

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 Cannabis Control Act is amended by changing
5 Section 12 as follows:

6 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

7 Sec. 12. (a) The following are subject to forfeiture:

8 (1) all substances containing cannabis which have been
9 produced, manufactured, delivered, or possessed in
10 violation of this Act;

11 (2) all raw materials, products and equipment of any
12 kind which are produced, delivered, or possessed in
13 connection with any substance containing cannabis in
14 violation of this Act;

15 (3) all conveyances, including aircraft, vehicles or
16 vessels, which are used, or intended for use, to transport,
17 or in any manner to facilitate the transportation, sale,
18 receipt, possession, or concealment of property described
19 in paragraph (1) or (2) that constitutes a felony violation
20 of the Act, but:

21 (i) no conveyance used by any person as a common
22 carrier in the transaction of business as a common
23 carrier is subject to forfeiture under this Section

1 unless it appears that the owner or other person in
2 charge of the conveyance is a consenting party or privy
3 to a violation of this Act;

4 (ii) no conveyance is subject to forfeiture under
5 this Section by reason of any act or omission which the
6 owner proves to have been committed or omitted without
7 his knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered by a
9 bona fide security interest is subject to the interest
10 of the secured party if he neither had knowledge of nor
11 consented to the act or omission;

12 (4) all money, things of value, books, records, and
13 research products and materials including formulas,
14 microfilm, tapes, and data which are used, or intended for
15 use in a felony violation of this Act;

16 (5) everything of value furnished or intended to be
17 furnished by any person in exchange for a substance in
18 violation of this Act, all proceeds traceable to such an
19 exchange, and all moneys, negotiable instruments, and
20 securities used, or intended to be used, to commit or in
21 any manner to facilitate any felony violation of this Act;

22 (6) all real property, including any right, title, and
23 interest including, but not limited to, any leasehold
24 interest or the beneficial interest to a land trust, in the
25 whole of any lot or tract of land and any appurtenances or
26 improvements, that is used or intended to be used to

1 facilitate the manufacture, distribution, sale, receipt,
2 or concealment of property described in paragraph (1) or
3 (2) of this subsection (a) that constitutes a felony
4 violation of more than 2,000 grams of a substance
5 containing cannabis or that is the proceeds of any felony
6 violation of this Act.

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

12 (1) if the property subject to seizure has been the
13 subject of a prior judgment in favor of the State in a
14 criminal proceeding or in an injunction or forfeiture
15 proceeding based upon this Act or the Drug Asset Forfeiture
16 Procedure Act;

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

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

24 (4) in accordance with the Code of Criminal Procedure
25 of 1963.

26 (c) In the event of seizure pursuant to subsection (b),

1 notice shall be given forthwith to all known interest holders
2 that forfeiture proceedings, including a preliminary review,
3 shall be instituted in accordance with the Drug Asset
4 Forfeiture Procedure Act and such proceedings shall thereafter
5 be instituted in accordance with that Act. Upon a showing of
6 good cause, the notice required for a preliminary review under
7 this Section may be postponed.

8 (c-1) In the event the State's Attorney is of the opinion
9 that real property is subject to forfeiture under this Act,
10 forfeiture proceedings shall be instituted in accordance with
11 the Drug Asset Forfeiture Procedure Act. The exemptions from
12 forfeiture provisions of Section 8 of the Drug Asset Forfeiture
13 Procedure Act are applicable.

14 (d) Property taken or detained under this Section shall not
15 be subject to replevin, but is deemed to be in the custody of
16 the Director subject only to the order and judgments of the
17 circuit court having jurisdiction over the forfeiture
18 proceedings and the decisions of the State's Attorney under the
19 Drug Asset Forfeiture Procedure Act. When property is seized
20 under this Act, the seizing agency shall promptly conduct an
21 inventory of the seized property, estimate the property's
22 value, and shall forward a copy of the inventory of seized
23 property and the estimate of the property's value to the
24 Director. Upon receiving notice of seizure, the Director may:

25 (1) place the property under seal;

26 (2) remove the property to a place designated by him;

1 (3) keep the property in the possession of the seizing
2 agency;

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

7 (5) place the property under constructive seizure by
8 posting notice of pending forfeiture on it, by giving
9 notice of pending forfeiture to its owners and interest
10 holders, or by filing notice of pending forfeiture in any
11 appropriate public record relating to the property; or

12 (6) provide for another agency or custodian, including
13 an owner, secured party, or lienholder, to take custody of
14 the property upon the terms and conditions set by the
15 Director.

16 (e) No disposition may be made of property under seal until
17 the time for taking an appeal has elapsed or until all appeals
18 have been concluded unless a court, upon application therefor,
19 orders the sale of perishable substances and the deposit of the
20 proceeds of the sale with the court.

21 (f) When property is forfeited under this Act the Director
22 shall sell all such property unless such property is required
23 by law to be destroyed or is harmful to the public, and shall
24 distribute the proceeds of the sale, together with any moneys
25 forfeited or seized, in accordance with subsection (g).
26 However, upon the application of the seizing agency or

1 prosecutor who was responsible for the investigation, arrest or
2 arrests and prosecution which lead to the forfeiture, the
3 Director may return any item of forfeited property to the
4 seizing agency or prosecutor for official use in the
5 enforcement of laws relating to cannabis or controlled
6 substances, if the agency or prosecutor can demonstrate that
7 the item requested would be useful to the agency or prosecutor
8 in their enforcement efforts. When any forfeited conveyance,
9 including an aircraft, vehicle, or vessel, is returned to the
10 seizing agency or prosecutor, the conveyance may be used
11 immediately in the enforcement of the criminal laws of this
12 State. Upon disposal, all proceeds from the sale of the
13 conveyance must be used for drug enforcement purposes. When any
14 real property returned to the seizing agency is sold by the
15 agency or its unit of government, the proceeds of the sale
16 shall be delivered to the Director and distributed in
17 accordance with subsection (g).

18 (g) All monies and the sale proceeds of all other property
19 forfeited and seized under this Act shall be distributed as
20 follows:

21 (1) (i) 65% shall be distributed to the metropolitan
22 enforcement group, local, municipal, county, or state law
23 enforcement agency or agencies which conducted or
24 participated in the investigation resulting in the
25 forfeiture. The distribution shall bear a reasonable
26 relationship to the degree of direct participation of the

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

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

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

24 (II) the intergovernmental agreement for police
25 services provides for consideration in an amount of not
26 less than \$1,000,000 per year;

1 (III) the seizure took place within the
2 geographical limits of the municipality; and

3 (IV) the funds are used only for the enforcement of
4 laws governing cannabis and controlled substances; for
5 public education in the community or schools in the
6 prevention or detection of the abuse of drugs or
7 alcohol; or for security cameras used for the
8 prevention or detection of violence or the
9 establishment of a municipal police force, including
10 the training of officers, construction of a police
11 station, the purchase of law enforcement equipment, or
12 vehicles.

13 (2) (i) 12.5% shall be distributed to the Office of the
14 State's Attorney of the county in which the prosecution
15 resulting in the forfeiture was instituted, deposited in a
16 special fund in the county treasury and appropriated to 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. In
24 counties over 3,000,000 population, 25% will be
25 distributed to the Office of the State's Attorney for use
26 in the enforcement of laws governing cannabis and

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

11 (ii) 12.5% shall be distributed to the Office of the
12 State's Attorneys Appellate Prosecutor and deposited in
13 the Narcotics Profit Forfeiture Fund of that Office to be
14 used for additional expenses incurred in the
15 investigation, prosecution and appeal of cases arising
16 under laws governing cannabis and controlled substances or
17 for public education in the community or schools in the
18 prevention or detection of the abuse of drugs or alcohol.

19 The Office of the State's Attorneys Appellate Prosecutor
20 shall not receive distribution from cases brought in
21 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 seized and forfeited property.

25 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; 97-813,
26 eff. 7-13-12; 97-985, eff. 1-1-13.)

1 Section 10. The Illinois Controlled Substances Act is
2 amended by changing Section 505 as follows:

3 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

4 Sec. 505. (a) The following are subject to forfeiture:

5 (1) all substances which have been manufactured,
6 distributed, dispensed, or possessed in violation of this
7 Act;

8 (2) all raw materials, products and equipment of any
9 kind which are used, or intended for use in manufacturing,
10 distributing, dispensing, administering or possessing any
11 substance in violation of this Act;

12 (3) all conveyances, including aircraft, vehicles or
13 vessels, which are used, or intended for use, to transport,
14 or in any manner to facilitate the transportation, sale,
15 receipt, possession, or concealment of property described
16 in paragraphs (1) and (2), but:

17 (i) no conveyance used by any person as a common
18 carrier in the transaction of business as a common
19 carrier is subject to forfeiture under this Section
20 unless it appears that the owner or other person in
21 charge of the conveyance is a consenting party or privy
22 to a violation of this Act;

23 (ii) no conveyance is subject to forfeiture under
24 this Section by reason of any act or omission which the

1 owner proves to have been committed or omitted without
2 his or her knowledge or consent;

3 (iii) a forfeiture of a conveyance encumbered by a
4 bona fide security interest is subject to the interest
5 of the secured party if he or she neither had knowledge
6 of nor consented to the act or omission;

7 (4) all money, things of value, books, records, and
8 research products and materials including formulas,
9 microfilm, tapes, and data which are used, or intended to
10 be used in violation of this Act;

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

17 (6) all real property, including any right, title, and
18 interest (including, but not limited to, any leasehold
19 interest or the beneficial interest in a land trust) in the
20 whole of any lot or tract of land and any appurtenances or
21 improvements, which is used or intended to be used, in any
22 manner or part, to commit, or in any manner to facilitate
23 the commission of, any violation or act that constitutes a
24 violation of Section 401 or 405 of this Act or that is the
25 proceeds of any violation or act that constitutes a
26 violation of Section 401 or 405 of this Act.

1 (b) Property subject to forfeiture under this Act may be
2 seized by the Director or any peace officer upon process or
3 seizure warrant issued by any court having jurisdiction over
4 the property. Seizure by the Director or any peace officer
5 without process may be made:

6 (1) if the seizure is incident to inspection under an
7 administrative inspection warrant;

8 (2) if the property subject to seizure has been the
9 subject of a prior judgment in favor of the State in a
10 criminal proceeding, or in an injunction or forfeiture
11 proceeding based upon this Act or the Drug Asset Forfeiture
12 Procedure Act;

13 (3) if there is probable cause to believe that the
14 property is directly or indirectly dangerous to health or
15 safety;

16 (4) if there is probable cause to believe that the
17 property is subject to forfeiture under this Act and the
18 property is seized under circumstances in which a
19 warrantless seizure or arrest would be reasonable; or

20 (5) in accordance with the Code of Criminal Procedure
21 of 1963.

22 (c) In the event of seizure pursuant to subsection (b),
23 notice shall be given forthwith to all known interest holders
24 that forfeiture proceedings, including a preliminary review,
25 shall be instituted in accordance with the Drug Asset
26 Forfeiture Procedure Act and such proceedings shall thereafter

1 be instituted in accordance with that Act. Upon a showing of
2 good cause, the notice required for a preliminary review under
3 this Section may be postponed.

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

- 15 (1) place the property under seal;
- 16 (2) remove the property to a place designated by the
17 Director;
- 18 (3) keep the property in the possession of the seizing
19 agency;
- 20 (4) remove the property to a storage area for
21 safekeeping or, if the property is a negotiable instrument
22 or money and is not needed for evidentiary purposes,
23 deposit it in an interest bearing account;
- 24 (5) place the property under constructive seizure by
25 posting notice of pending forfeiture on it, by giving
26 notice of pending forfeiture to its owners and interest

1 holders, or by filing notice of pending forfeiture in any
2 appropriate public record relating to the property; or

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

7 (e) If the Department of Financial and Professional
8 Regulation suspends or revokes a registration, all controlled
9 substances owned or possessed by the registrant at the time of
10 suspension or the effective date of the revocation order may be
11 placed under seal by the Director. No disposition may be made
12 of substances under seal until the time for taking an appeal
13 has elapsed or until all appeals have been concluded unless a
14 court, upon application therefor, orders the sale of perishable
15 substances and the deposit of the proceeds of the sale with the
16 court. Upon a suspension or revocation order becoming final,
17 all substances may be forfeited to the Illinois State Police.

18 (f) When property is forfeited under this Act the Director
19 shall sell all such property unless such property is required
20 by law to be destroyed or is harmful to the public, and shall
21 distribute the proceeds of the sale, together with any moneys
22 forfeited or seized, in accordance with subsection (g).
23 However, upon the application of the seizing agency or
24 prosecutor who was responsible for the investigation, arrest or
25 arrests and prosecution which lead to the forfeiture, the
26 Director may return any item of forfeited property to the

1 seizing agency or prosecutor for official use in the
2 enforcement of laws relating to cannabis or controlled
3 substances, if the agency or prosecutor can demonstrate that
4 the item requested would be useful to the agency or prosecutor
5 in their enforcement efforts. When any forfeited conveyance,
6 including an aircraft, vehicle, or vessel, is returned to the
7 seizing agency or prosecutor, the conveyance may be used
8 immediately in the enforcement of the criminal laws of this
9 State. Upon disposal, all proceeds from the sale of the
10 conveyance must be used for drug enforcement purposes. When any
11 real property returned to the seizing agency is sold by the
12 agency or its unit of government, the proceeds of the sale
13 shall be delivered to the Director and distributed in
14 accordance with subsection (g).

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

18 (1)(i) 65% shall be distributed to the metropolitan
19 enforcement group, local, municipal, county, or state law
20 enforcement agency or agencies which conducted or
21 participated in the investigation resulting in the
22 forfeiture. The distribution shall bear a reasonable
23 relationship to the degree of direct participation of the
24 law enforcement agency in the effort resulting in the
25 forfeiture, taking into account the total value of the
26 property forfeited and the total law enforcement effort

1 with respect to the violation of the law upon which the
2 forfeiture is based. Amounts distributed to the agency or
3 agencies shall be used for the enforcement of laws
4 governing cannabis and controlled substances; for public
5 education in the community or schools in the prevention or
6 detection of the abuse of drugs or alcohol; or for security
7 cameras used for the prevention or detection of violence,
8 except that amounts distributed to the Secretary of State
9 shall be deposited into the Secretary of State Evidence
10 Fund to be used as provided in Section 2-115 of the
11 Illinois Vehicle Code.

12 (ii) Any local, municipal, or county law enforcement
13 agency entitled to receive a monetary distribution of
14 forfeiture proceeds may share those forfeiture proceeds
15 pursuant to the terms of an intergovernmental agreement
16 with a municipality that has a population in excess of
17 20,000 if:

18 (I) the receiving agency has entered into an
19 intergovernmental agreement with the municipality to
20 provide police services;

21 (II) the intergovernmental agreement for police
22 services provides for consideration in an amount of not
23 less than \$1,000,000 per year;

24 (III) the seizure took place within the
25 geographical limits of the municipality; and

26 (IV) the funds are used only for the enforcement of

1 laws governing cannabis and controlled substances; for
2 public education in the community or schools in the
3 prevention or detection of the abuse of drugs or
4 alcohol; or for security cameras used for the
5 prevention or detection of violence or the
6 establishment of a municipal police force, including
7 the training of officers, construction of a police
8 station, the purchase of law enforcement equipment, or
9 vehicles.

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

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

10 (ii) 12.5% shall be distributed to the Office of the
11 State's Attorneys Appellate Prosecutor and deposited in
12 the Narcotics Profit Forfeiture Fund of that office to be
13 used for additional expenses incurred in the
14 investigation, prosecution and appeal of cases arising
15 under laws governing cannabis and controlled substances or
16 for public education in the community or schools in the
17 prevention or detection of the abuse of drugs or alcohol.

18 The Office of the State's Attorneys Appellate Prosecutor
19 shall not receive distribution from cases brought in
20 counties with over 3,000,000 population.

21 (3) 10% shall be retained by the Department of State
22 Police for expenses related to the administration and sale
23 of seized and forfeited property.

24 (h) Species of plants from which controlled substances in
25 Schedules I and II may be derived which have been planted or
26 cultivated in violation of this Act, or of which the owners or

1 cultivators are unknown, or which are wild growths, may be
2 seized and summarily forfeited to the State. The failure, upon
3 demand by the Director or any peace officer, of the person in
4 occupancy or in control of land or premises upon which the
5 species of plants are growing or being stored, to produce
6 registration, or proof that he or she is the holder thereof,
7 constitutes authority for the seizure and forfeiture of the
8 plants.

9 (Source: P.A. 97-253, eff. 1-1-12; 97-334, eff. 1-1-12; 97-544,
10 eff. 1-1-12; 97-813, eff. 7-13-12; 97-985, eff. 1-1-13.)

11 Section 15. The Methamphetamine Control and Community
12 Protection Act is amended by changing Section 85 as follows:

13 (720 ILCS 646/85)

14 Sec. 85. Forfeiture.

15 (a) The following are subject to forfeiture:

16 (1) all substances containing methamphetamine which
17 have been produced, manufactured, delivered, or possessed
18 in violation of this Act;

19 (2) all methamphetamine manufacturing materials which
20 have been produced, delivered, or possessed in connection
21 with any substance containing methamphetamine in violation
22 of this Act;

23 (3) all conveyances, including aircraft, vehicles or
24 vessels, which are used, or intended for use, to transport,

1 or in any manner to facilitate the transportation, sale,
2 receipt, possession, or concealment of property described
3 in paragraph (1) or (2) that constitutes a felony violation
4 of the Act, but:

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

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

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

19 (4) all money, things of value, books, records, and
20 research products and materials including formulas,
21 microfilm, tapes, and data which are used, or intended for
22 use in a felony violation of this Act;

23 (5) everything of value furnished or intended to be
24 furnished by any person in exchange for a substance in
25 violation of this Act, all proceeds traceable to such an
26 exchange, and all moneys, negotiable instruments, and

1 securities used, or intended to be used, to commit or in
2 any manner to facilitate any felony violation of this Act.

3 (6) all real property, including any right, title, and
4 interest (including, but not limited to, any leasehold
5 interest or the beneficial interest in a land trust) in the
6 whole of any lot or tract of land and any appurtenances or
7 improvements, which is used, or intended to be used, in any
8 manner or part, to commit, or in any manner to facilitate
9 the commission of, any violation or act that constitutes a
10 violation of this Act or that is the proceeds of any
11 violation or act that constitutes a violation of this Act.

12 (b) Property subject to forfeiture under this Act may be
13 seized by the Director or any peace officer upon process or
14 seizure warrant issued by any court having jurisdiction over
15 the property. Seizure by the Director or any peace officer
16 without process may be made:

17 (1) if the property subject to seizure has been the
18 subject of a prior judgment in favor of the State in a
19 criminal proceeding or in an injunction or forfeiture
20 proceeding based upon this Act or the Drug Asset Forfeiture
21 Procedure Act;

22 (2) if there is probable cause to believe that the
23 property is directly or indirectly dangerous to health or
24 safety;

25 (3) if there is probable cause to believe that the
26 property is subject to forfeiture under this Act and the

1 property is seized under circumstances in which a
2 warrantless seizure or arrest would be reasonable; or

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

5 (c) In the event of seizure pursuant to subsection (b),
6 notice shall be given forthwith to all known interest holders
7 that forfeiture proceedings, including a preliminary review,
8 shall be instituted in accordance with the Drug Asset
9 Forfeiture Procedure Act and such proceedings shall thereafter
10 be instituted in accordance with that Act. Upon a showing of
11 good cause, the notice required for a preliminary review under
12 this Section may be postponed.

13 (d) Property taken or detained under this Section is not
14 subject to replevin, but is deemed to be in the custody of the
15 Director subject only to the order and judgments of the circuit
16 court having jurisdiction over the forfeiture proceedings and
17 the decisions of the State's Attorney under the Drug Asset
18 Forfeiture Procedure Act. When property is seized under this
19 Act, the seizing agency shall promptly conduct an inventory of
20 the seized property, estimate the property's value, and forward
21 a copy of the inventory of seized property and the estimate of
22 the property's value to the Director. Upon receiving notice of
23 seizure, the Director may:

24 (1) place the property under seal;

25 (2) remove the property to a place designated by him or
26 her;

1 (3) keep the property in the possession of the seizing
2 agency;

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

7 (5) place the property under constructive seizure by
8 posting notice of pending forfeiture on it, by giving
9 notice of pending forfeiture to its owners and interest
10 holders, or by filing notice of pending forfeiture in any
11 appropriate public record relating to the property; or

12 (6) provide for another agency or custodian, including
13 an owner, secured party, or lienholder, to take custody of
14 the property upon the terms and conditions set by the
15 Director.

16 (e) No disposition may be made of property under seal until
17 the time for taking an appeal has elapsed or until all appeals
18 have been concluded unless a court, upon application therefor,
19 orders the sale of perishable substances and the deposit of the
20 proceeds of the sale with the court.

21 (f) When property is forfeited under this Act, the Director
22 shall sell the property unless the property is required by law
23 to be destroyed or is harmful to the public, and shall
24 distribute the proceeds of the sale, together with any moneys
25 forfeited or seized, in accordance with subsection (g).
26 However, upon the application of the seizing agency or

1 prosecutor who was responsible for the investigation, arrest or
2 arrests and prosecution which lead to the forfeiture, the
3 Director may return any item of forfeited property to the
4 seizing agency or prosecutor for official use in the
5 enforcement of laws relating to methamphetamine, cannabis, or
6 controlled substances, if the agency or prosecutor
7 demonstrates that the item requested would be useful to the
8 agency or prosecutor in their enforcement efforts. When any
9 forfeited conveyance, including an aircraft, vehicle, or
10 vessel, is returned to the seizing agency or prosecutor, the
11 conveyance may be used immediately in the enforcement of the
12 criminal laws of this State. Upon disposal, all proceeds from
13 the sale of the conveyance must be used for drug enforcement
14 purposes. When any real property returned to the seizing agency
15 is sold by the agency or its unit of government, the proceeds
16 of the sale shall be delivered to the Director and distributed
17 in accordance with subsection (g).

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

21 (1) (i) 65% shall be distributed to the metropolitan
22 enforcement group, local, municipal, county, or State law
23 enforcement agency or agencies which conducted or
24 participated in the investigation resulting in the
25 forfeiture. The distribution shall bear a reasonable
26 relationship to the degree of direct participation of the

1 law enforcement agency in the effort resulting in the
2 forfeiture, taking into account the total value of the
3 property forfeited and the total law enforcement effort
4 with respect to the violation of the law upon which the
5 forfeiture is based. Amounts distributed to the agency or
6 agencies shall be used for the enforcement of laws
7 governing methamphetamine, cannabis, and controlled
8 substances; for public education in the community or
9 schools in the prevention or detection of the abuse of
10 drugs or alcohol; or for security cameras used for the
11 prevention or detection of violence, except that amounts
12 distributed to the Secretary of State shall be deposited
13 into the Secretary of State Evidence Fund to be used as
14 provided in Section 2-115 of the Illinois Vehicle Code.

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

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

24 (II) the intergovernmental agreement for police
25 services provides for consideration in an amount of not
26 less than \$1,000,000 per year;

1 (III) the seizure took place within the
2 geographical limits of the municipality; and

3 (IV) the funds are used only for the enforcement of
4 laws governing cannabis and controlled substances; for
5 public education in the community or schools in the
6 prevention or detection of the abuse of drugs or
7 alcohol; or for security cameras used for the
8 prevention or detection of violence or the
9 establishment of a municipal police force, including
10 the training of officers, construction of a police
11 station, the purchase of law enforcement equipment, or
12 vehicles.

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

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

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 governing methamphetamine, cannabis, and
20 controlled substances or for public education in the
21 community or schools in the prevention or detection of the
22 abuse of drugs or alcohol. The Office of the State's
23 Attorneys Appellate Prosecutor shall not receive
24 distribution from cases brought in counties with a
25 population over 3,000,000.

26 (3) 10% shall be retained by the Department of State

1 Police for expenses related to the administration and sale
2 of seized and forfeited property.

3 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; 97-813,
4 eff. 7-13-12; 97-985, eff. 1-1-13.)

5 Section 20. The Narcotics Profit Forfeiture Act is amended
6 by changing Section 5 as follows:

7 (725 ILCS 175/5) (from Ch. 56 1/2, par. 1655)

8 Sec. 5. (a) A person who commits the offense of narcotics
9 racketeering shall:

10 (1) be guilty of a Class 1 felony; and

11 (2) be subject to a fine of up to \$250,000.

12 A person who commits the offense of narcotics racketeering
13 or who violates Section 3 of the Drug Paraphernalia Control Act
14 shall forfeit to the State of Illinois: (A) any profits or
15 proceeds and any property or property interest he has acquired
16 or maintained in violation of this Act or Section 3 of the Drug
17 Paraphernalia Control Act or has used to facilitate a violation
18 of this Act that the court determines, after a forfeiture
19 hearing, under subsection (b) of this Section to have been
20 acquired or maintained as a result of narcotics racketeering or
21 violating Section 3 of the Drug Paraphernalia Control Act, or
22 used to facilitate narcotics racketeering; and (B) any interest
23 in, security of, claim against, or property or contractual
24 right of any kind affording a source of influence over, any

1 enterprise which he has established, operated, controlled,
2 conducted, or participated in the conduct of, in violation of
3 this Act or Section 3 of the Drug Paraphernalia Control Act,
4 that the court determines, after a forfeiture hearing, under
5 subsection (b) of this Section to have been acquired or
6 maintained as a result of narcotics racketeering or violating
7 Section 3 of the Drug Paraphernalia Control Act or used to
8 facilitate narcotics racketeering.

9 (b) The court shall, upon petition by the Attorney General
10 or State's Attorney, at any time subsequent to the filing of an
11 information or return of an indictment, conduct a hearing to
12 determine whether any property or property interest is subject
13 to forfeiture under this Act. At the forfeiture hearing the
14 people shall have the burden of establishing, by a
15 preponderance of the evidence, that property or property
16 interests are subject to forfeiture under this Act. There is a
17 rebuttable presumption at such hearing that any property or
18 property interest of a person charged by information or
19 indictment with narcotics racketeering or who is convicted of a
20 violation of Section 3 of the Drug Paraphernalia Control Act is
21 subject to forfeiture under this Section if the State
22 establishes by a preponderance of the evidence that:

23 (1) such property or property interest was acquired by
24 such person during the period of the violation of this Act
25 or Section 3 of the Drug Paraphernalia Control Act or
26 within a reasonable time after such period; and

1 (2) there was no likely source for such property or
2 property interest other than the violation of this Act or
3 Section 3 of the Drug Paraphernalia Control Act.

4 (c) In an action brought by the People of the State of
5 Illinois under this Act, wherein any restraining order,
6 injunction or prohibition or any other action in connection
7 with any property or property interest subject to forfeiture
8 under this Act is sought, the circuit court which shall preside
9 over the trial of the person or persons charged with narcotics
10 racketeering as defined in Section 4 of this Act or violating
11 Section 3 of the Drug Paraphernalia Control Act shall first
12 determine whether there is probable cause to believe that the
13 person or persons so charged has committed the offense of
14 narcotics racketeering as defined in Section 4 of this Act or a
15 violation of Section 3 of the Drug Paraphernalia Control Act
16 and whether the property or property interest is subject to
17 forfeiture pursuant to this Act.

18 In order to make such a determination, prior to entering
19 any such order, the court shall conduct a hearing without a
20 jury, wherein the People shall establish that there is: (i)
21 probable cause that the person or persons so charged have
22 committed the offense of narcotics racketeering or violating
23 Section 3 of the Drug Paraphernalia Control Act and (ii)
24 probable cause that any property or property interest may be
25 subject to forfeiture pursuant to this Act. Such hearing may be
26 conducted simultaneously with a preliminary hearing, if the

1 prosecution is commenced by information or complaint, or by
2 motion of the People, at any stage in the proceedings. The
3 court may accept a finding of probable cause at a preliminary
4 hearing following the filing of an information charging the
5 offense of narcotics racketeering as defined in Section 4 of
6 this Act or the return of an indictment by a grand jury
7 charging the offense of narcotics racketeering as defined in
8 Section 4 of this Act or after a charge is filed for violating
9 Section 3 of the Drug Paraphernalia Control Act as sufficient
10 evidence of probable cause as provided in item (i) above.

11 Upon such a finding, the circuit court shall enter such
12 restraining order, injunction or prohibition, or shall take
13 such other action in connection with any such property or
14 property interest subject to forfeiture under this Act, as is
15 necessary to insure that such property is not removed from the
16 jurisdiction of the court, concealed, destroyed or otherwise
17 disposed of by the owner of that property or property interest
18 prior to a forfeiture hearing under subsection (b) of this
19 Section. The Attorney General or State's Attorney shall file a
20 certified copy of such restraining order, injunction or other
21 prohibition with the recorder of deeds or registrar of titles
22 of each county where any such property of the defendant may be
23 located. No such injunction, restraining order or other
24 prohibition shall affect the rights of any bona fide purchaser,
25 mortgagee, judgment creditor or other lien holder arising prior
26 to the date of such filing.

1 The court may, at any time, upon verified petition by the
2 defendant, conduct a hearing to release all or portions of any
3 such property or interest which the court previously determined
4 to be subject to forfeiture or subject to any restraining
5 order, injunction, or prohibition or other action. The court
6 may release such property to the defendant for good cause shown
7 and within the sound discretion of the court.

8 (d) Prosecution under this Act may be commenced by the
9 Attorney General or a State's Attorney.

10 (e) Upon an order of forfeiture being entered pursuant to
11 subsection (b) of this Section, the court shall authorize the
12 Attorney General to seize any property or property interest
13 declared forfeited under this Act and under such terms and
14 conditions as the court shall deem proper. Any property or
15 property interest that has been the subject of an entered
16 restraining order, injunction or prohibition or any other
17 action filed under subsection (c) shall be forfeited unless the
18 claimant can show by a preponderance of the evidence that the
19 property or property interest has not been acquired or
20 maintained as a result of narcotics racketeering or has not
21 been used to facilitate narcotics racketeering.

22 (f) The Attorney General or his designee is authorized to
23 sell all property forfeited and seized pursuant to this Act,
24 unless such property is required by law to be destroyed or is
25 harmful to the public, and, after the deduction of all
26 requisite expenses of administration and sale, shall

1 distribute the proceeds of such sale, along with any moneys
2 forfeited or seized, in accordance with subsection (g) or (h),
3 whichever is applicable.

4 (g) All monies and the sale proceeds of all other property
5 forfeited and seized pursuant to this Act shall be distributed
6 as follows:

7 (1) An amount equal to 50% shall be distributed to the
8 unit of local government whose officers or employees
9 conducted the investigation into narcotics racketeering
10 and caused the arrest or arrests and prosecution leading to
11 the forfeiture. Amounts distributed to units of local
12 government shall be used for enforcement of laws governing
13 narcotics activity or for public education in the community
14 or schools in the prevention or detection of the abuse of
15 drugs or alcohol. In the event, however, that the
16 investigation, arrest or arrests and prosecution leading
17 to the forfeiture were undertaken solely by a State agency,
18 the portion provided hereunder shall be paid into the Drug
19 Traffic Prevention Fund in the State treasury to be used
20 for enforcement of laws governing narcotics activity.

21 (2) An amount equal to 12.5% shall be distributed to
22 the county in which the prosecution resulting in the
23 forfeiture was instituted, deposited in a special fund in
24 the county treasury and appropriated to the State's
25 Attorney for use in the enforcement of laws governing
26 narcotics activity or for public education in the community

1 or schools in the prevention or detection of the abuse of
2 drugs or alcohol.

3 An amount equal to 12.5% shall be distributed to the
4 Office of the State's Attorneys Appellate Prosecutor and
5 deposited in the Narcotics Profit Forfeiture Fund, which is
6 hereby created in the State treasury, to be used by the
7 Office of the State's Attorneys Appellate Prosecutor for
8 additional expenses incurred in prosecuting appeals
9 arising under this Act. Any amounts remaining in the Fund
10 after all additional expenses have been paid shall be used
11 by the Office to reduce the participating county
12 contributions to the Office on a pro-rated basis as
13 determined by the board of governors of the Office of the
14 State's Attorneys Appellate Prosecutor based on the
15 populations of the participating counties.

16 (3) An amount equal to 25% shall be paid into the Drug
17 Traffic Prevention Fund in the State treasury to be used by
18 the Department of State Police for funding Metropolitan
19 Enforcement Groups created pursuant to the
20 Intergovernmental Drug Laws Enforcement Act. Any amounts
21 remaining in the Fund after full funding of Metropolitan
22 Enforcement Groups shall be used for enforcement, by the
23 State or any unit of local government, of laws governing
24 narcotics activity or for public education in the community
25 or schools in the prevention or detection of the abuse of
26 drugs or alcohol.

1 (h) Where the investigation or indictment for the offense
2 of narcotics racketeering or a violation of Section 3 of the
3 Drug Paraphernalia Control Act has occurred under the
4 provisions of the Statewide Grand Jury Act, all monies and the
5 sale proceeds of all other property shall be distributed as
6 follows:

7 (1) 60% shall be distributed to the metropolitan
8 enforcement group, local, municipal, county, or State law
9 enforcement agency or agencies which conducted or
10 participated in the investigation resulting in the
11 forfeiture. The distribution shall bear a reasonable
12 relationship to the degree of direct participation of the
13 law enforcement agency in the effort resulting in the
14 forfeiture, taking into account the total value of the
15 property forfeited and the total law enforcement effort
16 with respect to the violation of the law on which the
17 forfeiture is based. Amounts distributed to the agency or
18 agencies shall be used for the enforcement of laws
19 governing cannabis and controlled substances or for public
20 education in the community or schools in the prevention or
21 detection of the abuse of drugs or alcohol.

22 (2) 25% shall be distributed by the Attorney General as
23 grants to drug education, treatment and prevention
24 programs licensed or approved by the Department of Human
25 Services. In making these grants, the Attorney General
26 shall take into account the plans and service priorities

1 of, and the needs identified by, the Department of Human
2 Services.

3 (3) 15% shall be distributed to the Attorney General
4 and the State's Attorney, if any, participating in the
5 prosecution resulting in the forfeiture. The distribution
6 shall bear a reasonable relationship to the degree of
7 direct participation in the prosecution of the offense,
8 taking into account the total value of the property
9 forfeited and the total amount of time spent in preparing
10 and presenting the case, the complexity of the case and
11 other similar factors. Amounts distributed to the Attorney
12 General under this paragraph shall be retained in a fund
13 held by the State Treasurer as ex-officio custodian to be
14 designated as the Statewide Grand Jury Prosecution Fund and
15 paid out upon the direction of the Attorney General for
16 expenses incurred in criminal prosecutions arising under
17 the Statewide Grand Jury Act. Amounts distributed to a
18 State's Attorney shall be deposited in a special fund in
19 the county treasury and appropriated to the State's
20 Attorney for use in the enforcement of laws governing
21 narcotics activity or for public education in the community
22 or schools in the prevention or detection of the abuse of
23 drugs or alcohol.

24 (i) All monies deposited pursuant to this Act in the Drug
25 Traffic Prevention Fund established under Section 5-9-1.2 of
26 the Unified Code of Corrections are appropriated, on a

1 continuing basis, to the Department of State Police to be used
2 for funding Metropolitan Enforcement Groups created pursuant
3 to the Intergovernmental Drug Laws Enforcement Act or otherwise
4 for the enforcement of laws governing narcotics activity or for
5 public education in the community or schools in the prevention
6 or detection of the abuse of drugs or alcohol.

7 (Source: P.A. 89-507, eff. 7-1-97.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.