

1 AN ACT concerning law enforcement.

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

4 Section 5. The Department of State Police Law of the Civil  
5 Administrative Code of Illinois is amended by adding Sections  
6 2605-585 and 2605-590 as follows:

7 (20 ILCS 2605/2605-585 new)

8 Sec. 2605-585. Money Laundering Asset Recovery Fund.  
9 Moneys and the sale proceeds distributed to the Department of  
10 State Police pursuant to clause (h) (6) (C) of Section 29B-1 of  
11 the Criminal Code of 1961 shall be deposited in a special fund  
12 in the State treasury to be known as the Money Laundering Asset  
13 Recovery Fund. The moneys deposited in the Money Laundering  
14 Asset Recovery Fund shall be appropriated to and administered  
15 by the Department of State Police for State law enforcement  
16 purposes.

17 (20 ILCS 2605/2605-590 new)

18 Sec. 2605-590. Drug Traffic Prevention Fund. Moneys  
19 deposited into the Drug Traffic Prevention Fund pursuant to  
20 subsection (e) of Section 5-9-1.1 and subsection (c) of Section  
21 5-9-1.5 of the Unified Code of Corrections shall be  
22 appropriated to and administered by the Department of State

1 Police for funding of drug task forces and Metropolitan  
2 Enforcement Groups in accordance with the Intergovernmental  
3 Drug Laws Enforcement Act.

4 Section 10. The State Finance Act is amended by adding  
5 Section 5.756 as follows:

6 (30 ILCS 105/5.756 new)

7 Sec. 5.756. The Money Laundering Asset Recovery Fund.

8 Section 15. The Criminal Code of 1961 is amended by  
9 changing Section 29B-1 as follows:

10 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

11 Sec. 29B-1. (a) A person commits the offense of money  
12 laundering:

13 (1) when, knowing that the property involved in a  
14 financial transaction represents the proceeds of some form  
15 of unlawful activity, he or she conducts or attempts to  
16 conduct such a financial transaction which in fact involves  
17 criminally derived property:

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

21 (B) where he or she knows or reasonably should know  
22 that the financial transaction is designed in whole or

1 in part:

2 (i) to conceal or disguise the nature, the  
3 location, the source, the ownership or the control  
4 of the criminally derived property; or

5 (ii) to avoid a transaction reporting  
6 requirement under State law; or

7 (1.5) when he or she transports, transmits, or  
8 transfers, or attempts to transport, transmit, or transfer  
9 a monetary instrument:

10 (A) with the intent to promote the carrying on of  
11 the unlawful activity from which the criminally  
12 derived property was obtained; or

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

15 (i) to conceal or disguise the nature, the  
16 location, the source, the ownership or the control  
17 of the criminally derived property; or

18 (ii) to avoid a transaction reporting  
19 requirement under State law; or

20 (2) when, with the intent to:

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

23 (B) conceal or disguise the nature, location,  
24 source, ownership, or control of property believed to  
25 be the proceeds of a specified criminal activity as  
26 defined by subdivision (b) (6); or

1           (C) avoid a transaction reporting requirement  
2           under State law,  
3           he or she conducts or attempts to conduct a financial  
4           transaction involving property he or she believes to be the  
5           proceeds of specified criminal activity as defined by  
6           subdivision (b)(6) or property used to conduct or  
7           facilitate specified criminal activity as defined by  
8           subdivision (b)(6).

9           (b) As used in this Section:

10           (0.5) "Knowing that the property involved in a  
11           financial transaction represents the proceeds of some form  
12           of unlawful activity" means that the person knew the  
13           property involved in the transaction represented proceeds  
14           from some form, though not necessarily which form, of  
15           activity that constitutes a felony under State, federal, or  
16           foreign law.

17           (1) "Financial transaction" means a purchase, sale,  
18           loan, pledge, gift, transfer, delivery or other  
19           disposition utilizing criminally derived property, and  
20           with respect to financial institutions, includes a  
21           deposit, withdrawal, transfer between accounts, exchange  
22           of currency, loan, extension of credit, purchase or sale of  
23           any stock, bond, certificate of deposit or other monetary  
24           instrument, use of safe deposit box, or any other payment,  
25           transfer or delivery by, through, or to a financial  
26           institution. For purposes of clause (a)(2) of this Section,

1 the term "financial transaction" also means a transaction  
2 which without regard to whether the funds, monetary  
3 instruments, or real or personal property involved in the  
4 transaction are criminally derived, any transaction which  
5 in any way or degree: (1) involves the movement of funds by  
6 wire or any other means; (2) involves one or more monetary  
7 instruments; or (3) the transfer of title to any real or  
8 personal property. The receipt by an attorney of bona fide  
9 fees for the purpose of legal representation is not a  
10 financial transaction for purposes of this Section.

11 (2) "Financial institution" means any bank; saving and  
12 loan association; trust company; agency or branch of a  
13 foreign bank in the United States; currency exchange;  
14 credit union, mortgage banking institution; pawnbroker;  
15 loan or finance company; operator of a credit card system;  
16 issuer, redeemer or cashier of travelers checks, checks or  
17 money orders; dealer in precious metals, stones or jewels;  
18 broker or dealer in securities or commodities; investment  
19 banker; or investment company.

20 (3) "Monetary instrument" means United States coins  
21 and currency; coins and currency of a foreign country;  
22 travelers checks; personal checks, bank checks, and money  
23 orders; investment securities; bearer negotiable  
24 instruments; bearer investment securities; or bearer  
25 securities and certificates of stock in such form that  
26 title thereto passes upon delivery.

1           (4) "Criminally derived property" means: (A) any  
2 property, real or personal, constituting or derived from  
3 proceeds obtained, directly or indirectly, from activity  
4 that constitutes a felony under State, federal, or foreign  
5 law; or (B) any property represented to be property  
6 constituting or derived from proceeds obtained, directly  
7 or indirectly, from activity that constitutes a felony  
8 under State, federal, or foreign law.

9           (5) "Conduct" or "conducts" includes, in addition to  
10 its ordinary meaning, initiating, concluding, or  
11 participating in initiating or concluding a transaction.

12           (6) "Specified criminal activity" means any violation  
13 of Section 29D-15.1 (720 ILCS 5/29D-15.1) and any violation  
14 of Article 29D of this Code.

15           (7) "Director" means the Director of State Police or  
16 his or her designated agents.

17           (8) "Department" means the Department of State Police  
18 of the State of Illinois or its successor agency.

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

22 (c) Sentence.

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

25           (2) Laundering of criminally derived property of a  
26 value exceeding \$10,000 but not exceeding \$100,000 is a

1 Class 2 felony;

2 (3) Laundering of criminally derived property of a  
3 value exceeding \$100,000 but not exceeding \$500,000 is a  
4 Class 1 felony;

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

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

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

12 (A) Laundering of property of a value not exceeding  
13 \$10,000 is a Class 3 felony;

14 (B) Laundering of property of a value exceeding  
15 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

16 (C) Laundering of property of a value exceeding  
17 \$100,000 but not exceeding \$500,000 is a Class 1  
18 felony;

19 (D) Laundering of property of a value exceeding  
20 \$500,000 is a Class 1 non-probationable felony.

21 (d) Evidence. In a prosecution under this Article, either  
22 party may introduce the following evidence pertaining to the  
23 issue of whether the property or proceeds were known to be some  
24 form of criminally derived property or from some form of  
25 unlawful activity:

26 (1) A financial transaction was conducted or

1 structured or attempted in violation of the reporting  
2 requirements of any State or federal law; or

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

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

11 (4) A financial transaction was structured or  
12 attempted to be structured so as to falsely report the  
13 actual consideration or value of the transaction; or

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

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

26 (7) A person pays or receives substantially less than



1 face value for one or more monetary instruments; or

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

7 (e) Duty to enforce this Article.

8 (1) It is the duty of the Department of State Police,  
9 and its agents, officers, and investigators, to enforce all  
10 provisions of this Article, except those specifically  
11 delegated, and to cooperate with all agencies charged with  
12 the enforcement of the laws of the United States, or of any  
13 state, relating to money laundering. Only an agent,  
14 officer, or investigator designated by the Director may be  
15 authorized in accordance with this Section to serve seizure  
16 notices, warrants, subpoenas, and summonses under the  
17 authority of this State.

18 (2) Any agent, officer, investigator, or peace officer  
19 designated by the Director may: (A) make seizure of  
20 property pursuant to the provisions of this Article; and  
21 (B) perform such other law enforcement duties as the  
22 Director designates. It is the duty of all State's  
23 Attorneys to prosecute violations of this Article and  
24 institute legal proceedings as authorized under this  
25 Article.

26 (f) Protective orders.

1           (1) Upon application of the State, the court may enter  
2           a restraining order or injunction, require the execution of  
3           a satisfactory performance bond, or take any other action  
4           to preserve the availability of property described in  
5           subsection (h) for forfeiture under this Article:

6                   (A) upon the filing of an indictment, information,  
7                   or complaint charging a violation of this Article for  
8                   which forfeiture may be ordered under this Article and  
9                   alleging that the property with respect to which the  
10                  order is sought would be subject to forfeiture under  
11                  this Article; or

12                  (B) prior to the filing of such an indictment,  
13                  information, or complaint, if, after notice to persons  
14                  appearing to have an interest in the property and  
15                  opportunity for a hearing, the court determines that:

16                          (i) there is probable cause to believe that the  
17                          State will prevail on the issue of forfeiture and  
18                          that failure to enter the order will result in the  
19                          property being destroyed, removed from the  
20                          jurisdiction of the court, or otherwise made  
21                          unavailable for forfeiture; and

22                          (ii) the need to preserve the availability of  
23                          the property through the entry of the requested  
24                          order outweighs the hardship on any party against  
25                          whom the order is to be entered.

26                  Provided, however, that an order entered pursuant

1 to subparagraph (B) shall be effective for not more  
2 than 90 days, unless extended by the court for good  
3 cause shown or unless an indictment, information,  
4 complaint, or administrative notice has been filed.

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

22 (3) The court may receive and consider, at a hearing  
23 held pursuant to this subsection (f), evidence and  
24 information that would be inadmissible under the Illinois  
25 rules of evidence.

26 (4) Order to repatriate and deposit.

1           (A) In general. Pursuant to its authority to enter  
2           a pretrial restraining order under this Section, the  
3           court may order a defendant to repatriate any property  
4           that may be seized and forfeited and to deposit that  
5           property pending trial with the Illinois State Police  
6           or another law enforcement agency designated by the  
7           Illinois State Police.

8           (B) Failure to comply. Failure to comply with an  
9           order under this subsection (f) is punishable as a  
10          civil or criminal contempt of court.

11          (g) Warrant of seizure. The State may request the issuance  
12          of a warrant authorizing the seizure of property described in  
13          subsection (h) in the same manner as provided for a search  
14          warrant. If the court determines that there is probable cause  
15          to believe that the property to be seized would be subject to  
16          forfeiture, the court shall issue a warrant authorizing the  
17          seizure of such property.

18          (h) Forfeiture.

19               (1) The following are subject to forfeiture:

20               (A) any property, real or personal, constituting,  
21               derived from, or traceable to any proceeds the person  
22               obtained directly or indirectly, as a result of a  
23               violation of this Article;

24               (B) any of the person's property used, or intended  
25               to be used, in any manner or part, to commit, or to  
26               facilitate the commission of, a violation of this

1 Article;

2 (C) all conveyances, including aircraft, vehicles  
3 or vessels, which are used, or intended for use, to  
4 transport, or in any manner to facilitate the  
5 transportation, sale, receipt, possession, or  
6 concealment of property described in subparagraphs (A)  
7 and (B), but:

8 (i) no conveyance used by any person as a  
9 common carrier in the transaction of business as a  
10 common carrier is subject to forfeiture under this  
11 Section unless it appears that the owner or other  
12 person in charge of the conveyance is a consenting  
13 party or privy to a violation of this Article;

14 (ii) no conveyance is subject to forfeiture  
15 under this Section by reason of any act or omission  
16 which the owner proves to have been committed or  
17 omitted without his or her knowledge or consent;

18 (iii) a forfeiture of a conveyance encumbered  
19 by a bona fide security interest is subject to the  
20 interest of the secured party if he or she neither  
21 had knowledge of nor consented to the act or  
22 omission;

23 (D) all real property, including any right, title,  
24 and interest (including, but not limited to, any  
25 leasehold interest or the beneficial interest in a land  
26 trust) in the whole of any lot or tract of land and any

1           appurtenances or improvements, which is used or  
2           intended to be used, in any manner or part, to commit,  
3           or in any manner to facilitate the commission of, any  
4           violation of this Article or that is the proceeds of  
5           any violation or act that constitutes a violation of  
6           this Article.

7           (2) Property subject to forfeiture under this Article  
8           may be seized by the Director or any peace officer upon  
9           process or seizure warrant issued by any court having  
10          jurisdiction over the property. Seizure by the Director or  
11          any peace officer without process may be made:

12                 (A) if the seizure is incident to a seizure  
13                 warrant;

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

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

21                 (D) if there is probable cause to believe that the  
22                 property is subject to forfeiture under this Article  
23                 and the property is seized under circumstances in which  
24                 a warrantless seizure or arrest would be reasonable; or

25                 (E) in accordance with the Code of Criminal  
26                 Procedure of 1963.

1           (3) In the event of seizure pursuant to paragraph (2),  
2 forfeiture proceedings shall be instituted in accordance  
3 with subsections (i) through (r).

4           (4) Property taken or detained under this Section shall  
5 not be subject to replevin, but is deemed to be in the  
6 custody of the Director subject only to the order and  
7 judgments of the circuit court having jurisdiction over the  
8 forfeiture proceedings and the decisions of the State's  
9 Attorney under this Article. When property is seized under  
10 this Article, the seizing agency shall promptly conduct an  
11 inventory of the seized property and estimate the  
12 property's value and shall forward a copy of the inventory  
13 of seized property and the estimate of the property's value  
14 to the Director. Upon receiving notice of seizure, the  
15 Director may:

16                   (A) place the property under seal;

17                   (B) remove the property to a place designated by  
18 the Director;

19                   (C) keep the property in the possession of the  
20 seizing agency;

21                   (D) remove the property to a storage area for  
22 safekeeping or, if the property is a negotiable  
23 instrument or money and is not needed for evidentiary  
24 purposes, deposit it in an interest bearing account;

25                   (E) place the property under constructive seizure  
26 by posting notice of pending forfeiture on it, by

1 giving notice of pending forfeiture to its owners and  
2 interest holders, or by filing notice of pending  
3 forfeiture in any appropriate public record relating  
4 to the property; or

5 (F) provide for another agency or custodian,  
6 including an owner, secured party, or lienholder, to  
7 take custody of the property upon the terms and  
8 conditions set by the Director.

9 (5) When property is forfeited under this Article, the  
10 Director shall sell all such property unless such property  
11 is required by law to be destroyed or is harmful to the  
12 public, and shall distribute the proceeds of the sale,  
13 together with any moneys forfeited or seized, in accordance  
14 with paragraph (6). However, upon the application of the  
15 seizing agency or prosecutor who was responsible for the  
16 investigation, arrest or arrests and prosecution which  
17 lead to the forfeiture, the Director may return any item of  
18 forfeited property to the seizing agency or prosecutor for  
19 official use in the enforcement of laws, if the agency or  
20 prosecutor can demonstrate that the item requested would be  
21 useful to the agency or prosecutor in its enforcement  
22 efforts. When any real property returned to the seizing  
23 agency is sold by the agency or its unit of government, the  
24 proceeds of the sale shall be delivered to the Director and  
25 distributed in accordance with paragraph (6).

26 (6) All monies and the sale proceeds of all other



1 property forfeited and seized under this Article shall be  
2 distributed as follows:

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

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

1 for use in the enforcement of laws.

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

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

15 Moneys and the sale proceeds distributed to the  
16 Department of State Police under this Article shall be  
17 deposited in the Money Laundering Asset Recovery Fund  
18 created in the State treasury and shall be used by the  
19 Department of State Police for State law enforcement  
20 purposes.

21 (i) Notice to owner or interest holder.

22 (1) Whenever notice of pending forfeiture or service of  
23 an in rem complaint is required under the provisions of  
24 this Article, such notice or service shall be given as  
25 follows:

26 (A) If the owner's or interest holder's name and

1 current address are known, then by either personal  
2 service or mailing a copy of the notice by certified  
3 mail, return receipt requested, to that address. For  
4 purposes of notice under this Section, if a person has  
5 been arrested for the conduct giving rise to the  
6 forfeiture, then the address provided to the arresting  
7 agency at the time of arrest shall be deemed to be that  
8 person's known address. Provided, however, if an owner  
9 or interest holder's address changes prior to the  
10 effective date of the notice of pending forfeiture, the  
11 owner or interest holder shall promptly notify the  
12 seizing agency of the change in address or, if the  
13 owner or interest holder's address changes subsequent  
14 to the effective date of the notice of pending  
15 forfeiture, the owner or interest holder shall  
16 promptly notify the State's Attorney of the change in  
17 address; or

18 (B) If the property seized is a conveyance, to the  
19 address reflected in the office of the agency or  
20 official in which title or interest to the conveyance  
21 is required by law to be recorded, then by mailing a  
22 copy of the notice by certified mail, return receipt  
23 requested, to that address; or

24 (C) If the owner's or interest holder's address is  
25 not known, and is not on record as provided in  
26 paragraph (B), then by publication for 3 successive

1 weeks in a newspaper of general circulation in the  
2 county in which the seizure occurred.

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

6 (j) Notice to State's Attorney. The law enforcement agency  
7 seizing property for forfeiture under this Article shall,  
8 within 90 days after seizure, notify the State's Attorney for  
9 the county, either where an act or omission giving rise to the  
10 forfeiture occurred or where the property was seized, of the  
11 seizure of the property and the facts and circumstances giving  
12 rise to the seizure and shall provide the State's Attorney with  
13 the inventory of the property and its estimated value. When the  
14 property seized for forfeiture is a vehicle, the law  
15 enforcement agency seizing the property shall immediately  
16 notify the Secretary of State that forfeiture proceedings are  
17 pending regarding such vehicle.

18 (k) Non-judicial forfeiture. If non-real property that  
19 exceeds \$20,000 in value excluding the value of any conveyance,  
20 or if real property is seized under the provisions of this  
21 Article, the State's Attorney shall institute judicial in rem  
22 forfeiture proceedings as described in subsection (l) of this  
23 Section within 45 days from receipt of notice of seizure from  
24 the seizing agency under subsection (j) of this Section.  
25 However, if non-real property that does not exceed \$20,000 in  
26 value excluding the value of any conveyance is seized, the

1 following procedure shall be used:

2 (1) If, after review of the facts surrounding the  
3 seizure, the State's Attorney is of the opinion that the  
4 seized property is subject to forfeiture, then within 45  
5 days after the receipt of notice of seizure from the  
6 seizing agency, the State's Attorney shall cause notice of  
7 pending forfeiture to be given to the owner of the property  
8 and all known interest holders of the property in  
9 accordance with subsection (i) of this Section.

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

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

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

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

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

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

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

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

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

14           (viii) the relief sought.

15           (B) If a claimant files the claim and deposits with the  
16 State's Attorney a cost bond, in the form of a cashier's  
17 check payable to the clerk of the court, in the sum of 10%  
18 of the reasonable value of the property as alleged by the  
19 State's Attorney or the sum of \$100, whichever is greater,  
20 upon condition that, in the case of forfeiture, the  
21 claimant must pay all costs and expenses of forfeiture  
22 proceedings, then the State's Attorney shall institute  
23 judicial in rem forfeiture proceedings and deposit the cost  
24 bond with the clerk of the court as described in subsection  
25 (1) of this Section within 45 days after receipt of the  
26 claim and cost bond. In lieu of a cost bond, a person

1 claiming interest in the seized property may file, under  
2 penalty of perjury, an indigency affidavit which has been  
3 approved by a circuit court judge.

4 (C) If none of the seized property is forfeited in the  
5 judicial in rem proceeding, the clerk of the court shall  
6 return to the claimant, unless the court orders otherwise,  
7 90% of the sum which has been deposited and shall retain as  
8 costs 10% of the money deposited. If any of the seized  
9 property is forfeited under the judicial forfeiture  
10 proceeding, the clerk of the court shall transfer 90% of  
11 the sum which has been deposited to the State's Attorney  
12 prosecuting the civil forfeiture to be applied to the costs  
13 of prosecution and the clerk shall retain as costs 10% of  
14 the sum deposited.

15 (4) If no claim is filed or bond given within the 45  
16 day period as described in paragraph (3) of this subsection  
17 (k), the State's Attorney shall declare the property  
18 forfeited and shall promptly notify the owner and all known  
19 interest holders of the property and the Director of State  
20 Police of the declaration of forfeiture and the Director  
21 shall dispose of the property in accordance with law.

22 (l) Judicial in rem procedures. If property seized under  
23 the provisions of this Article is non-real property that  
24 exceeds \$20,000 in value excluding the value of any conveyance,  
25 or is real property, or a claimant has filed a claim and a cost  
26 bond under paragraph (3) of subsection (k) of this Section, the

1 following judicial in rem procedures shall apply:

2 (1) If, after a review of the facts surrounding the  
3 seizure, the State's Attorney is of the opinion that the  
4 seized property is subject to forfeiture, then within 45  
5 days of the receipt of notice of seizure by the seizing  
6 agency or the filing of the claim and cost bond, whichever  
7 is later, the State's Attorney shall institute judicial  
8 forfeiture proceedings by filing a verified complaint for  
9 forfeiture and, if the claimant has filed a claim and cost  
10 bond, by depositing the cost bond with the clerk of the  
11 court. When authorized by law, a forfeiture must be ordered  
12 by a court on an action in rem brought by a State's  
13 Attorney under a verified complaint for forfeiture.

14 (2) During the probable cause portion of the judicial  
15 in rem proceeding wherein the State presents its  
16 case-in-chief, the court must receive and consider, among  
17 other things, all relevant hearsay evidence and  
18 information. The laws of evidence relating to civil actions  
19 apply to all other portions of the judicial in rem  
20 proceeding.

21 (3) Only an owner of or interest holder in the property  
22 may file an answer asserting a claim against the property  
23 in the action in rem. For purposes of this Section, the  
24 owner or interest holder shall be referred to as claimant.  
25 Upon motion of the State, the court shall first hold a  
26 hearing, wherein any claimant must establish by a



1           preponderance of the evidence, that he or she has a lawful,  
2           legitimate ownership interest in the property and that it  
3           was obtained through a lawful source.

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

6                   (A) the caption of the proceedings as set forth on  
7                   the notice of pending forfeiture and the name of the  
8                   claimant;

9                   (B) the address at which the claimant will accept  
10                  mail;

11                  (C) the nature and extent of the claimant's  
12                  interest in the property;

13                  (D) the date, identity of transferor, and  
14                  circumstances of the claimant's acquisition of the  
15                  interest in the property;

16                  (E) the name and address of all other persons known  
17                  to have an interest in the property;

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

20                  (G) the precise relief sought.

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

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

25           (7) The State shall show the existence of probable  
26           cause for forfeiture of the property. If the State shows

1           probable cause, the claimant has the burden of showing by a  
2           preponderance of the evidence that the claimant's interest  
3           in the property is not subject to forfeiture.

4           (8) If the State does not show existence of probable  
5           cause, the court shall order the interest in the property  
6           returned or conveyed to the claimant and shall order all  
7           other property forfeited to the State. If the State does  
8           show existence of probable cause, the court shall order all  
9           property forfeited to the State.

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

16          (10) An acquittal or dismissal in a criminal proceeding  
17          does not preclude civil proceedings under this Article;  
18          however, for good cause shown, on a motion by the State's  
19          Attorney, the court may stay civil forfeiture proceedings  
20          during the criminal trial for a related criminal indictment  
21          or information alleging a money laundering violation. Such  
22          a stay shall not be available pending an appeal. Property  
23          subject to forfeiture under this Article shall not be  
24          subject to return or release by a court exercising  
25          jurisdiction over a criminal case involving the seizure of  
26          such property unless such return or release is consented to

1 by the State's Attorney.

2 (11) All property declared forfeited under this  
3 Article vests in this State on the commission of the  
4 conduct giving rise to forfeiture together with the  
5 proceeds of the property after that time. Any such property  
6 or proceeds subsequently transferred to any person remain  
7 subject to forfeiture and thereafter shall be ordered  
8 forfeited.

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

17 (m) Stay of time periods. If property is seized for  
18 evidence and for forfeiture, the time periods for instituting  
19 judicial and non-judicial forfeiture proceedings shall not  
20 begin until the property is no longer necessary for evidence.

21 (n) Settlement of claims. Notwithstanding other provisions  
22 of this Article, the State's Attorney and a claimant of seized  
23 property may enter into an agreed-upon settlement concerning  
24 the seized property in such an amount and upon such terms as  
25 are set out in writing in a settlement agreement.

26 (o) Property constituting attorney fees. Nothing in this

1 Article applies to property which constitutes reasonable bona  
2 fide attorney's fees paid to an attorney for services rendered  
3 or to be rendered in the forfeiture proceeding or criminal  
4 proceeding relating directly thereto where such property was  
5 paid before its seizure, before the issuance of any seizure  
6 warrant or court order prohibiting transfer of the property and  
7 where the attorney, at the time he or she received the property  
8 did not know that it was property subject to forfeiture under  
9 this Article.

10 (p) Construction. It is the intent of the General Assembly  
11 that the forfeiture provisions of this Article be liberally  
12 construed so as to effect their remedial purpose. The  
13 forfeiture of property and other remedies hereunder shall be  
14 considered to be in addition to, and not exclusive of, any  
15 sentence or other remedy provided by law.

16 (q) Judicial review. If property has been declared  
17 forfeited under subsection (k) of this Section, any person who  
18 has an interest in the property declared forfeited may, within  
19 30 days after the effective date of the notice of the  
20 declaration of forfeiture, file a claim and cost bond as  
21 described in paragraph (3) of subsection (k) of this Section.  
22 If a claim and cost bond is filed under this Section, then the  
23 procedures described in subsection (l) of this Section apply.

24 (r) Burden of proof of exemption or exception. It is not  
25 necessary for the State to negate any exemption or exception in  
26 this Article in any complaint, information, indictment or other

1 pleading or in any trial, hearing, or other proceeding under  
2 this Article. The burden of proof of any exemption or exception  
3 is upon the person claiming it.

4 (s) Review of administrative decisions. All administrative  
5 findings, rulings, final determinations, findings, and  
6 conclusions of the State's Attorney's Office under this Article  
7 are final and conclusive decisions of the matters involved. Any  
8 person aggrieved by the decision may obtain review of the  
9 decision pursuant to the provisions of the Administrative  
10 Review Law and the rules adopted pursuant to that Law. Pending  
11 final decision on such review, the administrative acts, orders,  
12 and rulings of the State's Attorney's Office remain in full  
13 force and effect unless modified or suspended by order of court  
14 pending final judicial decision. Pending final decision on such  
15 review, the acts, orders, and rulings of the State's Attorney's  
16 Office remain in full force and effect, unless stayed by order  
17 of court. However, no stay of any decision of the  
18 administrative agency shall issue unless the person aggrieved  
19 by the decision establishes by a preponderance of the evidence  
20 that good cause exists for the stay. In determining good cause,  
21 the court shall find that the aggrieved party has established a  
22 substantial likelihood of prevailing on the merits and that  
23 granting the stay will not have an injurious effect on the  
24 general public.

25 (Source: P.A. 96-275, eff. 8-11-09; 96-710, eff. 1-1-10;  
26 revised 10-9-09.)

1 Section 20. The Unified Code of Corrections is amended by  
2 changing Sections 5-9-1.1 and 5-9-1.1-5 as follows:

3 (730 ILCS 5/5-9-1.1) (from Ch. 38, par. 1005-9-1.1)  
4 (Text of Section from P.A. 94-550, 96-132, and 96-402)  
5 Sec. 5-9-1.1. Drug related offenses.

6 (a) When a person has been adjudged guilty of a drug  
7 related offense involving possession or delivery of cannabis or  
8 possession or delivery of a controlled substance, other than  
9 methamphetamine, as defined in the Cannabis Control Act, as  
10 amended, or the Illinois Controlled Substances Act, as amended,  
11 in addition to any other penalty imposed, a fine shall be  
12 levied by the court at not less than the full street value of  
13 the cannabis or controlled substances seized.

14 "Street value" shall be determined by the court on the  
15 basis of testimony of law enforcement personnel and the  
16 defendant as to the amount seized and such testimony as may be  
17 required by the court as to the current street value of the  
18 cannabis or controlled substance seized.

19 (b) In addition to any penalty imposed under subsection (a)  
20 of this Section, a fine of \$100 shall be levied by the court,  
21 the proceeds of which shall be collected by the Circuit Clerk  
22 and remitted to the State Treasurer under Section 27.6 of the  
23 Clerks of Courts Act for deposit into the Trauma Center Fund  
24 for distribution as provided under Section 3.225 of the

1 Emergency Medical Services (EMS) Systems Act.

2 (c) In addition to any penalty imposed under subsection (a)  
3 of this Section, a fee of \$5 shall be assessed by the court,  
4 the proceeds of which shall be collected by the Circuit Clerk  
5 and remitted to the State Treasurer under Section 27.6 of the  
6 Clerks of Courts Act for deposit into the Spinal Cord Injury  
7 Paralysis Cure Research Trust Fund. This additional fee of \$5  
8 shall not be considered a part of the fine for purposes of any  
9 reduction in the fine for time served either before or after  
10 sentencing.

11 (d) In addition to any penalty imposed under subsection (a)  
12 of this Section for a drug related offense involving possession  
13 or delivery of cannabis or possession or delivery of a  
14 controlled substance as defined in the Cannabis Control Act,  
15 the Illinois Controlled Substances Act, or the Methamphetamine  
16 Control and Community Protection Act, a fee of \$50 shall be  
17 assessed by the court, the proceeds of which shall be collected  
18 by the Circuit Clerk and remitted to the State Treasurer under  
19 Section 27.6 of the Clerks of Courts Act for deposit into the  
20 Performance-enhancing Substance Testing Fund. This additional  
21 fee of \$50 shall not be considered a part of the fine for  
22 purposes of any reduction in the fine for time served either  
23 before or after sentencing. The provisions of this subsection  
24 (d), other than this sentence, are inoperative after June 30,  
25 2011.

26 (e)~~(d)~~ In addition to any penalty imposed under subsection

1 (a) of this Section, a \$25 assessment shall be assessed by the  
2 court, the proceeds of which shall be collected by the Circuit  
3 Clerk and remitted to the State Treasurer for deposit into the  
4 Drug Traffic Prevention Fund. The moneys deposited into the  
5 Drug Traffic Prevention Fund pursuant to this Section shall be  
6 appropriated to and administered ~~State Police Services Fund and~~  
7 ~~shall be used for grants~~ by the Department of State Police for  
8 funding of ~~to~~ drug task forces and Metropolitan Enforcement  
9 Groups in accordance with the Intergovernmental Drug Laws  
10 Enforcement Act.

11 (Source: P.A. 94-550, eff. 1-1-06; 96-132, eff. 8-7-09; 96-402,  
12 eff. 1-1-10, revised 10-6-09.)

13 (Text of Section from P.A. 94-556, 96-132, and 96-402)

14 Sec. 5-9-1.1. Drug related offenses.

15 (a) When a person has been adjudged guilty of a drug  
16 related offense involving possession or delivery of cannabis or  
17 possession or delivery of a controlled substance as defined in  
18 the Cannabis Control Act, the Illinois Controlled Substances  
19 Act, or the Methamphetamine Control and Community Protection  
20 Act, in addition to any other penalty imposed, a fine shall be  
21 levied by the court at not less than the full street value of  
22 the cannabis or controlled substances seized.

23 "Street value" shall be determined by the court on the  
24 basis of testimony of law enforcement personnel and the  
25 defendant as to the amount seized and such testimony as may be



1 required by the court as to the current street value of the  
2 cannabis or controlled substance seized.

3 (b) In addition to any penalty imposed under subsection (a)  
4 of this Section, a fine of \$100 shall be levied by the court,  
5 the proceeds of which shall be collected by the Circuit Clerk  
6 and remitted to the State Treasurer under Section 27.6 of the  
7 Clerks of Courts Act for deposit into the Trauma Center Fund  
8 for distribution as provided under Section 3.225 of the  
9 Emergency Medical Services (EMS) Systems Act.

10 (c) In addition to any penalty imposed under subsection (a)  
11 of this Section, a fee of \$5 shall be assessed by the court,  
12 the proceeds of which shall be collected by the Circuit Clerk  
13 and remitted to the State Treasurer under Section 27.6 of the  
14 Clerks of Courts Act for deposit into the Spinal Cord Injury  
15 Paralysis Cure Research Trust Fund. This additional fee of \$5  
16 shall not be considered a part of the fine for purposes of any  
17 reduction in the fine for time served either before or after  
18 sentencing.

19 (d) In addition to any penalty imposed under subsection (a)  
20 of this Section for a drug related offense involving possession  
21 or delivery of cannabis or possession or delivery of a  
22 controlled substance as defined in the Cannabis Control Act,  
23 the Illinois Controlled Substances Act, or the Methamphetamine  
24 Control and Community Protection Act, a fee of \$50 shall be  
25 assessed by the court, the proceeds of which shall be collected  
26 by the Circuit Clerk and remitted to the State Treasurer under

1 Section 27.6 of the Clerks of Courts Act for deposit into the  
2 Performance-enhancing Substance Testing Fund. This additional  
3 fee of \$50 shall not be considered a part of the fine for  
4 purposes of any reduction in the fine for time served either  
5 before or after sentencing. The provisions of this subsection  
6 (d), other than this sentence, are inoperative after June 30,  
7 2011.

8 ~~(e)-(d)~~ In addition to any penalty imposed under subsection  
9 (a) of this Section, a \$25 assessment shall be assessed by the  
10 court, the proceeds of which shall be collected by the Circuit  
11 Clerk and remitted to the State Treasurer for deposit into the  
12 Drug Traffic Prevention Fund. The moneys deposited into the  
13 Drug Traffic Prevention Fund pursuant to this Section shall be  
14 appropriated to and administered ~~State Police Services Fund and~~  
15 ~~shall be used for grants~~ by the Department of State Police for  
16 funding of ~~to~~ drug task forces and Metropolitan Enforcement  
17 Groups in accordance with the Intergovernmental Drug Laws  
18 Enforcement Act.

19 (Source: P.A. 94-556, eff. 9-11-05; 96-132, eff. 8-7-09;  
20 96-402, eff. 1-1-10, revised 10-6-09.)

21 (730 ILCS 5/5-9-1.1-5)

22 Sec. 5-9-1.1-5. Methamphetamine related offenses.

23 (a) When a person has been adjudged guilty of a  
24 methamphetamine related offense involving possession or  
25 delivery of methamphetamine or any salt of an optical isomer of

1 methamphetamine or possession of a methamphetamine  
2 manufacturing material as set forth in Section 10 of the  
3 Methamphetamine Control and Community Protection Act with the  
4 intent to manufacture a substance containing methamphetamine  
5 or salt of an optical isomer of methamphetamine, in addition to  
6 any other penalty imposed, a fine shall be levied by the court  
7 at not less than the full street value of the methamphetamine  
8 or salt of an optical isomer of methamphetamine or  
9 methamphetamine manufacturing materials seized.

10 "Street value" shall be determined by the court on the  
11 basis of testimony of law enforcement personnel and the  
12 defendant as to the amount seized and such testimony as may be  
13 required by the court as to the current street value of the  
14 methamphetamine or salt of an optical isomer of methamphetamine  
15 or methamphetamine manufacturing materials seized.

16 (b) In addition to any penalty imposed under subsection (a)  
17 of this Section, a fine of \$100 shall be levied by the court,  
18 the proceeds of which shall be collected by the Circuit Clerk  
19 and remitted to the State Treasurer under Section 27.6 of the  
20 Clerks of Courts Act for deposit into the Methamphetamine Law  
21 Enforcement Fund and allocated as provided in subsection (d) of  
22 Section 5-9-1.2.

23 (c) In addition to any penalty imposed under subsection (a)  
24 of this Section, a \$25 assessment shall be assessed by the  
25 court, the proceeds of which shall be collected by the Circuit  
26 Clerk and remitted to the State Treasurer for deposit into the

1 Drug Traffic Prevention Fund. The moneys deposited into the  
2 Drug Traffic Prevention Fund pursuant to this Section shall be  
3 appropriated to and administered ~~State Police Services Fund and~~  
4 ~~shall be used for grants~~ by the Department of State Police for  
5 funding of ~~to~~ drug task forces and Metropolitan Enforcement  
6 Groups in accordance with the Intergovernmental Drug Laws  
7 Enforcement Act.

8 (Source: P.A. 96-200, eff. 8-10-09; 96-402, eff. 1-1-10;  
9 revised 9-25-09.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.