

HB3816



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3816

Introduced 2/22/2021, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-7

725 ILCS 150/13.2

was 725 ILCS 150/17

Amends the Criminal Code of 2012 and the Drug Asset Forfeiture Procedure Act. Provides that forfeiture proceeds collected under those Acts distributed to the drug task force, metropolitan enforcement group, local, municipal, county, or State law enforcement agency or agencies that conducted or participated in the investigation resulting in the forfeiture may be used for costs associated with school resource officers.

LRB102 15222 KMF 20577 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Section 36-7 as follows:

6 (720 ILCS 5/36-7)

7 Sec. 36-7. Distribution of proceeds; selling or retaining
8 seized property prohibited.

9 (a) Except as otherwise provided in this Section, the
10 court shall order that property forfeited under this Article
11 be delivered to the Department of State Police within 60 days.

12 (b) The Department of State Police or its designee shall
13 dispose of all property at public auction and shall distribute
14 the proceeds of the sale, together with any moneys forfeited
15 or seized, under subsection (c) of this Section.

16 (c) All moneys and the sale proceeds of all other property
17 forfeited and seized under this Act shall be distributed as
18 follows:

19 (1) 65% shall be distributed to the drug task force,
20 metropolitan enforcement group, local, municipal, county,
21 or State law enforcement agency or agencies that conducted
22 or participated in the investigation resulting in the
23 forfeiture. The distribution shall bear a reasonable

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

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

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

25 (B) the intergovernmental agreement for police
26 services provides for consideration in an amount of

1 not less than \$1,000,000 per year;

2 (C) the seizure took place within the geographical
3 limits of the municipality; and

4 (D) the funds are used only for the enforcement of
5 criminal laws; costs associated with school resource
6 officers; for public education in the community or
7 schools in the prevention or detection of the abuse of
8 drugs or alcohol; or for security cameras used for the
9 prevention or detection of violence or the
10 establishment of a municipal police force, including
11 the training of officers, construction of a police
12 station, the purchase of law enforcement equipment, or
13 vehicles.

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

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

14 12.5% shall be distributed to the Office of the
15 State's Attorneys Appellate Prosecutor and shall be used
16 at the discretion of the State's Attorneys Appellate
17 Prosecutor for additional expenses incurred in the
18 investigation, prosecution and appeal of cases arising in
19 the enforcement of criminal laws; or for public education
20 in the community or schools in the prevention or detection
21 of the abuse of drugs or alcohol. The Office of the State's
22 Attorneys Appellate Prosecutor shall not receive
23 distribution from cases brought in counties with over
24 3,000,000 population.

25 (3) 10% shall be retained by the Department of State
26 Police for expenses related to the administration and sale

1 of seized and forfeited property.

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

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

14 Section 10. The Drug Asset Forfeiture Procedure Act is
15 amended by changing Section 13.2 as follows:

16 (725 ILCS 150/13.2) (was 725 ILCS 150/17)

17 Sec. 13.2. Distribution of proceeds; selling or retaining
18 seized property prohibited.

19 (a) Except as otherwise provided in this Section, the
20 court shall order that property forfeited under this Act be
21 delivered to the Department of State Police within 60 days.

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

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

22 (ii) Any local, municipal, or county law enforcement
23 agency entitled to receive a monetary distribution of
24 forfeiture proceeds may share those forfeiture proceeds
25 pursuant to the terms of an intergovernmental agreement
26 with a municipality that has a population in excess of

1 20,000 if:

2 (A) the receiving agency has entered into an
3 intergovernmental agreement with the municipality to
4 provide police services;

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

8 (C) the seizure took place within the geographical
9 limits of the municipality; and

10 (D) the funds are used only for the enforcement of
11 laws governing cannabis and controlled substances;
12 costs associated with school resource officers; for
13 public education in the community or schools in the
14 prevention or detection of the abuse of drugs or
15 alcohol; or for security cameras used for the
16 prevention or detection of violence or the
17 establishment of a municipal police force, including
18 the training of officers, construction of a police
19 station, or the purchase of law enforcement equipment
20 or vehicles.

21 (2) (i) 12.5% shall be distributed to the Office of the
22 State's Attorney of the county in which the prosecution
23 resulting in the forfeiture was instituted, deposited in a
24 special fund in the county treasury and appropriated to
25 the State's Attorney for use in the enforcement of laws
26 governing cannabis and controlled substances; for public

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

21 (ii) 12.5% shall be distributed to the Office of the
22 State's Attorneys Appellate Prosecutor and deposited in
23 the Narcotics Profit Forfeiture Fund of that office to be
24 used for additional expenses incurred in the
25 investigation, prosecution and appeal of cases arising
26 under laws governing cannabis and controlled substances,

1 together with administrative expenses, and for legal
2 education or for public education in the community or
3 schools in the prevention or detection of the abuse of
4 drugs or alcohol. The Office of the State's Attorneys
5 Appellate Prosecutor shall not receive distribution from
6 cases brought in counties with over 3,000,000 population.

7 (3) 10% shall be retained by the Department of State
8 Police for expenses related to the administration and sale
9 of seized and forfeited property.

10 (Source: P.A. 100-512, eff. 7-1-18; 100-699, eff. 8-3-18;
11 101-10, eff. 6-5-19.)