.)

19 (725 ILCS 5/124B-605)

20 Sec. 124B-605. Distribution of property and sale proceeds.

21 (a) All moneys and the sale proceeds of all other property  
22 subject to government taking during an arrest ~~forfeited and~~  
23 ~~seized~~ under this Part 600 shall be distributed as follows:

24 (1) 50% shall be distributed to the unit of local  
25 government whose officers or employees conducted the

1 investigation into computer fraud and caused the arrest or  
2 arrests and prosecution leading to the government taking  
3 ~~forfeiture~~. Amounts distributed to units of local  
4 government shall be used for training or enforcement  
5 purposes relating to detection, investigation, or  
6 prosecution of financial crimes, including computer fraud.  
7 If, however, the investigation, arrest or arrests, and  
8 prosecution leading to the government taking ~~forfeiture~~  
9 were undertaken solely by a State agency, the portion  
10 provided under this paragraph (1) shall be paid into the  
11 State Police Services Fund of the Illinois Department of  
12 State Police to be used for training or enforcement  
13 purposes relating to detection, investigation, or  
14 prosecution of financial crimes, including computer fraud.

15 (2) 50% shall be distributed to the county in which the  
16 prosecution and petition for government taking ~~forfeiture~~  
17 resulting in the government taking ~~forfeiture~~ was  
18 instituted by the State's Attorney and shall be deposited  
19 into a special fund in the county treasury and appropriated  
20 to the State's Attorney for use in training or enforcement  
21 purposes relating to detection, investigation, or  
22 prosecution of financial crimes, including computer fraud.  
23 If a prosecution and petition for government taking  
24 ~~forfeiture~~ resulting in the government taking ~~forfeiture~~  
25 has been maintained by the Attorney General, 50% of the  
26 proceeds shall be paid into the Attorney General's

1 Financial Crime Prevention Fund. If the Attorney General  
2 and the State's Attorney have participated jointly in any  
3 part of the proceedings, 25% of the proceeds ~~forfeited~~  
4 shall be paid to the county in which the prosecution and  
5 petition for government taking ~~forfeiture~~ resulting in the  
6 government taking ~~forfeiture~~ occurred, and 25% shall be  
7 paid into the Attorney General's Financial Crime  
8 Prevention Fund to be used for the purposes stated in this  
9 paragraph (2).

10 (b) Before any distribution under subsection (a), the  
11 Attorney General or State's Attorney shall retain from the  
12 ~~forfeited~~ moneys or sale proceeds, or both, sufficient moneys  
13 to cover expenses related to the administration and sale of the  
14 ~~forfeited~~ property.

15 (Source: P.A. 96-712, eff. 1-1-10.)

16 (725 ILCS 5/124B-610)

17 Sec. 124B-610. Computer used in commission of felony;  
18 government taking ~~forfeiture~~. If a person commits a felony  
19 under any provision of the Criminal Code of 1961 or the  
20 Criminal Code of 2012 or another statute and the  
21 instrumentality used in the commission of the offense, or in  
22 connection with or in furtherance of a scheme or design to  
23 commit the offense, is a computer owned by the defendant (or,  
24 if the defendant is a minor, owned by the minor's parent or  
25 legal guardian), the computer is subject to government taking

1 during an arrest forfeiture under this Article. A computer, or  
2 any part of a computer, is not subject to government taking  
3 forfeiture under this Article, however, under either of the  
4 following circumstances:

5 (1) The computer accessed in the commission of the  
6 offense was owned or leased by the victim or an innocent  
7 third party at the time the offense was committed.

8 (2) The rights of a creditor, lienholder, or person  
9 having a security interest in the computer at the time the  
10 offense was committed will be adversely affected.

11 (Source: P.A. 96-712, eff. 1-1-10; 97-1150, eff. 1-25-13.)

12 (725 ILCS 5/124B-700)

13 Sec. 124B-700. Persons and property subject to government  
14 taking forfeiture. A person who commits a felony violation of  
15 Article 17B or Section 17-6.3 of the Criminal Code of 1961 or  
16 the Criminal Code of 2012 shall be subject to government taking  
17 of forfeit any property that the sentencing court determines,  
18 after a government taking forfeiture hearing under this  
19 Article, (i) the person has acquired, in whole or in part, as a  
20 result of committing the violation or (ii) the person has  
21 maintained or used, in whole or in part, to facilitate,  
22 directly or indirectly, the commission of the violation. The  
23 person shall also be subject to government taking of forfeit  
24 any interest in, securities of, claim against, or contractual  
25 right of any kind that affords the person a source of influence

1 over any enterprise that the person has established, operated,  
2 controlled, conducted, or participated in conducting, if the  
3 person's relationship to or connection with any such thing or  
4 activity directly or indirectly, in whole or in part, is  
5 traceable to any item or benefit that the person has obtained  
6 or acquired as a result of a felony violation of Article 17B or  
7 Section 17-6.3 of the Criminal Code of 1961 or the Criminal  
8 Code of 2012. Property subject to government taking ~~forfeiture~~  
9 under this Part 700 includes the following:

10 (1) All moneys, things of value, books, records, and  
11 research products and materials that are used or intended  
12 to be used in committing a felony violation of Article 17B  
13 or Section 17-6.3 of the Criminal Code of 1961 or the  
14 Criminal Code of 2012.

15 (2) Everything of value furnished, or intended to be  
16 furnished, in exchange for a substance in violation of  
17 Article 17B or Section 17-6.3 of the Criminal Code of 1961  
18 or the Criminal Code of 2012; all proceeds traceable to  
19 that exchange; and all moneys, negotiable instruments, and  
20 securities used or intended to be used to commit or in any  
21 manner to facilitate the commission of a felony violation  
22 of Article 17B or Section 17-6.3 of the Criminal Code of  
23 1961 or the Criminal Code of 2012.

24 (3) All real property, including any right, title, and  
25 interest (including, but not limited to, any leasehold  
26 interest or the beneficial interest in a land trust) in the

1 whole of any lot or tract of land and any appurtenances or  
2 improvements, that is used or intended to be used, in any  
3 manner or part, to commit or in any manner to facilitate  
4 the commission of a felony violation of Article 17B or  
5 Section 17-6.3 of the Criminal Code of 1961 or the Criminal  
6 Code of 2012 or that is the proceeds of any act that  
7 constitutes a felony violation of Article 17B or Section  
8 17-6.3 of the Criminal Code of 1961 or the Criminal Code of  
9 2012.

10 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;  
11 97-1150, eff. 1-25-13.)

12 (725 ILCS 5/124B-705)

13 Sec. 124B-705. Government taking ~~Seizure~~ and inventory of  
14 property ~~subject to forfeiture~~. Property taken or detained  
15 under this Part shall not be subject to replevin, but is deemed  
16 to be in the custody of the Director of State Police subject  
17 only to the order and judgments of the circuit court having  
18 jurisdiction over the government taking ~~forfeiture~~ proceedings  
19 and the decisions of the Attorney General or State's Attorney  
20 under this Article. When property is taken ~~seized~~ under this  
21 Article, the ~~seizing~~ agency shall promptly conduct an inventory  
22 of the ~~seized~~ property and estimate the property's value and  
23 shall forward a copy of the estimate of the property's value to  
24 the Director of State Police. Upon receiving the notice of  
25 government taking ~~seizure~~, the Director may do any of the

1 following:

2 (1) Place the property under seal.

3 (2) Remove the property to a place designated by the  
4 Director.

5 (3) Keep the property in the possession of the ~~seizing~~  
6 agency.

7 (4) Remove the property to a storage area for  
8 safekeeping or, if the property is a negotiable instrument  
9 or money and is not needed for evidentiary purposes,  
10 deposit it in an interest bearing account.

11 (5) Place the property under constructive government  
12 taking ~~seizure~~ by posting notice of the pending government  
13 taking ~~forfeiture~~ on it, by giving notice of the pending  
14 government taking ~~forfeiture~~ to its owners and interest  
15 holders, or by filing a notice of the pending government  
16 taking ~~forfeiture~~ in any appropriate public record  
17 relating to the property.

18 (6) Provide for another agency or custodian, including  
19 an owner, secured party, or lienholder, to take custody of  
20 the property on terms and conditions set by the Director.

21 (Source: P.A. 96-712, eff. 1-1-10.)

22 (725 ILCS 5/124B-710)

23 Sec. 124B-710. Sale of ~~forfeited~~ property subject to  
24 government taking by Director of State Police.

25 (a) The court shall authorize the Director of State Police

1 to take ~~seize~~ any property declared subject to government  
2 taking during an arrest ~~forfeited~~ under this Article on terms  
3 and conditions the court deems proper.

4 (b) When property is taken ~~forfeited~~ under this Part 700,  
5 the Director of State Police shall sell the property unless the  
6 property is required by law to be destroyed or is harmful to  
7 the public. The Director shall distribute the proceeds of the  
8 sale, together with any moneys ~~forfeited or seized~~, in  
9 accordance with Section 124B-715.

10 (c) (Blank).

11 (Source: P.A. 100-512, eff. 7-1-18.)

12 (725 ILCS 5/124B-715)

13 Sec. 124B-715. Distribution of all other property and sale  
14 proceeds. All moneys and the sale proceeds of all property  
15 subject to government taking ~~forfeited and seized~~ under this  
16 Part 700 shall be distributed to the Special Supplemental Food  
17 Program for Women, Infants and Children (WIC) program  
18 administered by the Illinois Department of Human Services.

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

20 (725 ILCS 5/124B-800)

21 Sec. 124B-800. Persons and property subject to government  
22 taking forfeiture.

23 (a) A person who commits an offense under Article 29D of  
24 the Criminal Code of 1961 or the Criminal Code of 2012 shall be



1 subject to government taking of ~~forfeit~~ any property that the  
2 sentencing court determines, after a government taking  
3 ~~forfeiture~~ hearing under this Article, (i) the person has  
4 acquired or maintained, directly or indirectly, in whole or in  
5 part, as a result of the offense or (ii) the person used, was  
6 about to use, or intended to use in connection with the  
7 offense. The person shall also be subject to government taking  
8 of ~~forfeit~~ any interest in, securities of, claim against, or  
9 contractual right of any kind that affords the person a source  
10 of influence over any enterprise that the person has  
11 established, operated, controlled, conducted, or participated  
12 in conducting, if the person's relationship to or connection  
13 with any such thing or activity directly or indirectly, in  
14 whole or in part, is traceable to any item or benefit that the  
15 person has obtained or acquired as a result of a violation of  
16 Article 29D of the Criminal Code of 1961 or the Criminal Code  
17 of 2012 or that the person used, was about to use, or intended  
18 to use in connection with a violation of Article 29D of the  
19 Criminal Code of 1961 or the Criminal Code of 2012.

20 (b) For purposes of this Part 800, "person" has the meaning  
21 given in Section 124B-115 of this Code and, in addition to that  
22 meaning, includes, without limitation, any charitable  
23 organization, whether incorporated or unincorporated, any  
24 professional fund raiser, professional solicitor, limited  
25 liability company, association, joint stock company,  
26 association, trust, trustee, or any group of people formally or

1 informally affiliated or associated for a common purpose, and  
2 any officer, director, partner, member, or agent of any person.  
3 (Source: P.A. 96-712, eff. 1-1-10; 97-1150, eff. 1-25-13.)

4 (725 ILCS 5/124B-805)

5 Sec. 124B-805. Asset freeze or government taking ~~seizure~~;  
6 ex parte proceeding.

7 (a) Whenever it appears that there is probable cause to  
8 believe that any person used, is using, is about to use, or is  
9 intending to use property in any way that constitutes or would  
10 constitute an offense as defined in this Article, the Attorney  
11 General or any State's Attorney may make an ex parte  
12 application to the circuit court to freeze or take ~~seize~~ all  
13 assets of that person. Upon a showing of probable cause in the  
14 ex parte hearing, the circuit court shall issue an order to  
15 freeze or take ~~seize~~ all assets of that person. A copy of the  
16 freeze or government taking ~~seize~~ order shall be served upon  
17 the person whose property has been frozen or taken ~~seized~~.

18 (b) At any time within 30 days after service of the order  
19 to freeze or take ~~seize~~ property, the person whose property was  
20 ordered frozen or taken ~~seized~~, or any person claiming an  
21 interest in the property, may file a motion to release his or  
22 her property. The court shall hold a hearing on the motion  
23 within 10 days.

24 (c) In any proceeding to release property, the burden of  
25 proof shall be by a preponderance of evidence and shall be on

1 the State to show that the person used, was using, is about to  
2 use, or is intending to use any property in any way that  
3 constitutes or would constitute an offense as defined in this  
4 Article. If the court finds that any property was being used,  
5 is about to be used, or is intended to be used in any way that  
6 constitutes or would constitute an offense as defined in this  
7 Article, the court shall order the property frozen or held  
8 until further order of the court. Any property so ordered held  
9 or frozen is subject to government taking ~~forfeiture~~ under the  
10 procedures set forth in this Article.

11 (d) Upon the request of the defendant, the court may  
12 release property frozen or taken ~~seized~~ under this Section in  
13 an amount sufficient to pay attorney's fees for representation  
14 of the defendant at a hearing conducted under this Article.

15 (Source: P.A. 96-712, eff. 1-1-10.)

16 (725 ILCS 5/124B-810)

17 Sec. 124B-810. Government taking ~~Forfeiture~~ hearing  
18 following property freeze or taking ~~seizure~~.

19 (a) If a person having any property interest in property  
20 frozen or taken ~~seized~~ under Section 124B-805 is charged with  
21 an offense within 60 days after the property is frozen or taken  
22 ~~seized~~, the court that renders judgment on the charge shall  
23 conduct a government taking ~~forfeiture~~ hearing within 30 days  
24 after the judgment to determine whether the property (i) was  
25 used, about to be used, or intended to be used to commit an

1 offense as defined in this Article or in connection with any  
2 such offense or (ii) was integrally related to any offense as  
3 defined in this Article or intended offense as defined in this  
4 Article.

5 (b) The State shall commence a government taking ~~forfeiture~~  
6 proceeding under subsection (a) by filing a written petition  
7 with the court. The petition must be verified and must include  
8 the following:

9 (1) Material allegations of fact.

10 (2) The name and address of every person determined by  
11 the State to have any property interest in the frozen or  
12 taken ~~seized~~ property.

13 (3) A representation that written notice of the date,  
14 time, and place of the government taking ~~forfeiture~~ hearing  
15 has been mailed to every person described in paragraph (2)  
16 by certified mail at least 10 days before the date.

17 (4) A request for government taking ~~forfeiture~~.

18 (c) Every person described in paragraph (2) of subsection  
19 (b) may appear as a party and present evidence at the hearing.  
20 The quantum of proof required is a preponderance of the  
21 evidence, and the burden of proof is on the State.

22 (d) If the court determines that the frozen or taken ~~seized~~  
23 property was used, about to be used, or intended to be used to  
24 commit an offense as defined in this Article or in connection  
25 with any such offense, or was integrally related to any offense  
26 as defined in this Article or intended offense as defined in

1 this Article, the court shall enter an order of government  
2 taking forfeiture and disposition of the frozen or taken seized  
3 property. All property subject to government taking forfeited  
4 may be liquidated, and the resultant money, together with any  
5 other money subject to government taking forfeited, shall be  
6 distributed as set forth in this Article.

7 (Source: P.A. 96-712, eff. 1-1-10.)

8 (725 ILCS 5/124B-820)

9 Sec. 124B-820. No offense charged or no conviction; in rem  
10 proceeding.

11 (a) If a person is not charged with an offense within 60  
12 days after property is frozen or taken seized under Section  
13 124B-805, or if the prosecution of the charge is permanently  
14 terminated or indefinitely discontinued without any judgment  
15 of conviction, or if a judgment of acquittal is entered, the  
16 Attorney General or State's Attorney shall immediately  
17 commence an in rem proceeding for the government taking  
18 forfeiture of any frozen or taken seized property in the  
19 circuit court by filing a complaint that contains the same  
20 information as required in a petition under subsection (b) of  
21 Section 124B-810. The court shall conduct the in rem proceeding  
22 in the same manner as other government taking forfeiture  
23 proceedings under this Article.

24 (b) Any person having any property interest in the frozen  
25 or taken seized property may commence a separate civil

1 proceeding in the manner provided by law.

2 (Source: P.A. 96-712, eff. 1-1-10.)

3 (725 ILCS 5/124B-825)

4 Sec. 124B-825. Distribution of property and sale proceeds.

5 After the deduction of all requisite expenses of administration

6 and sale, the Attorney General or State's Attorney shall

7 distribute the proceeds of the sale of ~~forfeited~~ property

8 subject to government taking during an arrest, along with any

9 property subject to government taking during an arrest

10 ~~forfeited or seized~~, between participating law enforcement

11 agencies in equitable portions as determined by the court

12 entering the government taking ~~forfeiture~~ order.

13 (Source: P.A. 96-712, eff. 1-1-10.)

14 (725 ILCS 5/124B-900)

15 Sec. 124B-900. Legislative declaration. The General

16 Assembly finds that government taking ~~the forfeiture~~ of real

17 property that is used or intended to be used in connection with

18 any show, exhibition, program, or other activity featuring or

19 otherwise involving a fight between an animal and any other

20 animal or human or involving the intentional killing of any

21 animal for the purpose of sport, wagering, or entertainment

22 will have a significant beneficial effect in deterring the

23 rising incidence of those activities within this State, as well

24 as other crimes that frequently occur in partnership with

1 animal fighting, such as illegal gambling, possession of  
2 narcotics, and weapons violations.

3 (Source: P.A. 96-712, eff. 1-1-10.)

4 (725 ILCS 5/124B-905)

5 Sec. 124B-905. Persons and property subject to government  
6 taking forfeiture. A person who commits a felony violation of  
7 Section 4.01 of the Humane Care for Animals Act or a felony  
8 violation of Section 48-1 or Section 26-5 of the Criminal Code  
9 of 2012 or the Criminal Code of 1961 shall be subject to  
10 government taking of forfeit the following:

11 (1) Any moneys, profits, or proceeds the person  
12 acquired, in whole or in part, as a result of committing  
13 the violation.

14 (2) Any real property or interest in real property that  
15 the sentencing court determines, after a government taking  
16 forfeiture hearing under this Article, (i) the person has  
17 acquired, in whole or in part, as a result of committing  
18 the violation or (ii) the person has maintained or used, in  
19 whole or in part, to facilitate, directly or indirectly,  
20 the commission of the violation. Real property subject to  
21 government taking forfeiture under this Part 900 includes  
22 property that belongs to any of the following:

23 (A) The person organizing the show, exhibition,  
24 program, or other activity described in subsections

25 (a) through (g) of Section 4.01 of the Humane Care for

1 Animals Act, Section 48-1 of the Criminal Code of 2012,  
2 or Section 26-5 of the Criminal Code of 1961.

3 (B) Any other person participating in the activity  
4 described in subsections (a) through (g) of Section  
5 4.01 of the Humane Care for Animals Act, Section 48-1  
6 of the Criminal Code of 2012, or Section 26-5 of the  
7 Criminal Code of 1961 who is related to the  
8 organization and operation of the activity.

9 (C) Any person who knowingly allowed the  
10 activities to occur on his or her premises.

11 The person shall also be subject to government taking of  
12 ~~forfeit~~ any interest in, securities of, claim against, or  
13 contractual right of any kind that affords the person a source  
14 of influence over any enterprise that the person has  
15 established, operated, controlled, conducted, or participated  
16 in conducting, if the person's relationship to or connection  
17 with any such thing or activity directly or indirectly, in  
18 whole or in part, is traceable to any item or benefit that the  
19 person has obtained or acquired as a result of a felony  
20 violation of Section 4.01 of the Humane Care for Animals Act, a  
21 felony violation of Section 48-1 of the Criminal Code of 2012  
22 or Section 26-5 of the Criminal Code of 1961.

23 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;  
24 97-1150, eff. 1-25-13.)

25 (725 ILCS 5/124B-910)



1           Sec. 124B-910. Notice to or service on owner or interest  
2 holder.

3           (a) Whenever notice of pending government taking  
4 ~~forfeiture~~ or service of an in rem complaint is required under  
5 this Article, the notice or service shall be given or made as  
6 follows:

7           (1) If the owner's or interest holder's name and  
8 current address are known, then notice or service shall be  
9 given or made either by personal service or by mailing a  
10 copy of the notice by certified mail, return receipt  
11 requested, to that address. For purposes of notice under  
12 this Section, if a person has been arrested for the conduct  
13 giving rise to the government taking ~~forfeiture~~, then the  
14 address provided to the arresting agency at the time of  
15 arrest shall be deemed to be that person's known address.  
16 If an owner's or interest holder's address changes before  
17 the effective date of the notice of pending government  
18 taking ~~forfeiture~~, however, the owner or interest holder  
19 shall promptly notify the ~~seizing~~ agency of the change in  
20 address. If the owner's or interest holder's address  
21 changes after the effective date of the notice of pending  
22 government taking ~~forfeiture~~, the owner or interest holder  
23 shall promptly notify the State's Attorney or Attorney  
24 General of the change in address.

25           (2) If the property ~~seized~~ is a conveyance, then notice  
26 or service shall be given or made to the address reflected

1 in the office of the agency or official in which title or  
2 interest to the conveyance is required by law to be  
3 recorded. Notice shall be given by mailing a copy of the  
4 notice by certified mail, return receipt requested, to that  
5 address.

6 (3) If the owner's or interest holder's address is not  
7 known and is not on record as provided in paragraph (2),  
8 then notice of pending government taking ~~forfeiture~~ shall  
9 be given by publication for 3 successive weeks in a  
10 newspaper of general circulation in the county in which the  
11 government taking ~~seizure~~ occurred.

12 (b) Notice of pending government taking ~~forfeiture~~ served  
13 under this Article is effective upon personal service, the last  
14 date of publication, or the mailing of written notice,  
15 whichever is earlier.

16 (Source: P.A. 96-712, eff. 1-1-10.)

17 (725 ILCS 5/124B-915)

18 Sec. 124B-915. Property vests in State. All property  
19 declared subject to government taking ~~forfeited~~ under this  
20 Article vests in the State on the date of the commission of the  
21 conduct giving rise to the government taking ~~forfeiture~~,  
22 together with the proceeds of the property after that time. Any  
23 such property or proceeds subsequently transferred to any  
24 person remain subject to government taking ~~forfeiture~~ and  
25 thereafter shall be ordered taken ~~forfeited~~ unless the

1 transferee claims and establishes in a hearing under the  
2 provisions of this Article that the transferee's interest is  
3 exempt from government taking ~~forfeiture~~.

4 (Source: P.A. 96-712, eff. 1-1-10.)

5 (725 ILCS 5/124B-925)

6 Sec. 124B-925. Settlement of claims. Notwithstanding any  
7 other provision of this Article, the Attorney General or  
8 State's Attorney and a claimant of ~~seized~~ property subject to  
9 government taking may enter into an agreed-upon settlement  
10 concerning the ~~seized~~ property in an amount and upon terms that  
11 are set out in writing in a settlement agreement.

12 (Source: P.A. 96-712, eff. 1-1-10.)

13 (725 ILCS 5/124B-930)

14 Sec. 124B-930. Disposal of property.

15 (a) Real property taken or detained under this Part is not  
16 subject to replevin, but is deemed to be in the custody of the  
17 Director of State Police subject only to the order and  
18 judgments of the circuit court having jurisdiction over the  
19 government taking ~~forfeiture~~ proceedings and the decisions of  
20 the State's Attorney or Attorney General under this Article.

21 (b) When property is subject to government taking ~~forfeited~~  
22 under this Article, the Director of State Police shall sell all  
23 such property and shall distribute the proceeds of the sale,  
24 together with any moneys ~~forfeited or seized~~, in accordance

1 with Section 124B-935.

2 (Source: P.A. 96-712, eff. 1-1-10.)

3 (725 ILCS 5/124B-935)

4 Sec. 124B-935. Distribution of property and sale proceeds.

5 All moneys and the sale proceeds of all other property subject  
6 to government taking ~~forfeited and seized~~ under this Part 900  
7 shall be distributed as follows:

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

19 (2) 12.5% shall be distributed to the Office of the  
20 State's Attorney of the county in which the prosecution  
21 resulting in the government taking ~~forfeiture~~ was  
22 instituted for use in the enforcement of laws, including  
23 laws governing animal fighting.

24 (3) 12.5% shall be distributed to the Illinois  
25 Department of Agriculture for reimbursement of expenses

1 incurred in the investigation, prosecution, and appeal of  
2 cases arising under laws governing animal fighting.

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

7 (Source: P.A. 96-712, eff. 1-1-10.)

8 (725 ILCS 5/124B-1000)

9 Sec. 124B-1000. Persons and property subject to government  
10 taking forfeiture.

11 (a) A person who commits the offense of unlawful transfer  
12 of a telecommunications device to a minor in violation of  
13 Section 12C-65 or Article 44 of the Criminal Code of 2012 or  
14 the Criminal Code of 1961 shall be subject to government taking  
15 of forfeit any telecommunications device used in the commission  
16 of the offense or which constitutes evidence of the commission  
17 of such offense.

18 (b) A person who commits an offense prohibited by the  
19 Criminal Code of 1961, the Criminal Code of 2012, the Illinois  
20 Controlled Substances Act, the Cannabis Control Act, or the  
21 Methamphetamine Control and Community Protection Act, or an  
22 offense involving a telecommunications device possessed by a  
23 person on the real property of any elementary or secondary  
24 school without authority of the school principal shall be  
25 subject to government taking of forfeit any telecommunications

1 device used in the commission of the offense or which  
2 constitutes evidence of the commission of such offense. A  
3 person who is not a student of the particular elementary or  
4 secondary school, who is on school property as an invitee of  
5 the school, and who has possession of a telecommunications  
6 device for lawful and legitimate purposes, shall not need to  
7 obtain authority from the school principal to possess the  
8 telecommunications device on school property.

9 (Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

10 (725 ILCS 5/124B-1010)

11 Sec. 124B-1010. Seizure. A telecommunications device  
12 subject to government taking ~~forfeiture~~ may be taken ~~seized~~ and  
13 delivered forthwith to the investigating law enforcement  
14 agency. Such telecommunications device shall not be taken  
15 ~~seized~~ unless it was used in the commission of an offense  
16 specified in Section 124B-1000, or constitutes evidence of such  
17 an offense. Within 15 days after such delivery, the  
18 investigating law enforcement agency shall give notice of  
19 government taking ~~seizure~~ to any known owners, lien holders and  
20 secured parties of such property. Within that 15 day period the  
21 investigating law enforcement agency shall also notify the  
22 State's Attorney of the county of where the government taking  
23 occurred ~~seizure~~ about the taking ~~seizure~~.

24 (Source: P.A. 97-1109, eff. 1-1-13.)

1 (725 ILCS 5/124B-1020)

2 Sec. 124B-1020. Exception to government taking ~~forfeiture~~.

3 No telecommunications device shall be subject to government  
4 taking ~~forfeited~~ by reason of any act or omission established  
5 by the owner thereof to have been committed or omitted by any  
6 person other than the owner while the device was unlawfully in  
7 the possession of a person who acquired possession thereof in  
8 violation of the criminal laws of the United States, or of any  
9 state.

10 (Source: P.A. 97-1109, eff. 1-1-13.)

11 Section 45. The Drug Asset Forfeiture Procedure Act is  
12 amended by changing Sections 2, 3, 3.1, 3.2, 3.3, 3.5, 4, 5,  
13 5.1, 6, 7, 8, 9, 9.1, 9.5, 10, 11, 12, 13, 13.1, 13.2, 13.3,  
14 13.4, 14, 15, 17, and 20 as follows:

15 (725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

16 Sec. 2. Legislative Declaration. The General Assembly  
17 finds that the government taking ~~civil forfeiture~~ of property  
18 which is used or intended to be used in, is attributable to or  
19 facilitates the manufacture, sale, transportation,  
20 distribution, possession or use of substances in certain  
21 violations of the Illinois Controlled Substances Act, the  
22 Cannabis Control Act, or the Methamphetamine Control and  
23 Community Protection Act will have a significant beneficial  
24 effect in deterring the rising incidence of the abuse and

1 trafficking of such substances within this State. While  
2 government taking forfeiture may secure for State and local  
3 units of government some resources for deterring drug abuse and  
4 drug trafficking, government taking of property during an  
5 arrest forfeiture is not intended to be an alternative means of  
6 funding the administration of criminal justice. The General  
7 Assembly further finds that the federal narcotics ~~civil~~  
8 ~~forfeiture~~ statute upon which this Act is based has been very  
9 successful in deterring the use and distribution of controlled  
10 substances within this State and throughout the country. It is  
11 therefore the intent of the General Assembly that the  
12 ~~forfeiture~~ provisions of this Act be construed in light of the  
13 federal ~~forfeiture~~ provisions contained in 21 U.S.C. 881 as  
14 interpreted by the federal courts, except to the extent that  
15 the provisions of this Act expressly differ therefrom.

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

17 (725 ILCS 150/3) (from Ch. 56 1/2, par. 1673)

18 Sec. 3. Applicability. The provisions of this Act are  
19 applicable to all property subject to government taking  
20 ~~forfeitable~~ under the Illinois Controlled Substances Act, the  
21 Cannabis Control Act, the Illinois Food, Drug and Cosmetic Act,  
22 or the Methamphetamine Control and Community Protection Act.

23 (Source: P.A. 96-573, eff. 8-18-09.)

24 (725 ILCS 150/3.1)



1           Sec. 3.1. Government taking ~~Seizure~~.

2           (a) Actual physical taking ~~seizure~~ of real property subject  
3 to government taking during an arrest ~~forfeiture~~ under this Act  
4 requires the issuance of a ~~seizure~~ warrant. Nothing in this  
5 Section prohibits the constructive government taking ~~seizure~~  
6 of real property through the filing of a complaint for  
7 government taking ~~forfeiture~~ in circuit court and the recording  
8 of a lis pendens against the real property without a hearing,  
9 warrant application, or judicial approval.

10          (b) Personal property subject to government taking  
11 ~~forfeiture~~ under the Illinois Controlled Substances Act, the  
12 Cannabis Control Act, the Illinois Food, Drug and Cosmetic Act,  
13 or the Methamphetamine Control and Community Protection Act may  
14 be taken ~~seized~~ by the Director of State Police or any peace  
15 officer upon process or ~~seizure~~ warrant issued by any court  
16 having jurisdiction over the property.

17          (c) Personal property subject to government taking  
18 ~~forfeiture~~ under the Illinois Controlled Substances Act, the  
19 Cannabis Control Act, the Illinois Food, Drug and Cosmetic Act,  
20 or the Methamphetamine Control and Community Protection Act may  
21 be taken ~~seized~~ by the Director of State Police or any peace  
22 officer without process:

23           (1) if the taking ~~seizure~~ is incident to inspection  
24 under an administrative inspection warrant;

25           (2) if the property subject to government taking  
26 ~~seizure~~ has been the subject of a prior judgment in favor

1 of the State in a criminal proceeding or in an injunction  
2 or government taking ~~forfeiture~~ proceeding based upon this  
3 Act;

4 (3) if there is probable cause to believe that the  
5 property is directly or indirectly dangerous to health or  
6 safety;

7 (4) if there is probable cause to believe that the  
8 property is subject to government taking ~~forfeiture~~ under  
9 the Illinois Controlled Substances Act, the Cannabis  
10 Control Act, the Illinois Food, Drug and Cosmetic Act, or  
11 the Methamphetamine Control and Community Protection Act,  
12 and the property is taken ~~seized~~ under circumstances in  
13 which a warrantless government taking ~~seizure~~ or arrest  
14 would be reasonable; or

15 (5) under the Code of Criminal Procedure of 1963.

16 (d) If a conveyance is taken ~~seized~~ under this Act, an  
17 investigation shall be made by the law enforcement agency as to  
18 any person whose right, title, interest, or lien is of record  
19 in the office of the agency or official in which title to or  
20 interest in the conveyance is required by law to be recorded.

21 (e) After government taking ~~seizure~~ under this Section,  
22 notice shall be given to all known interest holders that  
23 government taking ~~forfeiture~~ proceedings, including a  
24 preliminary review, may be instituted and the proceedings may  
25 be instituted under this Act. Upon a showing of good cause  
26 related to an ongoing investigation, the notice required for a

1 preliminary review under this Section may be postponed.

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

3 (725 ILCS 150/3.2)

4 Sec. 3.2. Receipt for taken ~~seized~~ property. If a law  
5 enforcement officer takes ~~seizes~~ property that is subject to  
6 government taking forfeiture, the officer shall provide an  
7 itemized receipt to the person possessing the property or, in  
8 the absence of a person to whom the receipt could be given,  
9 shall leave the receipt in the place where the property was  
10 found, if possible.

11 (Source: P.A. 100-512, eff. 7-1-18.)

12 (725 ILCS 150/3.3)

13 Sec. 3.3. Safekeeping of taken ~~seized~~ property pending  
14 disposition.

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

20 (b) If property is taken ~~seized~~ under this Act, the ~~seizing~~  
21 agency shall promptly conduct an inventory of the ~~seized~~  
22 property and estimate the property's value and shall forward a  
23 copy of the inventory of ~~seized~~ property subject to government  
24 taking and the estimate of the property's value to the Director

1 of State Police. Upon receiving notice of government taking  
2 ~~seizure~~, the Director of State Police may:

3 (1) place the property under seal;

4 (2) remove the property to a place designated by the  
5 ~~seizing~~ agency;

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

8 (4) remove the property to a storage area for  
9 safekeeping;

10 (5) place the property under constructive government  
11 taking seizure by posting notice of pending government  
12 taking forfeiture on it, by giving notice of pending  
13 government taking forfeiture to its owners and interest  
14 holders, or by filing notice of pending government taking  
15 ~~forfeiture~~ in any appropriate public record relating to the  
16 property; or

17 (6) provide for another agency or custodian, including  
18 an owner, secured party, or lienholder, to take custody of  
19 the property upon the terms and conditions set by the  
20 ~~seizing~~ agency.

21 (c) The ~~seizing~~ agency is required to exercise ordinary  
22 care to protect the ~~seized~~ property from negligent loss,  
23 damage, or destruction.

24 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
25 100-1163, eff. 12-20-18.)

1 (725 ILCS 150/3.5)

2 Sec. 3.5. Preliminary review.

3 (a) Within 14 days of the government taking ~~seizure~~, the  
4 State shall seek a preliminary determination from the circuit  
5 court as to whether there is probable cause that the property  
6 may be subject to government taking during an arrest  
7 ~~forfeiture~~.

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

10 (c) The court may conduct the review under subsection (a)  
11 of this Section simultaneously with a proceeding under Section  
12 109-1 of the Code of Criminal Procedure of 1963 for a related  
13 criminal offense if a prosecution is commenced by information  
14 or complaint.

15 (d) The court may accept a finding of probable cause at a  
16 preliminary hearing following the filing of an information or  
17 complaint charging a related criminal offense or following the  
18 return of indictment by a grand jury charging the related  
19 offense as sufficient evidence of probable cause as required  
20 under subsection (a) of this Section.

21 (e) Upon making a finding of probable cause as required  
22 under this Section, the circuit court shall order the property  
23 subject to the provisions of the applicable ~~forfeiture~~ Act held  
24 until the conclusion of any government taking ~~forfeiture~~  
25 proceeding.

26 For government taking ~~seizures~~ of conveyances, within 28

1 days after a finding of probable cause under subsection (a) of  
2 this Section, the registered owner or other claimant may file a  
3 motion in writing supported by sworn affidavits claiming that  
4 denial of the use of the conveyance during the pendency of the  
5 government taking forfeiture proceedings creates a substantial  
6 hardship and alleges facts showing that the hardship was not  
7 due to his or her culpable negligence. The court shall consider  
8 the following factors in determining whether a substantial  
9 hardship has been proven:

10 (1) the nature of the claimed hardship;

11 (2) the availability of public transportation or other  
12 available means of transportation; and

13 (3) any available alternatives to alleviate the  
14 hardship other than the return of the ~~seized~~ conveyance.

15 If the court determines that a substantial hardship has  
16 been proven, the court shall then balance the nature of the  
17 hardship against the State's interest in safeguarding the  
18 conveyance. If the court determines that the hardship outweighs  
19 the State's interest in safeguarding the conveyance, the court  
20 may temporarily release the conveyance to the registered owner  
21 or the registered owner's authorized designee, or both, until  
22 the conclusion of the government taking forfeiture proceedings  
23 or for such shorter period as ordered by the court provided  
24 that the person to whom the conveyance is released provides  
25 proof of insurance and a valid driver's license and all State  
26 and local registrations for operation of the conveyance are

1 current. The court shall place conditions on the conveyance  
2 limiting its use to the stated hardship and providing  
3 transportation for employment, religious purposes, medical  
4 needs, child care, and obtaining food, and restricting the  
5 conveyance's use to only those individuals authorized to use  
6 the conveyance by the registered owner. The use of the vehicle  
7 shall be further restricted to exclude all recreational and  
8 entertainment purposes. The court may order any additional  
9 restrictions it deems reasonable and just on its own motion or  
10 on motion of the People. The court shall revoke the order  
11 releasing the conveyance and order that the conveyance be taken  
12 ~~re seized~~ by law enforcement if the conditions of release are  
13 violated or if the conveyance is used in the commission of any  
14 offense identified in subsection (a) of Section 6-205 of the  
15 Illinois Vehicle Code.

16 If the court orders the release of the conveyance during  
17 the pendency of the government taking ~~forfeiture~~ proceedings,  
18 the court may order the registered owner or his or her  
19 authorized designee to post a cash security with the clerk of  
20 the court as ordered by the court. If cash security is ordered,  
21 the court shall consider the following factors in determining  
22 the amount of the cash security:

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

24 (B) the nature of the hardship;

25 (C) the extent and length of the usage of the  
26 conveyance;

1 (D) the ability of the owner or designee to pay; and  
2 (E) other conditions as the court deems necessary to  
3 safeguard the conveyance.

4 If the conveyance is released, the court shall order that  
5 the registered owner or his or her designee safeguard the  
6 conveyance, not remove the conveyance from the jurisdiction,  
7 not conceal, destroy, or otherwise dispose of the conveyance,  
8 not encumber the conveyance, and not diminish the value of the  
9 conveyance in any way. The court shall also make a  
10 determination of the full market value of the conveyance prior  
11 to it being released based on a source or sources defined in 50  
12 Ill. Adm. Code 919.80(c) (2) (A) or 919.80(c) (2) (B).

13 If the conveyance subject to government taking during an  
14 arrest ~~forfeiture~~ is released under this Section and is  
15 subsequently taken ~~forfeited~~, the person to whom the conveyance  
16 was released shall return the conveyance to the law enforcement  
17 agency that took ~~seized~~ the conveyance within 7 days from the  
18 date of the declaration of government taking ~~forfeiture~~ or  
19 order of government taking ~~forfeiture~~. If the conveyance is not  
20 returned within 7 days, the cash security shall be lost  
21 ~~forfeited~~ in the same manner as the conveyance subject to  
22 government taking ~~forfeiture~~. If the cash security was less  
23 than the full market value, a judgment shall be entered against  
24 the parties to whom the conveyance was released and the  
25 registered owner, jointly and severally, for the difference  
26 between the full market value and the amount of the cash



1 security. If the conveyance is returned in a condition other  
2 than the condition in which it was released, the cash security  
3 shall be returned to the surety who posted the security minus  
4 the amount of the diminished value, and that amount shall be  
5 lost ~~forfeited~~ in the same manner as the conveyance subject to  
6 government taking ~~forfeiture~~. Additionally, the court may  
7 enter an order allowing any law enforcement agency in the State  
8 of Illinois to take ~~seize~~ the conveyance wherever it may be  
9 found in the State to satisfy the judgment if the cash security  
10 was less than the full market value of the conveyance.

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

12 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

13 Sec. 4. Notice to owner or interest holder. The first  
14 attempted service of notice shall be commenced within 28 days  
15 of the filing of the verified claim or the receipt of the  
16 notice from the ~~seizing~~ agency by Illinois State Police  
17 Notice/Inventory of Seized Property (Form 4-64), whichever  
18 occurs sooner. A complaint for government taking ~~forfeiture~~ or  
19 a notice of pending government taking ~~forfeiture~~ shall be  
20 served upon the property owner or interest holder in the  
21 following manner:

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

24 (A) personal service; or

25 (B) mailing a copy of the notice by certified mail,

1 return receipt requested, and first class mail to that  
2 address.

3 (i) If notice is sent by certified mail and no  
4 signed return receipt is received by the State's  
5 Attorney within 28 days of mailing, and no  
6 communication from the owner or interest holder is  
7 received by the State's Attorney documenting  
8 actual notice by said parties, then the State's  
9 Attorney shall, within a reasonable period of  
10 time, mail a second copy of the notice by certified  
11 mail, return receipt requested, and first class  
12 mail to that address.

13 (ii) If no signed return receipt is received by  
14 the State's Attorney within 28 days of the second  
15 attempt at service by certified mail, and no  
16 communication from the owner or interest holder is  
17 received by the State's Attorney documenting  
18 actual notice by said parties, then the State's  
19 Attorney shall have 60 days to attempt to serve the  
20 notice by personal service, which also includes  
21 substitute service by leaving a copy at the usual  
22 place of abode, with some person of the family or a  
23 person residing there, of the age of 13 years or  
24 upwards. If, after 3 attempts at service in this  
25 manner, no service of the notice is accomplished,  
26 then the notice shall be posted in a conspicuous

1 manner at this address and service shall be made by  
2 posting.

3 The attempts at service and the posting, if  
4 required, shall be documented by the person  
5 attempting service and said documentation shall be  
6 made part of a return of service returned to the  
7 State's Attorney.

8 The State's Attorney may utilize any Sheriff  
9 or Deputy Sheriff, any peace officer, a private  
10 process server or investigator, or any employee,  
11 agent, or investigator of the State's Attorney's  
12 Office to attempt service without seeking leave of  
13 court.

14 After the procedures set forth are followed,  
15 service shall be effective on an owner or interest  
16 holder on the date of receipt by the State's  
17 Attorney of a return receipt, or on the date of  
18 receipt of a communication from an owner or  
19 interest holder documenting actual notice,  
20 whichever is first in time, or on the date of the  
21 last act performed by the State's Attorney in  
22 attempting personal service under subparagraph  
23 (ii) above. If notice is to be shown by actual  
24 notice from communication with a claimant, then  
25 the State's Attorney shall file an affidavit  
26 providing details of the communication, which may

1 be accepted as sufficient proof of service by the  
2 court.

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

16 For purposes of notice under this Section, if a  
17 person has been arrested for the conduct giving  
18 rise to the government taking forfeiture, then the  
19 address provided to the arresting agency at the  
20 time of arrest shall be deemed to be that person's  
21 known address. Provided, however, if an owner or  
22 interest holder's address changes prior to the  
23 effective date of the notice of pending government  
24 taking forfeiture, the owner or interest holder  
25 shall promptly notify the ~~seizing~~ agency of the  
26 change in address or, if the owner or interest

1 holder's address changes subsequent to the  
2 effective date of the notice of pending government  
3 taking forfeiture, the owner or interest holder  
4 shall promptly notify the State's Attorney of the  
5 change in address; or if the property ~~seized~~ is a  
6 conveyance, to the address reflected in the office  
7 of the agency or official in which title to or  
8 interest in the conveyance is required by law to be  
9 recorded.

10 (2) If the owner's or interest holder's address is not  
11 known, and is not on record, then notice shall be served by  
12 publication for 3 successive weeks in a newspaper of  
13 general circulation in the county in which the government  
14 taking seizure occurred.

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

26 (4) Notice to any business entity, corporation,

1 limited liability company, limited liability partnership,  
2 or partnership shall be completed by a single mailing of a  
3 copy of the notice by certified mail, return receipt  
4 requested, and first class mail to that address. This  
5 notice is complete regardless of the return of a signed  
6 return receipt.

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

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

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

1 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
2 100-1163, eff. 12-20-18.)

3 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

4 Sec. 5. Notice to State's Attorney. The law enforcement  
5 agency taking the ~~seizing~~ property for government taking  
6 ~~forfeiture~~ under the Illinois Controlled Substances Act, the  
7 Cannabis Control Act, or the Methamphetamine Control and  
8 Community Protection Act, or the Illinois Food, Drug, and  
9 Cosmetic Act shall, as soon as practicable but not later than  
10 28 days after the government taking ~~seizure~~, notify the State's  
11 Attorney for the county in which an act or omission giving rise  
12 to the government taking ~~seizure~~ occurred or in which the  
13 property was taken ~~seized~~ of the government taking ~~seizure~~ of  
14 the property and the facts and circumstances giving rise to the  
15 government taking ~~seizure~~ and shall provide the State's  
16 Attorney with the inventory of the property and its estimated  
17 value. Said notice shall be by the delivery of Form 4-64. When  
18 the property subject to government taking ~~seized for forfeiture~~  
19 is a vehicle, the law enforcement agency taking ~~seizing~~ the  
20 property shall immediately notify the Secretary of State that  
21 government taking ~~forfeiture~~ proceedings are pending regarding  
22 such vehicle.

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

24 (725 ILCS 150/5.1)

1           Sec. 5.1. Replevin prohibited; return of personal property  
2 inside taken ~~seized~~ conveyance.

3           (a) Property subject to government taking during an arrest  
4 ~~seized~~ under this Act shall not be subject to replevin, but is  
5 deemed to be in the custody of the Director of State Police,  
6 subject only to the order and judgments of the circuit court  
7 having jurisdiction over the government taking ~~forfeiture~~  
8 proceedings and the decisions of the State's Attorney.

9           (b) A claimant or a party interested in personal property  
10 contained within a ~~seized~~ conveyance subject to government  
11 taking may file a request with the State's Attorney in an  
12 administrative government taking ~~forfeiture~~ action, or a  
13 motion with the court in a judicial government taking  
14 ~~forfeiture~~ action, for the return of any personal property  
15 contained within a conveyance ~~seized~~ subject to government  
16 taking under this Act. The return of personal property shall  
17 not be unreasonably withheld if the personal property is not  
18 mechanically or electrically coupled to the conveyance, needed  
19 for evidentiary purposes, or otherwise contraband. A law  
20 enforcement agency that returns property under a court order  
21 under this Section shall not be liable to any person who claims  
22 ownership to the property if the property is returned to an  
23 improper party.

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

25           (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)



1           Sec. 6. Non-judicial government taking ~~forfeiture~~. If  
2 non-real property that exceeds \$150,000 in value excluding the  
3 value of any conveyance, or if real property is subject to  
4 government taking during an arrest ~~seized~~ under the provisions  
5 of the Illinois Controlled Substances Act, the Cannabis Control  
6 Act, or the Methamphetamine Control and Community Protection  
7 Act, the State's Attorney shall institute judicial in rem  
8 government taking ~~forfeiture~~ proceedings as described in  
9 Section 9 of this Act within 28 days from receipt of notice of  
10 government taking ~~seizure~~ from the ~~seizing~~ agency under Section  
11 5 of this Act. However, if non-real property that does not  
12 exceed \$150,000 in value excluding the value of any conveyance  
13 is taken ~~seized~~, the following procedure shall be used:

14           (A) If, after review of the facts surrounding the  
15 government taking ~~seizure~~, the State's Attorney is of the  
16 opinion that the ~~seized~~ property is subject government  
17 taking during an arrest ~~to forfeiture~~, then, within 28 days  
18 of the receipt of notice of government taking ~~seizure~~ from  
19 the ~~seizing~~ agency, the State's Attorney shall cause notice  
20 of pending government taking ~~forfeiture~~ to be given to the  
21 owner of the property and all known interest holders of the  
22 property in accordance with Section 4 of this Act.

23           (B) The notice of pending government taking ~~forfeiture~~  
24 must include a description of the property, the estimated  
25 value of the property, the date and place of government  
26 taking ~~seizure~~, the conduct giving rise to government

1        taking forfeiture or the violation of law alleged, and a  
2        summary of procedures and procedural rights applicable to  
3        the government taking forfeiture action.

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

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

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

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

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

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

22            (vi) the specific provision of law relied on in  
23            asserting the property is not subject to government  
24            taking forfeiture;

25            (vii) all essential facts supporting each  
26            assertion; and

1 (viii) the relief sought.

2 (2) If a claimant files the claim then the State's  
3 Attorney shall institute judicial in rem government taking  
4 ~~forfeiture~~ proceedings within 28 days after receipt of the  
5 claim.

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

15 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
16 100-1163, eff. 12-20-18.)

17 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

18 Sec. 7. Presumptions and inferences.

19 (1) The following situation shall give rise to a  
20 presumption that the property described therein was furnished  
21 or intended to be furnished in exchange for a substance in  
22 violation of the Illinois Controlled Substances Act, the  
23 Cannabis Control Act, or the Methamphetamine Control and  
24 Community Protection Act, or is the proceeds of such an  
25 exchange, and therefore subject to government taking during an

1 ~~arrest forfeitable~~ under this Act, such presumptions being  
2 rebuttable by a preponderance of the evidence:

3 All moneys, coin, or currency found in close proximity to  
4 any substances manufactured, distributed, dispensed, or  
5 possessed in violation of the Illinois Controlled Substances  
6 Act, the Cannabis Control Act, or the Methamphetamine Control  
7 and Community Protection Act, ~~to—~~~~forfeitable~~ drug  
8 manufacturing or distributing paraphernalia, or ~~to—~~~~forfeitable~~  
9 records of the importation, manufacture or distribution of  
10 substances.

11 (2) In the following situation, the trier of fact may infer  
12 that the property described therein was furnished or intended  
13 to be furnished in exchange for a substance in violation of the  
14 Illinois Controlled Substances Act, the Cannabis Control Act,  
15 or the Methamphetamine Control and Community Protection Act, or  
16 is the proceeds of such an exchange, and therefore subject to  
17 government taking during an arrest ~~forfeitable~~ under this Act:

18 All property acquired or caused to be acquired by a person  
19 either between the dates of occurrence of two or more acts in  
20 felony violation of the Illinois Controlled Substances Act, the  
21 Cannabis Control Act, or the Methamphetamine Control and  
22 Community Protection Act, or an act committed in another state,  
23 territory or country which would be punishable as a felony  
24 under the Illinois Controlled Substances Act, the Cannabis  
25 Control Act, or the Methamphetamine Control and Community  
26 Protection Act, committed by that person within 5 years of each

1 other, or all property acquired by such person within a  
2 reasonable amount of time after the commission of such acts if:

3 (a) at least one of the above acts was committed after  
4 the effective date of this Act; and

5 (b) both of the acts are or were punishable as a Class  
6 X, Class 1, or Class 2 felony; and

7 (c) there was no likely source for such property other  
8 than a violation of the above Acts.

9 (3) Presumptions and permissive inferences set forth in  
10 this Section shall apply to all portions of all phases of all  
11 government taking forfeiture proceedings under this Act.

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

13 (725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

14 Sec. 8. Exemptions from government taking forfeiture.

15 (a) No vessel or watercraft, vehicle, or aircraft used by  
16 any person as a common carrier in the transaction of business  
17 as a common carrier may be subject to government taking during  
18 an arrest forfeited under this Act unless the State proves by a  
19 preponderance of the evidence that:

20 (1) in the case of a railway car or engine, the owner,  
21 or

22 (2) in the case of any other such vessel or watercraft,  
23 vehicle or aircraft, the owner or the master of such vessel  
24 or watercraft or the owner or conductor, driver, pilot, or  
25 other person in charge of that vehicle or aircraft was at

1 the time of the alleged illegal act a consenting party or  
2 privy to that knowledge.

3 (b) No vessel or watercraft, vehicle, or aircraft shall be  
4 subject to government taking during an arrest ~~forfeited~~ under  
5 this Act by reason of any act or omission committed or omitted  
6 by any person other than such owner while a vessel or  
7 watercraft, vehicle, or aircraft was unlawfully in the  
8 possession of a person who acquired possession in violation of  
9 the criminal laws of the United States or of any state.  
10 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18.)

11 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

12 Sec. 9. Judicial in rem procedures. If property subject to  
13 government taking during an arrest ~~seized~~ under the provisions  
14 of the Illinois Controlled Substances Act, the Cannabis Control  
15 Act, or the Methamphetamine Control and Community Protection  
16 Act is non-real property that exceeds \$150,000 in value  
17 excluding the value of any conveyance, or is real property, or  
18 a claimant has filed a claim under subsection (C) of Section 6  
19 of this Act, the following judicial in rem procedures shall  
20 apply:

21 (A) If, after a review of the facts surrounding the  
22 government taking ~~seizure~~, the State's Attorney is of the  
23 opinion that the ~~seized~~ property is subject to subject to  
24 government taking during an arrest ~~forfeiture~~, the State's  
25 Attorney shall institute judicial government taking

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

17           (A-5) If the State's Attorney finds that the alleged  
18      violation of law giving rise to the government taking  
19      ~~seizure~~ was incurred without willful negligence or without  
20      any intention on the part of the owner of the property to  
21      violate the law or finds the existence of mitigating  
22      circumstances to justify remission of the government  
23      taking ~~forfeiture~~, the State's Attorney may cause the law  
24      enforcement agency having custody of the property to return  
25      the property to the owner within a reasonable time not to  
26      exceed 7 days. The State's Attorney shall exercise his or

1 her discretion prior to or promptly after the preliminary  
2 review under Section 3.5 of this Act. Judicial in rem  
3 government taking ~~forfeiture~~ proceedings under this Act  
4 shall be subject to the Code of Civil Procedure and the  
5 rules of evidence relating to civil actions.

6 (A-10) A complaint of government taking ~~forfeiture~~  
7 shall include:

8 (1) a description of the property subject to  
9 government taking ~~seized~~;

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

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

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

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

22 "This is a civil court proceeding subject to the Code  
23 of Civil Procedure. You received this Complaint of  
24 Government Taking ~~Forfeiture~~ because the State's  
25 Attorney's office has brought a legal action seeking  
26 government taking ~~forfeiture~~ of your taken ~~seized~~



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

21 (B) The laws of evidence relating to civil actions  
22 shall apply to all other proceedings under this Act except  
23 that the parties shall be allowed to use, and the court  
24 must receive and consider, all relevant hearsay evidence  
25 that relates to evidentiary foundation, chain of custody,  
26 business records, recordings, laboratory analysis,

1 laboratory reports, and the use of technology in the  
2 investigation that resulted in the taking ~~seizure~~ of the  
3 property that is subject to the government taking  
4 ~~forfeiture~~ action.

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

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

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

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

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

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

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

1 (vi) the specific provisions of Section 8 of this  
2 Act relied on in asserting it is exempt from government  
3 taking forfeiture, if applicable;

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

6 (viii) the precise relief sought; and

7 (ix) in a government taking forfeiture action  
8 involving currency or its equivalent, a claimant shall  
9 provide the State with notice of the claimant's intent  
10 to allege that the currency or its equivalent is not  
11 related to the alleged factual basis for the government  
12 taking forfeiture, and why.

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

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

17 (G) The State, in its case in chief, shall show by a  
18 preponderance of the evidence that the property is subject  
19 to government taking forfeiture; and at least one of the  
20 following:

21 (i) In the case of personal property, including  
22 conveyances:

23 (a) that the claimant was legally accountable  
24 for the conduct giving rise to the government  
25 taking forfeiture;

26 (b) that the claimant knew or reasonably

1 should have known of the conduct giving rise to the  
2 government taking forfeiture;

3 (c) that the claimant knew or reasonably  
4 should have known that the conduct giving rise to  
5 the government taking forfeiture was likely to  
6 occur;

7 (d) that the claimant held the property for the  
8 benefit of, or as nominee for, any person whose  
9 conduct gave rise to its government taking  
10 forfeiture;

11 (e) that if the claimant acquired the interest  
12 through any person engaging in any of the conduct  
13 described above or conduct giving rise to the  
14 government taking forfeiture:

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

17 (2) the claimant acquired the interest  
18 under such circumstances that the claimant  
19 reasonably should have known the property was  
20 derived from, or used in, the conduct giving  
21 rise to the government taking forfeiture;

22 (f) that the claimant is not the true owner of  
23 the property;

24 (g) that the claimant acquired the interest:

25 (1) before the commencement of the conduct  
26 giving rise to the government taking

1           ~~forfeiture~~ and the person whose conduct gave  
2           rise to the government taking ~~forfeiture~~ did  
3           not have authority to convey the interest to a  
4           bona fide purchaser for value at the time of  
5           the conduct; or

6           (2) after the commencement of the conduct  
7           giving rise to the government taking  
8           ~~forfeiture~~ and the owner or interest holder  
9           acquired the interest as a mortgagee, secured  
10          creditor, lienholder, or bona fide purchaser  
11          for value without knowledge of the conduct that  
12          gave rise to the government taking ~~forfeiture~~,  
13          and without the knowledge of the taking ~~seizure~~  
14          of the property ~~for forfeiture~~.

15          (ii) In the case of real property:

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

19               (b) that the claimant solicited, conspired, or  
20               attempted to commit the conduct giving rise to the  
21               government taking ~~forfeiture~~; or

22               (c) that the claimant had acquired or stood to  
23               acquire substantial proceeds from the conduct  
24               giving rise to its government taking ~~forfeiture~~  
25               other than as an interest holder in an arm's length  
26               transaction;

1 (d) that the claimant is not the true owner of  
2 the property;

3 (e) that the claimant acquired the interest:

4 (1) before the commencement of the conduct  
5 giving rise to the government taking  
6 ~~forfeiture~~ and the person whose conduct gave  
7 rise to the government taking ~~forfeiture~~ did  
8 not have authority to convey the interest to a  
9 bona fide purchaser for value at the time of  
10 the conduct; or

11 (2) after the commencement of the conduct  
12 giving rise to the government taking  
13 ~~forfeiture~~ and the owner or interest holder  
14 acquired the interest as a mortgagee, secured  
15 creditor, lienholder, or bona fide purchaser  
16 for value without knowledge of the conduct that  
17 gave rise to the government taking ~~forfeiture~~,  
18 and before the filing in the office of the  
19 recorder of deeds of the county in which the  
20 real estate is located a notice of government  
21 taking ~~seizure for forfeiture~~ or a lis pendens  
22 notice.

23 (G-5) If the property that is the subject of the  
24 government taking ~~forfeiture~~ proceeding is currency or its  
25 equivalent, the State, in its case in chief, shall show by  
26 a preponderance of the evidence that the property is

1 subject to government taking during an arrest ~~forfeiture~~.

2 If the State makes that showing, the claimant shall have  
3 the burden of production to set forth evidence that the  
4 currency or its equivalent is not related to the alleged  
5 factual basis of the government taking ~~forfeiture~~. After  
6 the production of evidence, the State shall maintain the  
7 burden of proof to overcome this assertion.

8 (G-10) Notwithstanding any other provision of this  
9 Section, the State's burden of proof at the trial of the  
10 government taking ~~forfeiture~~ action shall be by clear and  
11 convincing evidence if:

12 (1) a finding of not guilty is entered as to all  
13 counts and all defendants in a criminal proceeding  
14 relating to the conduct giving rise to the government  
15 taking ~~forfeiture~~ action; or

16 (2) the State receives an adverse finding at a  
17 preliminary hearing and fails to secure an indictment  
18 in a criminal proceeding related to the factual  
19 allegations of the government taking ~~forfeiture~~  
20 action.

21 (H) If the State does not meet its burden of proof, the  
22 court shall order the interest in the property returned or  
23 conveyed to the claimant and shall order all other property  
24 as to which the State does meet its burden of proof taken  
25 by ~~forfeited to~~ the State. If the State does meet its  
26 burden of proof, the court shall order all property subject

1 to government taking ~~forfeited to the State.~~

2 (I) A defendant convicted in any criminal proceeding is  
3 precluded from later denying the essential allegations of  
4 the criminal offense of which the defendant was convicted  
5 in any proceeding under this Act regardless of the pendency  
6 of an appeal from that conviction. However, evidence of the  
7 pendency of an appeal is admissible.

8 (J) An acquittal or dismissal in a criminal proceeding  
9 shall not preclude civil proceedings under this Act;  
10 however, for good cause shown, on a motion by the State's  
11 Attorney, the court may stay government taking ~~civil~~  
12 ~~forfeiture~~ proceedings during the criminal trial for a  
13 related criminal indictment or information alleging a  
14 violation of the Illinois Controlled Substances Act, the  
15 Cannabis Control Act, or the Methamphetamine Control and  
16 Community Protection Act. Such a stay shall not be  
17 available pending an appeal. Property subject to  
18 government taking ~~forfeiture~~ under the Illinois Controlled  
19 Substances Act, the Cannabis Control Act, or the  
20 Methamphetamine Control and Community Protection Act shall  
21 not be subject to return or release by a court exercising  
22 jurisdiction over a criminal case involving the taking  
23 ~~seizure~~ of such property unless such return or release is  
24 consented to by the State's Attorney.

25 (K) Title to all property declared subject to  
26 government taking during an arrest ~~forfeited~~ under this Act



1 vests in the State on the commission of the conduct giving  
2 rise to government taking ~~forfeiture~~ together with the  
3 proceeds of the property after that time. Except as  
4 otherwise provided in this Act, any such property or  
5 proceeds subsequently transferred to any person remain  
6 subject to government taking ~~forfeiture~~ unless a person to  
7 whom the property was transferred makes an appropriate  
8 claim under this Act and has the claim adjudicated in the  
9 judicial in rem proceeding.

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

18 (M) No property shall be subject to government taking  
19 during an arrest ~~forfeited~~ under this Act from a person  
20 who, without actual or constructive notice that the  
21 property was the subject of government taking ~~forfeiture~~  
22 proceedings, obtained possession of the property as a bona  
23 fide purchaser for value. A person who purports to transfer  
24 property after receiving actual or constructive notice  
25 that the property is subject to subject to government  
26 taking during an arrest ~~seizure or forfeiture~~ is guilty of

1 contempt of court and shall be liable to the State for a  
2 penalty in the amount of the fair market value of the  
3 property.

4 (N) If property is ordered subject to government taking  
5 during an arrest ~~forfeited~~ under this Act from a claimant  
6 who held title to the property in joint tenancy or tenancy  
7 in common with another claimant, the court shall determine  
8 the amount of each owner's interest in the property  
9 according to principles of property law.

10 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
11 100-1163, eff. 12-20-18.)

12 (725 ILCS 150/9.1)

13 Sec. 9.1. Innocent owner hearing.

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

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

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

25 (3) that the claimant did not solicit, conspire, or

1 attempt to commit the conduct giving rise to the government  
2 taking forfeiture;

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

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

14 The claimant's motion shall include specific facts  
15 supporting these assertions.

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

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

1 the fact that the property is subject to government taking  
2 ~~forfeiture~~ shall not be at issue. The court shall only hear  
3 evidence relating to the issue of innocent ownership.

4 (d) At the hearing on the motion, the claimant shall bear  
5 the burden of proving by a preponderance of the evidence each  
6 of the assertions set forth in subsection (a) of this Section.  
7 If a claimant meets the burden of proof, the court shall grant  
8 the motion and order the property returned to the claimant. If  
9 the claimant fails to meet the burden of proof, then the court  
10 shall deny the motion and the government taking ~~forfeiture~~ case  
11 shall proceed according to the Code of Civil Procedure.

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

13 (725 ILCS 150/9.5)

14 Sec. 9.5. Proportionality. Property subject to government  
15 taking during an arrest ~~forfeited~~ under this Act shall be  
16 subject to an 8th Amendment to the United States Constitution  
17 disproportionate penalties analysis and the government taking  
18 ~~property forfeiture~~ may be denied in whole or in part if the  
19 court finds that the government taking ~~forfeiture~~ would  
20 constitute an excessive fine in violation of the 8th Amendment  
21 to the United States Constitution, as interpreted by case law.

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

23 (725 ILCS 150/10) (from Ch. 56 1/2, par. 1680)

24 Sec. 10. Stay of time periods. If property is taken ~~seized~~

1 for evidence and government taking ~~for forfeiture~~, the time  
2 periods for instituting judicial and non-judicial government  
3 taking ~~forfeiture~~ proceedings shall not begin until the  
4 property is no longer necessary for evidence.

5 (Source: P.A. 86-1382.)

6 (725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

7 Sec. 11. Settlement of claims. Notwithstanding other  
8 provisions of this Act, the State's Attorney and a claimant of  
9 ~~seized~~ property subject to government taking may enter into an  
10 agreed-upon settlement concerning the ~~seized~~ property in such  
11 an amount and upon such terms as are set out in writing in a  
12 settlement agreement. All proceeds from a settlement agreement  
13 shall be tendered to the Department of State Police and  
14 distributed in accordance with the provisions of Section 13.2  
15 of this Act.

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

17 (725 ILCS 150/12) (from Ch. 56 1/2, par. 1682)

18 Sec. 12. Nothing in this Act shall apply to property which  
19 constitutes reasonable bona fide attorney's fees paid to an  
20 attorney for services rendered or to be rendered in the  
21 government taking ~~forfeiture~~ proceeding or criminal proceeding  
22 relating directly thereto where such property was paid before  
23 its taking ~~seizure~~, before the issuance of any ~~seizure~~ warrant  
24 or court order prohibiting transfer of the property and where

1 the attorney, at the time he or she received the property did  
2 not know that it was property subject to government taking  
3 ~~forfeiture~~ under this Act.

4 (Source: P.A. 86-1382.)

5 (725 ILCS 150/13) (from Ch. 56 1/2, par. 1683)

6 Sec. 13. Construction. It shall be the intent of the  
7 General Assembly that the government taking ~~forfeiture~~  
8 provisions of this Act be liberally construed so as to effect  
9 their remedial purpose. The government taking ~~forfeiture~~ of  
10 property during an arrest and other remedies hereunder shall be  
11 considered to be in addition, and not exclusive of any sentence  
12 or other remedy provided by law.

13 (Source: P.A. 86-1382.)

14 (725 ILCS 150/13.1) (was 725 ILCS 150/15)

15 Sec. 13.1. Return of property, damages, and costs.

16 (a) The law enforcement agency that holds custody of  
17 property subject to government taking during an arrest ~~seized~~  
18 ~~for forfeiture~~ shall deliver property ordered by the court to  
19 be returned or conveyed to the claimant within a reasonable  
20 time not to exceed 7 days, unless the order is stayed by the  
21 trial court or a reviewing court pending an appeal, motion to  
22 reconsider, or other reason.

23 (b) The law enforcement agency that holds custody of  
24 property described in subsection (a) of this Section is

1 responsible for any damages, storage fees, and related costs  
2 applicable to property returned. The claimant shall not be  
3 subject to any charges by the State for storage of the property  
4 or expenses incurred in the preservation of the property.  
5 Charges for the towing of a conveyance shall be borne by the  
6 claimant unless the conveyance was towed for the sole reason of  
7 government taking seizure for forfeiture. This Section does not  
8 prohibit the imposition of any fees or costs by a home rule  
9 unit of local government related to the impoundment of a  
10 conveyance pursuant to an ordinance enacted by the unit of  
11 government.

12 (c) A law enforcement agency shall not retain ~~forfeited~~  
13 property taken by the government during an arrest for its own  
14 use or transfer the property to any person or entity, except as  
15 provided under this Section. A law enforcement agency may apply  
16 in writing to the Director of State Police to request that  
17 ~~forfeited~~ property be awarded to the agency for a specifically  
18 articulated official law enforcement use in an investigation.  
19 The Director of State Police shall provide a written  
20 justification in each instance detailing the reasons why the  
21 taken ~~forfeited~~ property was placed into official use and the  
22 justification shall be retained for a period of not less than 3  
23 years.

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

25 (725 ILCS 150/13.2) (was 725 ILCS 150/17)

1           Sec. 13.2. Distribution of proceeds; selling or retaining  
2 ~~seized~~ property subject to government taking prohibited.

3           (a) Except as otherwise provided in this Section, the court  
4 shall order that property subject to government taking during  
5 an arrest ~~forfeited~~ under this Act be delivered to the  
6 Department of State Police within 60 days.

7           (b) All moneys and the sale proceeds of all other property  
8 subject to government taking during an arrest ~~forfeited and~~  
9 ~~seized~~ under this Act shall be distributed as follows:

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



1 amounts distributed to the Secretary of State shall be  
2 deposited into the Secretary of State Evidence Fund to be  
3 used as provided in Section 2-115 of the Illinois Vehicle  
4 Code.

5 (ii) Any local, municipal, or county law enforcement  
6 agency entitled to receive a monetary distribution of  
7 ~~forfeiture~~ proceeds may share those ~~forfeiture~~ proceeds  
8 pursuant to the terms of an intergovernmental agreement  
9 with a municipality that has a population in excess of  
10 20,000 if:

11 (A) the receiving agency has entered into an  
12 intergovernmental agreement with the municipality to  
13 provide police services;

14 (B) the intergovernmental agreement for police  
15 services provides for consideration in an amount of not  
16 less than \$1,000,000 per year;

17 (C) the government taking ~~seizure~~ took place  
18 within the geographical limits of the municipality;  
19 and

20 (D) the funds are used only for the enforcement of  
21 laws governing cannabis and controlled substances; for  
22 public education in the community or schools in the  
23 prevention or detection of the abuse of drugs or  
24 alcohol; or for security cameras used for the  
25 prevention or detection of violence or the  
26 establishment of a municipal police force, including

1           the training of officers, construction of a police  
2           station, or the purchase of law enforcement equipment  
3           or vehicles.

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

1 cannabis and controlled substances or for public education  
2 in the community or schools in the prevention or detection  
3 of the abuse of drugs or alcohol.

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 governing cannabis and controlled substances or  
10 for public education in the community or schools in the  
11 prevention or detection of the abuse of drugs or alcohol.  
12 The Office of the State's Attorneys Appellate Prosecutor  
13 shall not receive distribution from cases brought in  
14 counties with over 3,000,000 population.

15 (3) 10% shall be retained by the Department of State  
16 Police for expenses related to the administration and sale  
17 of ~~seized and forfeited~~ property subject to government  
18 taking.

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

20 (725 ILCS 150/13.3) (was 725 ILCS 150/20)

21 Sec. 13.3. Reporting. Property taken by the government  
22 during an arrest ~~seized or forfeited~~ under this Act is subject  
23 to reporting under the Seizure and Forfeiture Reporting Act.

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

1 (725 ILCS 150/13.4)

2 Sec. 13.4. Applicability; savings clause.

3 (a) The changes made to this Act by Public Act 100-512 and  
4 Public Act 100-699 only apply to property subject to government  
5 taking during an arrest ~~seized~~ on and after July 1, 2018.

6 (b) The changes made to this Act by Public Act 100-699 are  
7 subject to Section 4 of the Statute on Statutes.

8 (Source: P.A. 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

9 (725 ILCS 150/14) (from Ch. 56 1/2, par. 1684)

10 Sec. 14. Judicial review. If property has been declared  
11 subject to government taking ~~forfeited~~ under Section 6 of this  
12 Act, any person who has an interest in the property ~~declared~~  
13 ~~forfeited~~ may, within 30 days of the effective date of the  
14 notice of the declaration of government taking ~~forfeiture~~, file  
15 a claim as described in subsection (C) of Section 6 of this  
16 Act. If a claim is filed under this Section, then the  
17 procedures described in Section 9 of this Act shall apply.

18 (Source: P.A. 100-512, eff. 7-1-18.)

19 Section 50. The Narcotics Profit Forfeiture Act is amended  
20 by changing Sections 2, 3, 4, 5, 5.1, 5.2, 6, 6.5, 7, 8, 9, and  
21 11 as follows:

22 (725 ILCS 175/2) (from Ch. 56 1/2, par. 1652)

23 Sec. 2. Legislative Declaration. Narcotics racketeering is

1 a far-reaching and extremely profitable criminal enterprise.  
2 Racketeering schemes persist despite the threat of prosecution  
3 and the actual prosecution and imprisonment of individual  
4 participants because existing sanctions do not effectively  
5 reach the money and other assets generated by such schemes. It  
6 is therefore necessary to supplement existing sanctions by  
7 mandating government taking ~~forfeiture~~ of money and other  
8 assets generated by narcotics racketeering activities.  
9 Government taking ~~Forfeiture~~ diminishes the financial  
10 incentives which encourage and sustain narcotics racketeering,  
11 and secures for the People of the State of Illinois assets to  
12 be used for enforcement of laws governing narcotics activity.

13 (Source: P.A. 82-940.)

14 (725 ILCS 175/5) (from Ch. 56 1/2, par. 1655)

15 Sec. 5. (a) A person who commits the offense of narcotics  
16 racketeering shall:

17 (1) be guilty of a Class 1 felony; and

18 (2) be subject to a fine of up to \$250,000.

19 A person who commits the offense of narcotics racketeering  
20 or who violates Section 3 of the Drug Paraphernalia Control Act  
21 shall be subject to government taking of ~~forfeit to the State~~  
22 ~~of Illinois~~: (A) any profits or proceeds and any property or  
23 property interest he has acquired or maintained in violation of  
24 this Act or Section 3 of the Drug Paraphernalia Control Act or  
25 has used to facilitate a violation of this Act that the court

1 determines, after a government taking forfeiture hearing,  
2 under subsection (b) of this Section to have been acquired or  
3 maintained as a result of narcotics racketeering or violating  
4 Section 3 of the Drug Paraphernalia Control Act, or used to  
5 facilitate narcotics racketeering; and (B) any interest in,  
6 security of, claim against, or property or contractual right of  
7 any kind affording a source of influence over, any enterprise  
8 which he has established, operated, controlled, conducted, or  
9 participated in the conduct of, in violation of this Act or  
10 Section 3 of the Drug Paraphernalia Control Act, that the court  
11 determines, after a government taking forfeiture hearing,  
12 under subsection (b) of this Section to have been acquired or  
13 maintained as a result of narcotics racketeering or violating  
14 Section 3 of the Drug Paraphernalia Control Act or used to  
15 facilitate narcotics racketeering.

16 (b) The court shall, upon petition by the Attorney General  
17 or State's Attorney, at any time subsequent to the filing of an  
18 information or return of an indictment, conduct a hearing to  
19 determine whether any property or property interest is subject  
20 to government taking forfeiture under this Act. At the  
21 government taking forfeiture hearing the people shall have the  
22 burden of establishing, by a preponderance of the evidence,  
23 that property or property interests are subject to government  
24 taking forfeiture under this Act. There is a rebuttable  
25 presumption at such hearing that any property or property  
26 interest of a person charged by information or indictment with

1 narcotics racketeering or who is convicted of a violation of  
2 Section 3 of the Drug Paraphernalia Control Act is subject to  
3 government taking forfeiture under this Section if the State  
4 establishes by a preponderance of the evidence that:

5 (1) such property or property interest was acquired by  
6 such person during the period of the violation of this Act  
7 or Section 3 of the Drug Paraphernalia Control Act or  
8 within a reasonable time after such period; and

9 (2) there was no likely source for such property or  
10 property interest other than the violation of this Act or  
11 Section 3 of the Drug Paraphernalia Control Act.

12 (c) In an action brought by the People of the State of  
13 Illinois under this Act, wherein any restraining order,  
14 injunction or prohibition or any other action in connection  
15 with any property or property interest subject to government  
16 taking forfeiture under this Act is sought, the circuit court  
17 which shall preside over the trial of the person or persons  
18 charged with narcotics racketeering as defined in Section 4 of  
19 this Act or violating Section 3 of the Drug Paraphernalia  
20 Control Act shall first determine whether there is probable  
21 cause to believe that the person or persons so charged has  
22 committed the offense of narcotics racketeering as defined in  
23 Section 4 of this Act or a violation of Section 3 of the Drug  
24 Paraphernalia Control Act and whether the property or property  
25 interest is subject to government taking forfeiture pursuant to  
26 this Act.

1           In order to make such a determination, prior to entering  
2 any such order, the court shall conduct a hearing without a  
3 jury, wherein the People shall establish that there is: (i)  
4 probable cause that the person or persons so charged have  
5 committed the offense of narcotics racketeering or violating  
6 Section 3 of the Drug Paraphernalia Control Act and (ii)  
7 probable cause that any property or property interest may be  
8 subject to government taking ~~forfeiture~~ pursuant to this Act.  
9 Such hearing may be conducted simultaneously with a preliminary  
10 hearing, if the prosecution is commenced by information or  
11 complaint, or by motion of the People, at any stage in the  
12 proceedings. The court may accept a finding of probable cause  
13 at a preliminary hearing following the filing of an information  
14 charging the offense of narcotics racketeering as defined in  
15 Section 4 of this Act or the return of an indictment by a grand  
16 jury charging the offense of narcotics racketeering as defined  
17 in Section 4 of this Act or after a charge is filed for  
18 violating Section 3 of the Drug Paraphernalia Control Act as  
19 sufficient evidence of probable cause as provided in item (i)  
20 above.

21           Upon such a finding, the circuit court shall enter such  
22 restraining order, injunction or prohibition, or shall take  
23 such other action in connection with any such property or  
24 property interest subject to government taking ~~forfeiture~~  
25 under this Act, as is necessary to insure that such property is  
26 not removed from the jurisdiction of the court, concealed,



1 destroyed or otherwise disposed of by the owner of that  
2 property or property interest prior to a government taking  
3 ~~forfeiture~~ hearing under subsection (b) of this Section. The  
4 Attorney General or State's Attorney shall file a certified  
5 copy of such restraining order, injunction or other prohibition  
6 with the recorder of deeds or registrar of titles of each  
7 county where any such property of the defendant may be located.  
8 No such injunction, restraining order or other prohibition  
9 shall affect the rights of any bona fide purchaser, mortgagee,  
10 judgment creditor or other lien holder arising prior to the  
11 date of such filing.

12 The court may, at any time, upon verified petition by the  
13 defendant, conduct a hearing to release all or portions of any  
14 such property or interest which the court previously determined  
15 to be subject to government taking ~~forfeiture~~ or subject to any  
16 restraining order, injunction, or prohibition or other action.  
17 The court may release such property to the defendant for good  
18 cause shown and within the sound discretion of the court.

19 (d) Prosecution under this Act may be commenced by the  
20 Attorney General or a State's Attorney.

21 (e) Upon an order of government taking ~~forfeiture~~ being  
22 entered pursuant to subsection (b) of this Section, the court  
23 shall authorize the Attorney General to take ~~seize~~ any property  
24 or property interest declared subject to government taking  
25 ~~forfeited~~ under this Act and under such terms and conditions as  
26 the court shall deem proper. Any property or property interest

1 that has been the subject of an entered restraining order,  
2 injunction or prohibition or any other action filed under  
3 subsection (c) shall be subject to government taking ~~forfeited~~  
4 unless the claimant can show by a preponderance of the evidence  
5 that the property or property interest has not been acquired or  
6 maintained as a result of narcotics racketeering or has not  
7 been used to facilitate narcotics racketeering.

8 (f) The Attorney General or his designee is authorized to  
9 sell all property subject to government taking during an arrest  
10 ~~forfeited and seized~~ pursuant to this Act, unless such property  
11 is required by law to be destroyed or is harmful to the public,  
12 and, after the deduction of all requisite expenses of  
13 administration and sale, shall distribute the proceeds of such  
14 sale, along with any moneys ~~forfeited or seized~~, in accordance  
15 with subsection (g) or (h), whichever is applicable.

16 (g) All monies and the sale proceeds of all other property  
17 subject to government taking ~~forfeited and seized~~ pursuant to  
18 this Act shall be distributed as follows:

19 (1) An amount equal to 50% shall be distributed to the  
20 unit of local government whose officers or employees  
21 conducted the investigation into narcotics racketeering  
22 and caused the arrest or arrests and prosecution leading to  
23 the government taking ~~forfeiture~~. Amounts distributed to  
24 units of local government shall be used for enforcement of  
25 laws governing narcotics activity or for public education  
26 in the community or schools in the prevention or detection

1 of the abuse of drugs or alcohol. In the event, however,  
2 that the investigation, arrest or arrests and prosecution  
3 leading to the government taking forfeiture were  
4 undertaken solely by a State agency, the portion provided  
5 hereunder shall be paid into the Drug Traffic Prevention  
6 Fund in the State treasury to be used for enforcement of  
7 laws governing narcotics activity.

8 (2) An amount equal to 12.5% shall be distributed to  
9 the county in which the prosecution resulting in the  
10 government taking forfeiture was instituted, deposited in  
11 a special fund in the county treasury and appropriated to  
12 the State's Attorney for use in the enforcement of laws  
13 governing narcotics activity or for public education in the  
14 community or schools in the prevention or detection of the  
15 abuse of drugs or alcohol.

16 An amount equal to 12.5% shall be distributed to the  
17 Office of the State's Attorneys Appellate Prosecutor and  
18 deposited in the Narcotics Profit Forfeiture Fund, which is  
19 hereby created in the State treasury, to be used by the  
20 Office of the State's Attorneys Appellate Prosecutor for  
21 additional expenses incurred in prosecuting appeals  
22 arising under this Act. Any amounts remaining in the Fund  
23 after all additional expenses have been paid shall be used  
24 by the Office to reduce the participating county  
25 contributions to the Office on a pro-rated basis as  
26 determined by the board of governors of the Office of the

1 State's Attorneys Appellate Prosecutor based on the  
2 populations of the participating counties.

3 (3) An amount equal to 25% shall be paid into the Drug  
4 Traffic Prevention Fund in the State treasury to be used by  
5 the Department of State Police for funding Metropolitan  
6 Enforcement Groups created pursuant to the  
7 Intergovernmental Drug Laws Enforcement Act. Any amounts  
8 remaining in the Fund after full funding of Metropolitan  
9 Enforcement Groups shall be used for enforcement, by the  
10 State or any unit of local government, of laws governing  
11 narcotics activity or for public education in the community  
12 or schools in the prevention or detection of the abuse of  
13 drugs or alcohol.

14 (h) Where the investigation or indictment for the offense  
15 of narcotics racketeering or a violation of Section 3 of the  
16 Drug Paraphernalia Control Act has occurred under the  
17 provisions of the Statewide Grand Jury Act, all monies and the  
18 sale proceeds of all other property shall be distributed as  
19 follows:

20 (1) 60% shall be distributed to the metropolitan  
21 enforcement group, local, municipal, county, or State law  
22 enforcement agency or agencies which conducted or  
23 participated in the investigation resulting in the  
24 government taking forfeiture. The distribution shall bear  
25 a reasonable relationship to the degree of direct  
26 participation of the law enforcement agency in the effort

1 resulting in the government taking forfeiture, taking into  
2 account the total value of the property ~~forfeited~~ and the  
3 total law enforcement effort with respect to the violation  
4 of the law on which the government taking forfeiture is  
5 based. Amounts distributed to the agency or agencies shall  
6 be used for the enforcement of laws governing cannabis and  
7 controlled substances or for public education in the  
8 community or schools in the prevention or detection of the  
9 abuse of drugs or alcohol.

10 (2) 25% shall be distributed by the Attorney General as  
11 grants to drug education, treatment and prevention  
12 programs licensed or approved by the Department of Human  
13 Services. In making these grants, the Attorney General  
14 shall take into account the plans and service priorities  
15 of, and the needs identified by, the Department of Human  
16 Services.

17 (3) 15% shall be distributed to the Attorney General  
18 and the State's Attorney, if any, participating in the  
19 prosecution resulting in the government taking forfeiture.  
20 The distribution shall bear a reasonable relationship to  
21 the degree of direct participation in the prosecution of  
22 the offense, taking into account the total value of the  
23 property ~~forfeited~~ and the total amount of time spent in  
24 preparing and presenting the case, the complexity of the  
25 case and other similar factors. Amounts distributed to the  
26 Attorney General under this paragraph shall be retained in

1 a fund held by the State Treasurer as ex-officio custodian  
2 to be designated as the Statewide Grand Jury Prosecution  
3 Fund and paid out upon the direction of the Attorney  
4 General for expenses incurred in criminal prosecutions  
5 arising under the Statewide Grand Jury Act. Amounts  
6 distributed to a State's Attorney shall be deposited in a  
7 special fund in the county treasury and appropriated to the  
8 State's Attorney for use in the enforcement of laws  
9 governing narcotics activity or for public education in the  
10 community or schools in the prevention or detection of the  
11 abuse of drugs or alcohol.

12 (i) All monies deposited pursuant to this Act in the Drug  
13 Traffic Prevention Fund established under Section 5-9-1.2 of  
14 the Unified Code of Corrections are appropriated, on a  
15 continuing basis, to the Department of State Police to be used  
16 for funding Metropolitan Enforcement Groups created pursuant  
17 to the Intergovernmental Drug Laws Enforcement Act or otherwise  
18 for the enforcement of laws governing narcotics activity or for  
19 public education in the community or schools in the prevention  
20 or detection of the abuse of drugs or alcohol.

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

22 (725 ILCS 175/5.2) (from Ch. 56 1/2, par. 1655.2)

23 Sec. 5.2. (a) Twelve and one-half percent of all amounts  
24 collected as fines pursuant to the provisions of this Act shall  
25 be paid into the Youth Drug Abuse Prevention Fund, which is

1 hereby created in the State treasury, to be used by the  
2 Department of Human Services for the funding of programs and  
3 services for drug-abuse treatment, and prevention and  
4 education services, for juveniles.

5 (b) Eighty-seven and one-half percent of the proceeds of  
6 all fines received under the provisions of this Act shall be  
7 transmitted to and deposited in the treasurer's office at the  
8 level of government as follows:

9 (1) If the property taken by the government during an  
10 arrest ~~such seizure~~ was made by a combination of law  
11 enforcement personnel representing differing units of  
12 local government, the court levying the fine shall  
13 equitably allocate 50% of the fine among these units of  
14 local government and shall allocate 37 1/2% to the county  
15 general corporate fund. In the event that the government  
16 taking seizure was made by law enforcement personnel  
17 representing a unit of local government from a municipality  
18 where the number of inhabitants exceeds 2 million in  
19 population, the court levying the fine shall allocate 87  
20 1/2% of the fine to that unit of local government. If the  
21 government taking seizure was made by a combination of law  
22 enforcement personnel representing differing units of  
23 local government, and at least one of those units  
24 represents a municipality where the number of inhabitants  
25 exceeds 2 million in population, the court shall equitably  
26 allocate 87 1/2% of the proceeds of the fines received

1 among the differing units of local government.

2 (2) If the property taken by the government during an  
3 arrest ~~such seizure~~ was made by State law enforcement  
4 personnel, then the court shall allocate 37 1/2% to the  
5 State treasury and 50% to the county general corporate  
6 fund.

7 (3) If a State law enforcement agency in combination  
8 with a law enforcement agency or agencies of a unit or  
9 units of local government conducted the government taking  
10 ~~seizure~~, the court shall equitably allocate 37 1/2% of the  
11 fines to or among the law enforcement agency or agencies of  
12 the unit or units of local government which conducted the  
13 government taking ~~seizure~~ and shall allocate 50% to the  
14 county general corporate fund.

15 (c) The proceeds of all fines allocated to the law  
16 enforcement agency or agencies of the unit or units of local  
17 government pursuant to subsection (b) shall be made available  
18 to that law enforcement agency as expendable receipts for use  
19 in the enforcement of laws regulating controlled substances and  
20 cannabis. The proceeds of fines awarded to the State treasury  
21 shall be deposited in a special fund known as the Drug Traffic  
22 Prevention Fund. Monies from this fund may be used by the  
23 Department of State Police for use in the enforcement of laws  
24 regulating controlled substances and cannabis; to satisfy  
25 funding provisions of the Intergovernmental Drug Laws  
26 Enforcement Act; to defray costs and expenses associated with



1 returning violators of the Cannabis Control Act and the  
2 Illinois Controlled Substances Act only, as provided in those  
3 Acts, when punishment of the crime shall be confinement of the  
4 criminal in the penitentiary; and all other monies shall be  
5 paid into the general revenue fund in the State treasury.

6 (Source: P.A. 89-507, eff. 7-1-97.)

7 (725 ILCS 175/6.5)

8 Sec. 6.5. Reporting. Property taken by the government  
9 during an arrest ~~seized or forfeited~~ under this Act is subject  
10 to reporting under the Seizure and Forfeiture Reporting Act.

11 (Source: P.A. 100-512, eff. 7-1-18.)

12 Section 55. The Illinois Streetgang Terrorism Omnibus  
13 Prevention Act is amended by changing Section 40 as follows:

14 (740 ILCS 147/40)

15 Sec. 40. Property taken by the government during an arrest  
16 Forfeiture.

17 (a) The following are subject to government taking during  
18 an arrest ~~seizure and forfeiture~~:

19 (1) any property that is directly or indirectly used or  
20 intended for use in any manner to facilitate streetgang  
21 related activity; and

22 (2) any property constituting or derived from gross  
23 profits or other proceeds obtained from streetgang related

1 activity.

2 (b) Property subject to government taking during an arrest  
3 ~~forfeiture~~ under this Section may be taken ~~seized~~ under the  
4 procedures set forth in Section 36-2.1 of the Criminal Code of  
5 2012, except that actual physical taking ~~seizure~~ of real  
6 property subject to government taking during an arrest  
7 ~~forfeiture~~ under this Act requires the issuance of a ~~seizure~~  
8 warrant. Nothing in this Section prohibits the constructive  
9 government taking ~~seizure~~ of real property through the filing  
10 of a complaint for government taking ~~forfeiture~~ in circuit  
11 court and the recording of a lis pendens against the real  
12 property without a hearing, warrant application, or judicial  
13 approval.

14 (c) The State's Attorney may initiate government taking  
15 ~~forfeiture~~ proceedings under the procedures in Article 36 of  
16 the Criminal Code of 2012. The State shall bear the burden of  
17 proving by a preponderance of the evidence that the property  
18 was acquired through a pattern of streetgang related activity.

19 (d) Property subject to government taking during an arrest  
20 ~~forfeited~~ under this Section shall be disposed of in accordance  
21 with Section 36-7 of Article 36 of the Criminal Code of 2012  
22 for the government taking ~~forfeiture~~ of vehicles, vessels, and  
23 aircraft.

24 (e) Within 60 days of the date of the government taking  
25 ~~seizure~~ of contraband under this Section, the State's Attorney  
26 shall initiate government taking ~~forfeiture~~ proceedings as

1 provided in Article 36 of the Criminal Code of 2012. An owner  
2 or person who has a lien on the property may establish as a  
3 defense to the government taking ~~forfeiture~~ of property that is  
4 subject to government taking ~~forfeiture~~ under this Section that  
5 the owner or lienholder had no knowledge that the property was  
6 acquired through a pattern of streetgang related activity.  
7 Property that is subject to government taking during an arrest  
8 ~~forfeited~~ under this Section shall be disposed of as provided  
9 in Article 36 of the Criminal Code of 2012 for the government  
10 taking ~~forfeiture~~ of vehicles, vessels, and aircraft. The  
11 proceeds of the disposition shall be paid to the Gang Violence  
12 Victims and Witnesses Fund to be used to assist in the  
13 prosecution of gang crimes.

14 (f) Property taken by the government during an arrest  
15 ~~seized or forfeited~~ under this Section is subject to reporting  
16 under the Seizure and Forfeiture Reporting Act.

17 (g) The changes made to this Section by Public Act 100-512  
18 only apply to property taken by the government during an arrest  
19 ~~seized~~ on and after July 1, 2018.

20 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;  
21 100-1163, eff. 12-20-18.)

22 Section 60. The Illinois Securities Law of 1953 is amended  
23 by changing Section 11 as follows:

24 (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

1           Sec. 11. Duties and powers of the Secretary of State.

2           A. (1) The administration of this Act is vested in the  
3 Secretary of State, who may from time to time make, amend and  
4 rescind such rules and regulations as may be necessary to carry  
5 out this Act, including rules and regulations governing  
6 procedures of registration, statements, applications and  
7 reports for various classes of securities, persons and matters  
8 within his or her jurisdiction and defining any terms, whether  
9 or not used in this Act, insofar as the definitions are not  
10 inconsistent with this Act. The rules and regulations adopted  
11 by the Secretary of State under this Act shall be effective in  
12 the manner provided for in the Illinois Administrative  
13 Procedure Act.

14           (2) Among other things, the Secretary of State shall have  
15 authority, for the purposes of this Act, to prescribe the form  
16 or forms in which required information shall be set forth,  
17 accounting practices, the items or details to be shown in  
18 balance sheets and earning statements, and the methods to be  
19 followed in the preparation of accounts, in the appraisal or  
20 valuation of assets and liabilities, in the determination of  
21 depreciation and depletion, in the differentiation of  
22 recurring and non-recurring income, in the differentiation of  
23 investment and operating income, and in the preparation of  
24 consolidated balance sheets or income accounts of any person,  
25 directly or indirectly, controlling or controlled by the  
26 issuer, or any person under direct or indirect common control

1 with the issuer.

2 (3) No provision of this Act imposing any liability shall  
3 apply to any act done or omitted in good faith in conformity  
4 with any rule or regulation of the Secretary of State under  
5 this Act, notwithstanding that the rule or regulation may,  
6 after the act or omission, be amended or rescinded or be  
7 determined by judicial or other authority to be invalid for any  
8 reason.

9 (4) The Securities Department of the Office of the  
10 Secretary of State shall be deemed a criminal justice agency  
11 for purposes of all federal and state laws and regulations and,  
12 in that capacity, shall be entitled to access to any  
13 information available to criminal justice agencies and has the  
14 power to appoint special agents to conduct all investigations,  
15 searches, government takings ~~seizures~~, arrests, and other  
16 duties imposed under the provisions of any law administered by  
17 the Department. The special agents have and may exercise all  
18 the powers of peace officers solely for the purpose of  
19 enforcing provisions of this Act.

20 The Director must authorize to each special agent employed  
21 under this Section a distinct badge that, on its face, (i)  
22 clearly states that the badge is authorized by the Department  
23 and (ii) contains a unique and identifying number.

24 Special agents shall comply with all training requirements  
25 established for law enforcement officers by provisions of the  
26 Illinois Police Training Act.

1           (5) The Secretary of State, by rule, may conditionally or  
2 unconditionally exempt any person, security, or transaction,  
3 or any class or classes of persons, securities, or transactions  
4 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act  
5 or of any rule promulgated under these Sections, to the extent  
6 that such exemption is necessary or appropriate in the public  
7 interest, and is consistent with the protection of investors.

8           B. The Secretary of State may, anything in this Act to the  
9 contrary notwithstanding, require financial statements and  
10 reports of the issuer, dealer, Internet portal, salesperson,  
11 investment adviser, or investment adviser representative as  
12 often as circumstances may warrant. In addition, the Secretary  
13 of State may secure information or books and records from or  
14 through others and may make or cause to be made investigations  
15 respecting the business, affairs, and property of the issuer of  
16 securities, any person involved in the sale or offer for sale,  
17 purchase or offer to purchase of any mineral investment  
18 contract, mineral deferred delivery contract, or security and  
19 of dealers, Internet portals, salespersons, investment  
20 advisers, and investment adviser representatives that are  
21 registered or are the subject of an application for  
22 registration under this Act. The costs of an investigation  
23 shall be borne by the registrant or the applicant, provided  
24 that the registrant or applicant shall not be obligated to pay  
25 the costs without his, her or its consent in advance.

26           C. Whenever it shall appear to the Secretary of State,

1 either upon complaint or otherwise, that this Act, or any rule  
2 or regulation prescribed under authority thereof, has been or  
3 is about to be violated, he or she may, in his or her  
4 discretion, do one or more of the following:

5 (1) require or permit the person to file with the  
6 Secretary of State a statement in writing under oath, or  
7 otherwise, as to all the facts and circumstances concerning  
8 the subject matter which the Secretary of State believes to  
9 be in the public interest to investigate, audit, examine,  
10 or inspect;

11 (2) conduct an investigation, audit, examination, or  
12 inspection as necessary or advisable for the protection of  
13 the interests of the public; and

14 (3) appoint investigators to conduct all  
15 investigations, searches, government takings ~~seizures~~,  
16 arrests, and other duties imposed under the provisions of  
17 any law administered by the Department. The Director must  
18 authorize to each investigator employed under this Section  
19 a distinct badge that, on its face, (i) clearly states that  
20 the badge is authorized by the Department and (ii) contains  
21 a unique and identifying number.

22 D. (1) For the purpose of all investigations, audits,  
23 examinations, or inspections which in the opinion of the  
24 Secretary of State are necessary and proper for the enforcement  
25 of this Act, the Secretary of State or a person designated by  
26 him or her is empowered to administer oaths and affirmations,

1 subpoena witnesses, take evidence, and require, by subpoena or  
2 other lawful means provided by this Act or the rules adopted by  
3 the Secretary of State, the production of any books and  
4 records, papers, or other documents which the Secretary of  
5 State or a person designated by him or her deems relevant or  
6 material to the inquiry.

7 (2) The Secretary of State or a person designated by him or  
8 her is further empowered to administer oaths and affirmations,  
9 subpoena witnesses, take evidence, and require the production  
10 of any books and records, papers, or other documents in this  
11 State at the request of a securities agency of another state,  
12 if the activities constituting the alleged violation for which  
13 the information is sought would be in violation of Section 12  
14 of this Act if the activities had occurred in this State.

15 (3) The Circuit Court of any County of this State, upon  
16 application of the Secretary of State or a person designated by  
17 him or her may order the attendance of witnesses, the  
18 production of books and records, papers, accounts and documents  
19 and the giving of testimony before the Secretary of State or a  
20 person designated by him or her; and any failure to obey the  
21 order may be punished by the Circuit Court as a contempt  
22 thereof.

23 (4) The fees of subpoenaed witnesses under this Act for  
24 attendance and travel shall be the same as fees of witnesses  
25 before the Circuit Courts of this State, to be paid when the  
26 witness is excused from further attendance, provided, the



1 witness is subpoenaed at the instance of the Secretary of  
2 State; and payment of the fees shall be made and audited in the  
3 same manner as other expenses of the Secretary of State.

4 (5) Whenever a subpoena is issued at the request of a  
5 complainant or respondent as the case may be, the Secretary of  
6 State may require that the cost of service and the fee of the  
7 witness shall be borne by the party at whose instance the  
8 witness is summoned.

9 (6) The Secretary of State shall have power at his or her  
10 discretion, to require a deposit to cover the cost of the  
11 service and witness fees and the payment of the legal witness  
12 fee and mileage to the witness served with subpoena.

13 (7) A subpoena issued under this Act shall be served in the  
14 same manner as a subpoena issued out of a circuit court.

15 (8) The Secretary of State may in any investigation,  
16 audits, examinations, or inspections cause the taking of  
17 depositions of persons residing within or without this State in  
18 the manner provided in civil actions under the laws of this  
19 State.

20 E. Anything in this Act to the contrary notwithstanding:

21 (1) If the Secretary of State shall find that the offer  
22 or sale or proposed offer or sale or method of offer or  
23 sale of any securities by any person, whether exempt or  
24 not, in this State, is fraudulent, or would work or tend to  
25 work a fraud or deceit, or is being offered or sold in  
26 violation of Section 12, or there has been a failure or

1 refusal to submit any notification filing or fee required  
2 under this Act, the Secretary of State may by written order  
3 prohibit or suspend the offer or sale of securities by that  
4 person or deny or revoke the registration of the securities  
5 or the exemption from registration for the securities.

6 (2) If the Secretary of State shall find that any  
7 person has violated subsection C, D, E, F, G, H, I, J, or K  
8 of Section 12 of this Act, the Secretary of State may by  
9 written order temporarily or permanently prohibit or  
10 suspend the person from offering or selling any securities,  
11 any mineral investment contract, or any mineral deferred  
12 delivery contract in this State, provided that any person  
13 who is the subject of an order of permanent prohibition may  
14 petition the Secretary of State for a hearing to present  
15 evidence of rehabilitation or change in circumstances  
16 justifying the amendment or termination of the order of  
17 permanent prohibition.

18 (3) If the Secretary of State shall find that any  
19 person is engaging or has engaged in the business of  
20 selling or offering for sale securities as a dealer,  
21 Internet portal, or salesperson or is acting or has acted  
22 as an investment adviser, investment adviser  
23 representative, or federal covered investment adviser,  
24 without prior thereto and at the time thereof having  
25 complied with the registration or notice filing  
26 requirements of this Act, the Secretary of State may by

1 written order prohibit or suspend the person from engaging  
2 in the business of selling or offering for sale securities,  
3 or acting as an investment adviser, investment adviser  
4 representative, or federal covered investment adviser, in  
5 this State.

6 (4) In addition to any other sanction or remedy  
7 contained in this subsection E, the Secretary of State,  
8 after finding that any provision of this Act has been  
9 violated, may impose a fine as provided by rule, regulation  
10 or order not to exceed \$10,000 for each violation of this  
11 Act, may issue an order of public censure against the  
12 violator, and may charge as costs of investigation all  
13 reasonable expenses, including attorney's fees and witness  
14 fees.

15 F. (1) The Secretary of State shall not deny, suspend or  
16 revoke the registration of securities, suspend or revoke the  
17 registration of a dealer, Internet portal, salesperson,  
18 investment adviser, or investment adviser representative,  
19 prohibit or suspend the offer or sale of any securities,  
20 prohibit or suspend any person from offering or selling any  
21 securities in this State, prohibit or suspend a dealer or  
22 salesperson from engaging in the business of selling or  
23 offering for sale securities, prohibit or suspend a person from  
24 acting as an investment adviser or federal covered investment  
25 adviser, or investment adviser representative, impose any fine  
26 for violation of this Act, issue an order of public censure, or

1 enter into an agreed settlement except after an opportunity for  
2 hearing upon not less than 10 days notice given by personal  
3 service or registered mail or certified mail, return receipt  
4 requested, to the person or persons concerned. Such notice  
5 shall state the date and time and place of the hearing and  
6 shall contain a brief statement of the proposed action of the  
7 Secretary of State and the grounds for the proposed action. A  
8 failure to appear at the hearing or otherwise respond to the  
9 allegations set forth in the notice of hearing shall constitute  
10 an admission of any facts alleged therein and shall constitute  
11 sufficient basis to enter an order.

12 (2) Anything herein contained to the contrary  
13 notwithstanding, the Secretary of State may temporarily  
14 prohibit or suspend, for a maximum period of 90 days, by an  
15 order effective immediately, the offer or sale or registration  
16 of securities, the registration of a dealer, Internet portal,  
17 salesperson, investment adviser, or investment adviser  
18 representative, or the offer or sale of securities by any  
19 person, or the business of rendering investment advice, without  
20 the notice and prior hearing in this subsection prescribed, if  
21 the Secretary of State shall in his or her opinion, based on  
22 credible evidence, deem it necessary to prevent an imminent  
23 violation of this Act or to prevent losses to investors which  
24 the Secretary of State reasonably believes will occur as a  
25 result of a prior violation of this Act. Immediately after  
26 taking action without such notice and hearing, the Secretary of

1 State shall deliver a copy of the temporary order to the  
2 respondent named therein by personal service or registered mail  
3 or certified mail, return receipt requested. The temporary  
4 order shall set forth the grounds for the action and shall  
5 advise that the respondent may request a hearing, that the  
6 request for a hearing will not stop the effectiveness of the  
7 temporary order and that respondent's failure to request a  
8 hearing within 30 days after the date of the entry of the  
9 temporary order shall constitute an admission of any facts  
10 alleged therein and shall constitute sufficient basis to make  
11 the temporary order final. Any provision of this paragraph (2)  
12 to the contrary notwithstanding, the Secretary of State may not  
13 pursuant to the provisions of this paragraph (2) suspend the  
14 registration of a dealer, limited Canadian dealer,  
15 salesperson, investment adviser, or investment adviser  
16 representative based upon sub-paragraph (n) of paragraph (1) of  
17 subsection E of Section 8 of this Act or revoke the  
18 registration of securities or revoke the registration of any  
19 dealer, salesperson, investment adviser representative, or  
20 investment adviser.

21 (3) The Secretary of State may issue a temporary order  
22 suspending or delaying the effectiveness of any registration of  
23 securities under subsection A or B of Section 5, 6 or 7 of this  
24 Act subsequent to and upon the basis of the issuance of any  
25 stop, suspension or similar order by the Securities and  
26 Exchange Commission with respect to the securities which are

1 the subject of the registration under subsection A or B of  
2 Section 5, 6 or 7 of this Act, and the order shall become  
3 effective as of the date and time of effectiveness of the  
4 Securities and Exchange Commission order and shall be vacated  
5 automatically at such time as the order of the Securities and  
6 Exchange Commission is no longer in effect.

7 (4) When the Secretary of State finds that an application  
8 for registration as a dealer, Internet portal, salesperson,  
9 investment adviser, or investment adviser representative  
10 should be denied, the Secretary of State may enter an order  
11 denying the registration. Immediately after taking such  
12 action, the Secretary of State shall deliver a copy of the  
13 order to the respondent named therein by personal service or  
14 registered mail or certified mail, return receipt requested.  
15 The order shall state the grounds for the action and that the  
16 matter will be set for hearing upon written request filed with  
17 the Secretary of State within 30 days after the receipt of the  
18 request by the respondent. The respondent's failure to request  
19 a hearing within 30 days after receipt of the order shall  
20 constitute an admission of any facts alleged therein and shall  
21 make the order final. If a hearing is held, the Secretary of  
22 State shall affirm, vacate, or modify the order.

23 (5) The findings and decision of the Secretary of State  
24 upon the conclusion of each final hearing held pursuant to this  
25 subsection shall be set forth in a written order signed on  
26 behalf of the Secretary of State by his or her designee and

1 shall be filed as a public record. All hearings shall be held  
2 before a person designated by the Secretary of State, and  
3 appropriate records thereof shall be kept.

4 (6) Notwithstanding the foregoing, the Secretary of State,  
5 after notice and opportunity for hearing, may at his or her  
6 discretion enter into an agreed settlement, stipulation or  
7 consent order with a respondent in accordance with the  
8 provisions of the Illinois Administrative Procedure Act. The  
9 provisions of the agreed settlement, stipulation or consent  
10 order shall have the full force and effect of an order issued  
11 by the Secretary of State.

12 (7) Anything in this Act to the contrary notwithstanding,  
13 whenever the Secretary of State finds that a person is  
14 currently expelled from, refused membership in or association  
15 with, or limited in any material capacity by a self-regulatory  
16 organization registered under the Federal 1934 Act or the  
17 Federal 1974 Act because of a fraudulent or deceptive act or a  
18 practice in violation of a rule, regulation, or standard duly  
19 promulgated by the self-regulatory organization, the Secretary  
20 of State may, at his or her discretion, enter a Summary Order  
21 of Prohibition, which shall prohibit the offer or sale of any  
22 securities, mineral investment contract, or mineral deferred  
23 delivery contract by the person in this State. The order shall  
24 take effect immediately upon its entry. Immediately after  
25 taking the action the Secretary of State shall deliver a copy  
26 of the order to the named Respondent by personal service or

1 registered mail or certified mail, return receipt requested. A  
2 person who is the subject of an Order of Prohibition may  
3 petition the Secretary of State for a hearing to present  
4 evidence of rehabilitation or change in circumstances  
5 justifying the amendment or termination of the Order of  
6 Prohibition.

7 G. No administrative action shall be brought by the  
8 Secretary of State for relief under this Act or upon or because  
9 of any of the matters for which relief is granted by this Act  
10 after the earlier to occur of (i) 3 years from the date upon  
11 which the Secretary of State had notice of facts which in the  
12 exercise of reasonable diligence would lead to actual knowledge  
13 of the alleged violation of the Act, or (ii) 5 years from the  
14 date on which the alleged violation occurred.

15 H. The action of the Secretary of State in denying,  
16 suspending, or revoking the registration of a dealer, Internet  
17 portal, limited Canadian dealer, salesperson, investment  
18 adviser, or investment adviser representative, in prohibiting  
19 any person from engaging in the business of offering or selling  
20 securities as a dealer, limited Canadian dealer, or  
21 salesperson, in prohibiting or suspending the offer or sale of  
22 securities by any person, in prohibiting a person from acting  
23 as an investment adviser, federal covered investment adviser,  
24 or investment adviser representative, in denying, suspending,  
25 or revoking the registration of securities, in prohibiting or  
26 suspending the offer or sale or proposed offer or sale of



1 securities, in imposing any fine for violation of this Act, or  
2 in issuing any order shall be subject to judicial review in the  
3 Circuit Courts of Cook or Sangamon Counties in this State. The  
4 Administrative Review Law shall apply to and govern every  
5 action for the judicial review of final actions or decisions of  
6 the Secretary of State under this Act.

7 I. Notwithstanding any other provisions of this Act to the  
8 contrary, whenever it shall appear to the Secretary of State  
9 that any person is engaged or about to engage in any acts or  
10 practices which constitute or will constitute a violation of  
11 this Act or of any rule or regulation prescribed under  
12 authority of this Act, the Secretary of State may at his or her  
13 discretion, through the Attorney General take any of the  
14 following actions:

15 (1) File a complaint and apply for a temporary  
16 restraining order without notice, and upon a proper showing  
17 the court may enter a temporary restraining order without  
18 bond, to enforce this Act.

19 (2) File a complaint and apply for a preliminary or  
20 permanent injunction, and, after notice and a hearing and  
21 upon a proper showing, the court may grant a preliminary or  
22 permanent injunction and may order the defendant to make an  
23 offer of rescission with respect to any sales or purchases  
24 of securities, mineral investment contracts, or mineral  
25 deferred delivery contracts determined by the court to be  
26 unlawful under this Act.

1           (3) Seek the government taking ~~seizure~~ of assets when  
2 probable cause exists that the assets were obtained by a  
3 defendant through conduct in violation of Section 12,  
4 paragraph F, G, I, J, K, or L of this Act, and thereby  
5 subject to a government taking ~~judicial forfeiture~~ hearing  
6 as required under this Act.

7           (a) In the event that such probable cause exists  
8 that the subject of an investigation who is alleged to  
9 have committed one of the relevant violations of this  
10 Act has in his or her possession assets obtained as a  
11 result of the conduct giving rise to the violation, the  
12 Secretary of State may seek a ~~seizure~~ warrant in any  
13 circuit court in Illinois.

14           (b) In seeking a ~~seizure~~ warrant, the Secretary of  
15 State, or his or her designee, shall submit to the  
16 court a sworn affidavit detailing the probable cause  
17 evidence for the government taking ~~seizure~~, the  
18 location of the assets to be taken ~~seized~~, the relevant  
19 violation under Section 12 of this Act, and a statement  
20 detailing any known owners or interest holders in the  
21 assets.

22           (c) Government taking ~~Seizure~~ of the assets shall  
23 be made by any peace officer upon process of the  
24 ~~seizure~~ warrant issued by the court. Following the  
25 government taking ~~seizure~~ of assets during an arrest  
26 under this Act and pursuant to a ~~seizure~~ warrant,

1 notice of government taking seizure, including a  
2 description of the ~~seized~~ assets taken during an  
3 arrest, shall immediately be returned to the issuing  
4 court. The Seized assets shall be maintained pending a  
5 government taking ~~judicial forfeiture~~ hearing in  
6 accordance with the instructions of the court.

7 (d) In the event that management of ~~seized~~ assets  
8 that have been taken during an arrest becomes necessary  
9 to prevent the devaluation, dissipation, or otherwise  
10 to preserve the property, the court shall have  
11 jurisdiction to appoint a receiver, conservator,  
12 ancillary receiver, or ancillary conservator for that  
13 purpose, as provided in item (2) of this subsection.

14 (4) Seek the government taking forfeiture of assets  
15 obtained through conduct in violation of Section 12,  
16 paragraph F, G, H, I, J, K, or L when authorized by law. A  
17 government taking forfeiture must be ordered by a circuit  
18 court or an action brought by the Secretary of State as  
19 provided for in this Act, under a verified complaint for  
20 government taking forfeiture.

21 (a) In the event assets have been taken seized  
22 pursuant to this Act, government taking forfeiture  
23 proceedings shall be instituted by the Attorney  
24 General within 45 days of government taking seizure.

25 (b) Service of the complaint filed under the  
26 provisions of this Act shall be made in the manner as

1 provided in civil actions in this State.

2 (c) Only an owner of or interest holder in the  
3 property may file an answer asserting a claim against  
4 the property. For purposes of this Section, the owner  
5 or interest holder shall be referred to as claimant.

6 (d) The answer must be signed by the owner or  
7 interest holder under penalty of perjury and must set  
8 forth:

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

12 (ii) the address at which the claimant will  
13 accept mail;

14 (iii) the nature and extent of the claimant's  
15 interest in the property;

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

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

21 (vi) the specific provisions of this Act  
22 relied on in asserting that the property is not  
23 subject to government taking ~~forfeiture~~;

24 (vii) all essential facts supporting each  
25 assertion; and

26 (viii) the precise relief sought.

1 (e) The answer must be filed with the court within  
2 45 days after service of the complaint.

3 (f) A property interest is exempt from government  
4 taking ~~forfeiture~~ under this Act if its owner or  
5 interest holder establishes by a preponderance of  
6 evidence that the owner or interest holder:

7 (i) is not legally accountable for the conduct  
8 giving rise to the ~~forfeiture~~, did not acquiesce in  
9 it, and did not know and could not reasonably have  
10 known of the conduct or that the conduct was likely  
11 to occur;

12 (ii) with respect to conveyances, did not hold  
13 the property jointly or in common with a person  
14 whose conduct gave rise to the ~~forfeiture~~;

15 (iii) does not hold the property for the  
16 benefit of or as a nominee for any person whose  
17 conduct gave rise to its government taking  
18 ~~forfeiture~~ and the owner or interest holder  
19 acquires it as a bona fide purchaser for value  
20 without knowingly taking part in the conduct  
21 giving rise to the government taking ~~forfeiture~~;  
22 or

23 (iv) acquired the interest after the  
24 commencement of the conduct giving rise to its  
25 government taking ~~forfeiture~~ and the owner or  
26 interest holder acquired the interest as a

1 mortgagee, secured creditor, lienholder, or bona  
2 fide purchaser for value without knowledge of the  
3 conduct that gave rise to the government taking  
4 ~~forfeiture~~.

5 (g) The hearing must be held within 60 days after  
6 the answer is filed unless continued for good cause.

7 (h) During the probable cause portion of the  
8 judicial in rem proceeding wherein the Secretary of  
9 State presents its case-in-chief, the court must  
10 receive and consider, among other things, any relevant  
11 hearsay evidence and information. The laws of evidence  
12 relating to civil actions shall apply to all other  
13 portions of the judicial in rem proceeding.

14 (i) The Secretary of State shall show the existence  
15 of probable cause for government taking ~~forfeiture~~ of  
16 the property. If the Secretary of State shows probable  
17 cause, the claimant has the burden of showing by a  
18 preponderance of the evidence that the claimant's  
19 interest in the property is not subject to government  
20 taking ~~forfeiture~~.

21 (j) If the Secretary of State does not show the  
22 existence of probable cause or a claimant has an  
23 interest that is exempt under subdivision I (4) (d) of  
24 this Section, the court shall order the interest in the  
25 property returned or conveyed to the claimant and shall  
26 order all other property subject to government taking

1 ~~forfeited~~ to the Secretary of State pursuant to all  
2 provisions of this Act. If the Secretary of State does  
3 show the existence of probable cause and the claimant  
4 does not establish by a preponderance of the evidence  
5 that the claimant has an interest that is exempt under  
6 subsection D herein, the court shall order all the  
7 property subject to government taking ~~forfeited~~ to the  
8 Secretary of State pursuant to the provisions of the  
9 Section.

10 (k) A defendant convicted in any criminal  
11 proceeding is precluded from later denying the  
12 essential allegations of the criminal offense of which  
13 the defendant was convicted in any proceeding for  
14 violations of the Act giving rise to government taking  
15 ~~forfeiture~~ of property ~~herein~~ regardless of the  
16 pendency of an appeal from that conviction. However,  
17 evidence of the pendency of an appeal is admissible.

18 (l) An acquittal or dismissal in a criminal  
19 proceeding for violations of the Act giving rise to the  
20 government taking ~~forfeiture~~ of property ~~herein~~ shall  
21 not preclude civil proceedings under this provision;  
22 however, for good cause shown, on a motion by the  
23 Secretary of State, the court may stay civil government  
24 taking ~~forfeiture~~ proceedings during the criminal  
25 trial for a related criminal indictment or information  
26 alleging violation of the provisions of Section 12 of

1 the Illinois Securities Law of 1953. Property subject  
2 to government taking during an arrest ~~forfeiture~~ under  
3 this Section shall not be subject to return or release  
4 by a court exercising jurisdiction over a criminal case  
5 involving the government taking ~~seizure~~ of the  
6 property unless the return or release is consented to  
7 by the Secretary of State.

8 (m) All property declared subject to government  
9 taking during an arrest ~~forfeited~~ under this Act vests  
10 in the State on the commission of the conduct giving  
11 rise to government taking ~~forfeiture~~ together with the  
12 proceeds of the property after that time. Any such  
13 property or proceeds subsequently transferred to any  
14 person remain subject to government taking ~~forfeiture~~  
15 and thereafter shall be ordered subject to government  
16 taking ~~forfeited~~ unless the transferee claims and  
17 establishes in a hearing under the provisions of this  
18 Act that the transferee's interest is exempt under the  
19 Act. Any assets subject to government taking ~~forfeited~~  
20 to the State shall be disposed of in following manner:

21 (i) all ~~forfeited~~ property and assets shall be  
22 liquidated by the Secretary of State in accordance  
23 with all laws and rules governing the disposition  
24 of such property;

25 (ii) the Secretary of State shall provide the  
26 court at the time the property and assets are



1 declared subject to government taking during an  
2 arrest ~~forfeited~~ a verified statement of investors  
3 subject to the conduct giving rise to the  
4 government taking forfeiture;

5 (iii) after payment of any costs of sale,  
6 receivership, storage, or expenses for  
7 preservation of the property ~~seized~~, other costs  
8 to the State, and payment to claimants for any  
9 amount deemed exempt from government taking during  
10 an arrest forfeiture, the proceeds from  
11 liquidation shall be distributed pro rata to  
12 investors subject to the conduct giving rise to the  
13 government taking forfeiture; and

14 (iv) any proceeds remaining after all verified  
15 investors have been made whole shall be  
16 distributed 25% to the Securities Investors  
17 Education Fund, 25% to the Securities Audit and  
18 Enforcement Fund, 25% to the Attorney General or  
19 any State's Attorney bringing criminal charges for  
20 the conduct giving rise to the government taking  
21 forfeiture, and 25% to other law enforcement  
22 agencies participating in the investigation of the  
23 criminal charges for the conduct giving rise to the  
24 government taking forfeiture. In the event that no  
25 other law enforcement agencies are involved in the  
26 investigation of the conduct giving rise to the

1           government taking forfeiture, then the portion to  
2           other law enforcement agencies shall be  
3           distributed to the Securities Investors Education  
4           Fund.

5           (n) The Secretary of State shall notify by  
6           certified mail, return receipt requested, all known  
7           investors in the matter giving rise to the government  
8           taking during an arrest forfeiture of the government  
9           taking forfeiture proceeding and sale of assets  
10          ~~forfeited~~ arising from the violations of this Act, and  
11          shall further publish notice in a paper of general  
12          circulation in the district in which the violations  
13          were prosecuted. The notice to investors shall  
14          identify the name, address, and other identifying  
15          information about any defendant prosecuted for  
16          violations of this Act that resulted in government  
17          taking forfeiture and sale of property, the offense for  
18          which the defendant was convicted, and that the court  
19          has ordered government taking forfeiture and sale of  
20          property for claims of investors who incurred losses or  
21          damages as a result of the violations. Investors may  
22          then file a claim in a form prescribed by the Secretary  
23          of State in order to share in disbursement of the  
24          proceeds from sale of the ~~forfeited~~ property. Investor  
25          claims must be filed with the Secretary of State within  
26          30 days after receipt of the certified mail return

1 receipt, or within 30 days after the last date of  
2 publication of the general notice in a paper of general  
3 circulation in the district in which the violations  
4 were prosecuted, whichever occurs last.

5 (o) A civil action under this subsection must be  
6 commenced within 5 years after the last conduct giving  
7 rise to the government taking forfeiture became known  
8 or should have become known or 5 years after the  
9 ~~forfeitable~~ property is discovered, whichever is  
10 later, excluding time during which either the property  
11 or claimant is out of this State or in confinement or  
12 during which criminal proceedings relating to the same  
13 conduct are in progress.

14 (p) If property is taken ~~seized~~ for evidence and  
15 for government taking forfeiture, the time periods for  
16 instituting judicial government taking forfeiture  
17 proceedings shall not begin until the property is no  
18 longer necessary for evidence.

19 (q) Notwithstanding other provisions of this Act,  
20 the Secretary of State and a claimant of ~~forfeitable~~  
21 property may enter into an agreed-upon settlement  
22 concerning the ~~forfeitable~~ property in such an amount  
23 and upon such terms as are set out in writing in a  
24 settlement agreement.

25 (r) Nothing in this Act shall apply to property  
26 that constitutes reasonable bona fide attorney's fees

1           paid to an attorney for services rendered or to be  
2           rendered in the government taking ~~forfeiture~~  
3           proceeding or criminal proceeding relating directly  
4           thereto when the property was paid before its ~~seizure~~  
5           and before the issuance of any ~~seizure~~ warrant or court  
6           order prohibiting transfer of the property and when the  
7           attorney, at the time he or she received the property,  
8           did not know that it was property subject to government  
9           taking ~~forfeiture~~ under this Act.

10           The court shall further have jurisdiction and authority, in  
11           addition to the penalties and other remedies in this Act  
12           provided, to enter an order for the appointment of the court or  
13           a person as a receiver, conservator, ancillary receiver or  
14           ancillary conservator for the defendant or the defendant's  
15           assets located in this State, or to require restitution,  
16           damages or disgorgement of profits on behalf of the person or  
17           persons injured by the act or practice constituting the subject  
18           matter of the action, and may assess costs against the  
19           defendant for the use of the State; provided, however, that the  
20           civil remedies of rescission and appointment of a receiver,  
21           conservator, ancillary receiver or ancillary conservator shall  
22           not be available against any person by reason of the failure to  
23           file with the Secretary of State, or on account of the contents  
24           of, any report of sale provided for in subsection G or P of  
25           Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
26           or paragraph (2) of subsection F of Section 7 of this Act.

1 Appeals may be taken as in other civil cases.

2 I-5. Property taken by the government during an arrest  
3 ~~forfeited~~ under this Section is subject to reporting under the  
4 Seizure and Forfeiture Reporting Act.

5 J. In no case shall the Secretary of State, or any of his  
6 or her employees or agents, in the administration of this Act,  
7 incur any official or personal liability by instituting an  
8 injunction or other proceeding or by denying, suspending or  
9 revoking the registration of a dealer or salesperson, or by  
10 denying, suspending or revoking the registration of securities  
11 or prohibiting the offer or sale of securities, or by  
12 suspending or prohibiting any person from acting as a dealer,  
13 limited Canadian dealer, salesperson, investment adviser, or  
14 investment adviser representative or from offering or selling  
15 securities.

16 K. No provision of this Act shall be construed to require  
17 or to authorize the Secretary of State to require any  
18 investment adviser or federal covered investment adviser  
19 engaged in rendering investment supervisory services to  
20 disclose the identity, investments, or affairs of any client of  
21 the investment adviser or federal covered investment adviser,  
22 except insofar as the disclosure may be necessary or  
23 appropriate in a particular proceeding or investigation having  
24 as its object the enforcement of this Act.

25 L. Whenever, after an examination, investigation or  
26 hearing, the Secretary of State deems it of public interest or

1 advantage, he or she may certify a record to the State's  
2 Attorney of the county in which the act complained of, examined  
3 or investigated occurred. The State's Attorney of that county  
4 within 90 days after receipt of the record shall file a written  
5 statement at the Office of the Secretary of State, which  
6 statement shall set forth the action taken upon the record, or  
7 if no action has been taken upon the record that fact, together  
8 with the reasons therefor, shall be stated.

9 M. The Secretary of State may initiate, take, pursue, or  
10 prosecute any action authorized or permitted under Section 6d  
11 of the Federal 1974 Act.

12 N. (1) Notwithstanding any provision of this Act to the  
13 contrary, to encourage uniform interpretation, administration,  
14 and enforcement of the provisions of this Act, the Secretary of  
15 State may cooperate with the securities agencies or  
16 administrators of one or more states, Canadian provinces or  
17 territories, or another country, the Securities and Exchange  
18 Commission, the Commodity Futures Trading Commission, the  
19 Securities Investor Protection Corporation, any  
20 self-regulatory organization, and any governmental law  
21 enforcement or regulatory agency.

22 (2) The cooperation authorized by paragraph (1) of this  
23 subsection includes, but is not limited to, the following:

24 (a) establishing or participating in a central  
25 depository or depositories for registration under this Act  
26 and for documents or records required under this Act;

1           (b) making a joint audit, inspection, examination, or  
2           investigation;

3           (c) holding a joint administrative hearing;

4           (d) filing and prosecuting a joint civil or criminal  
5           proceeding;

6           (e) sharing and exchanging personnel;

7           (f) sharing and exchanging information and documents;

8           or

9           (g) issuing any joint statement or policy.

10          (Source: P.A. 99-182, eff. 1-1-16; 100-512, eff. 7-1-18;  
11          100-699, eff. 8-3-18.)

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8 725 ILCS 5/124B-710  
9 725 ILCS 5/124B-715  
10 725 ILCS 5/124B-800  
11 725 ILCS 5/124B-805  
12 725 ILCS 5/124B-810  
13 725 ILCS 5/124B-820  
14 725 ILCS 5/124B-825  
15 725 ILCS 5/124B-900  
16 725 ILCS 5/124B-905  
17 725 ILCS 5/124B-910  
18 725 ILCS 5/124B-915  
19 725 ILCS 5/124B-925  
20 725 ILCS 5/124B-930  
21 725 ILCS 5/124B-935  
22 725 ILCS 5/124B-1000  
23 725 ILCS 5/124B-1010  
24 725 ILCS 5/124B-1020  
25 725 ILCS 150/2  
26 725 ILCS 150/3

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1	725 ILCS 150/3.1	
2	725 ILCS 150/3.2	
3	725 ILCS 150/3.3	
4	725 ILCS 150/3.5	
5	725 ILCS 150/4	from Ch. 56 1/2, par. 1674
6	725 ILCS 150/5	from Ch. 56 1/2, par. 1675
7	725 ILCS 150/5.1	
8	725 ILCS 150/6	from Ch. 56 1/2, par. 1676
9	725 ILCS 150/7	from Ch. 56 1/2, par. 1677
10	725 ILCS 150/8	from Ch. 56 1/2, par. 1678
11	725 ILCS 150/9	from Ch. 56 1/2, par. 1679
12	725 ILCS 150/9.1	
13	725 ILCS 150/9.5	
14	725 ILCS 150/10	from Ch. 56 1/2, par. 1680
15	725 ILCS 150/11	from Ch. 56 1/2, par. 1681
16	725 ILCS 150/12	from Ch. 56 1/2, par. 1682
17	725 ILCS 150/13	from Ch. 56 1/2, par. 1683
18	725 ILCS 150/13.1	was 725 ILCS 150/15
19	725 ILCS 150/13.2	was 725 ILCS 150/17
20	725 ILCS 150/13.3	was 725 ILCS 150/20
21	725 ILCS 150/13.4	
22	725 ILCS 150/14	from Ch. 56 1/2, par. 1684
23	725 ILCS 175/2	from Ch. 56 1/2, par. 1652
24	725 ILCS 175/5	from Ch. 56 1/2, par. 1655
25	725 ILCS 175/5.2	from Ch. 56 1/2, par. 1655.2
26	725 ILCS 175/6.5	

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1 740 ILCS 147/40

2 815 ILCS 5/11

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