



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5216

Introduced 01/24/06, by Rep. Terry R. Parke

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.7 new

Amends the Criminal Code of 1961. Provides for the seizure and forfeiture of a motor vehicle used in the commission of the offense of stalking or aggravated stalking. Establishes procedures in circuit court for determining the validity of the seizure of the motor vehicle.

LRB094 18261 RLC 53572 b

FISCAL NOTE ACT
MAY APPLY

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 1961 is amended by adding
5 Section 12-7.7 as follows:

6 (720 ILCS 5/12-7.7 new)

7 Sec. 12-7.7. Stalking and aggravated stalking; vehicle
8 forfeiture.

9 (a) Any motor vehicle used in the commission of the offense
10 of stalking or aggravated stalking under Section 12-7.3 or
11 12-7.4 of this Code is subject to forfeiture.

12 (b) A motor vehicle subject to forfeiture under this
13 Section may be seized by any peace officer upon process issued
14 by any court having jurisdiction over the motor vehicle. A
15 judgment in favor of the State in a criminal proceeding based
16 upon a violation of Section 12-7.3 or 12-7.4 of this Code
17 against a person's specific motor vehicle shall serve as
18 process authorizing a police officer to seize such motor
19 vehicle without further process. Seizure by a police officer
20 may be made without process:

21 (1) if there is probable cause to believe that the
22 motor vehicle may be used to commit the offense of stalking
23 or aggravated stalking and existing circumstances do not
24 allow reasonable time for the officer to obtain lawful
25 process; or

26 (2) in accordance with the provisions of the Code of
27 Criminal Procedure of 1963.

28 (c) The presence of a motor vehicle subject to forfeiture
29 in an inventory does not subject the entire inventory to
30 seizure or forfeiture.

31 (d) A motor vehicle taken or detained under this Section is
32 not subject to replevin, but is deemed to be in the custody of

1 the law enforcement department or agency employing the seizing
2 officer, subject only to the order and judgments of the circuit
3 court having jurisdiction over the forfeiture proceedings.
4 When a motor vehicle is seized under this Section, the chief
5 administrative officer of the seizing department or agency may
6 place the motor vehicle under seal, or remove the motor vehicle
7 to a place designated by him or her.

8 (e) A disposition may not be made of a motor vehicle under
9 seal until the validity of the seizure has been determined in a
10 circuit court, unless the court, upon application to the court,
11 orders the sale of the motor vehicle and the deposit of the
12 proceeds of the sale with the clerk of the court. The circuit
13 court shall rule on the validity of the seizure within 30 days
14 after the seizure, unless a continuance is obtained by a person
15 from whom the motor vehicle was seized or a person who
16 otherwise has standing to complain, or by the State for good
17 cause shown. In no event shall a continuance be granted to the
18 State under this Section extend beyond 30 days. If judgment is
19 entered in favor of the person from whom the motor vehicle is
20 seized, the seized motor vehicle shall be returned immediately.
21 Appeals from orders of the circuit court shall be heard within
22 60 days from the date judgment is entered. A judgment in favor
23 of the person entitled to possession of the seized motor
24 vehicle shall serve as a mandate to the agency holding the
25 motor vehicle to return the motor vehicle forthwith.

26 (f) When a motor vehicle is forfeited under this Section,
27 the chief administrative officer of the seizing department or
28 agency may retain it for official use or deliver it to the
29 Department of State Police for disposition. The seizing
30 department or agency, upon forfeiture of the vehicle, shall
31 notify the Secretary of State within 15 days after forfeiture
32 that the vehicle has been forfeited if the vehicle is
33 registered in this State or if the vehicle is registered in
34 another state shall notify the agency of that other state where
35 the vehicle is registered.