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To: All Police Agencies

Date: 12/14/11

From:  Stephanie Robbins
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RE: **STATUTORY CHANGES EFFECTING ASSET FORFEITURES**

APPROVED: Thomas D. Gibbons
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Effective January 1, 2012, important statutory changes go in effect as follows:

1. The following Statutes have all been amended to include new notice and hearing provisions per Public Act 097-0544:

Article 36. Seizure And Forfeiture of Vessels, Vehicles and Aircraft, 720 ILCS 5/36-1.5 new;

The Cannabis Control Act, 720 ILCS 550/12;

The Illinois Controlled Substances Act, 720 ILCS 570/505;

The Methamphetamine Control and Community Protection Act, 720 ILCS 646/85;

The Drug Asset Forfeiture Procedure Act, 725 ILCS 150/3.5 new

2. From a police point of view, the most important change is that the statutes governing asset forfeiture, both drug related and non-drug related, now require that notice be given "forthwith" to "all known interest holders" that forfeiture proceedings, including a newly required "preliminary review" will be instituted.

The new "preliminary review" must take place in court within 14 days of the seizure. This, of course, means that the notice described herein must be given at the moment of

seizure. The date for the preliminary review of forfeiture must be included in the notice given by the officer making the seizure. The officer will need to write in the date of the second Thursday within 14 days of the seizure.

Since the “preliminary review” must take place within 14 days of the seizure that means that requests for forfeiture, with reports, must reach the State’s Attorney’s Office within about 5 days. (**Electronic transmission is highly encouraged.**)

3. In order to assist in making a transition to this new system, I am providing the following forms.

a.) **Notice of Seizure for Forfeiture:** The first is a form should be handed to the person from whom the officer is seizing either property or a vehicle. Of course, if a vehicle is not titled to the person from whom it is seized, then the form will also have to be mailed to the absent title holder. Also, if the vehicle is in joint names with another, the notice will also have to be mailed to the absent title holder or lien holder. Likewise, in drug property seizures, notice will also have to be given to anyone who at that moment claims an interest in the property

b.) **Affidavit in Support of Forfeiture:** The second form is an affidavit which should be executed by the officer making the seizure and included with the request for forfeiture. In filling out the Affidavit, Officers should confine themselves to reciting facts which support forfeiture of the property or vehicle seized and not get sidetracked into other facts having to do with the reason for the traffic stop or arrest or anything else. I am using the affidavit at the preliminary review stage so that officers will not have to come to court and stand around waiting to testify thus wasting a lot of time and money. The quality of the affidavit will determine if this method is going to satisfy the Court. All preliminary reviews will be held on Thursdays at 1:00 PM at the Criminal Justice Center.

4. Finally, once the **Notice of Seizure for Forfeiture** is given to the person from whom property is seized, officers will need to note, in their reports, that the notice was given.

5. The fact that the statutes have been amended to include new notice and judicial review requirements does not change the usual procedures for asset forfeiture under either Article 36 or under drug laws. Those procedures and forms remain in use.

NOTICE OF SEIZURE FOR FORFEITURE

To: _____
(name of interest holder(s) from whom property / vehicle is seized)

The following described property or vehicle is hereby seized on the _____ day
of _____ 201__ by the _____ Police
Department for purposes of asset forfeiture.

Property seized:

☐ Approximately \$ _____ U.S.
currency;

☐ Vehicle: _____
(year) (Make) (Model)

VIN NUMBER

☐ Other Property: _____

You are further advised that a preliminary review by the Circuit Court of the Third
Judicial Circuit, Madison County, Illinois will be held at the Criminal Justice
Center, located at 503 Ramey St., Edwardsville, Illinois, at 1:00 P.M. on Thursday,
the _____ day of _____ 201__.

Date

Name of Officer/Agent making the
seizure

IN THE CIRCUIT COURT FOR
THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

In the Matter of the Seizure of: _____)
_____)
_____)
_____) Case No. ____ MR ____
(Property seized) _____)
_____) Seizure no. _____
(VIN No. if applicable) _____)

AFFIDAVIT IN SUPPORT OF FORFEITURE

I, _____, being duly sworn depose and state as follows:

1. I am a(n) _____ with the
(Official capacity)

(Name of law enforcement agency)

2. That on the _____ day of _____ 201__ I seized the following
described property / vehicle from _____ at:

_____, Madison County, Illinois;
(Location / address of seizure)

Property seized:

3. That I furnished written **Notice of Seizure For Forfeiture** to such interest holder(s) as were known to me at the time of seizure; said notice included the date, time and place of the judicial preliminary review.

4. I have reasons to believe that the above-described property is subject to forfeiture to the State of Illinois, based one or more of the following facts:

☐ See addendum for additional facts.

Further your Affiant sayeth naught.

Name of affiant and Official capacity

Under penalties of perjury, as provided by law pursuant to Section 1-109, of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true.

Signature of affiant

Date