

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 11-20.1A as follows:

6 (720 ILCS 5/11-20.1A) (from Ch. 38, par. 11-20.1A)

7 Sec. 11-20.1A. Forfeitures.

8 (a) A person who commits the offense of keeping a place  
9 of juvenile prostitution, exploitation of a child, or child  
10 pornography under Section ~~Sections~~ 11-17.1, 11-19.2, or  
11 11-20.1 of this Code, shall forfeit to the State of Illinois:

12 (1) Any profits or proceeds and any interest or  
13 property he or she has acquired or maintained in  
14 violation of Section ~~Sections~~ 11-17.1, 11-19.2, or  
15 11-20.1 of this Code that the sentencing court  
16 determines, after a forfeiture hearing, to have been  
17 acquired or maintained as a result of keeping a place of  
18 juvenile prostitution, exploitation of a child, or child  
19 pornography. ~~and~~

20 (2) Any interest in, security of, claim against, or  
21 property or contractual right of any kind affording a  
22 source of influence over, any enterprise that ~~which~~ he or  
23 she has established, operated, controlled, or conducted  
24 in violation of Section ~~Sections~~ 11-17.1, 11-19.2, or  
25 11-20.1 of this Code that the sentencing court  
26 determines, after a forfeiture hearing, to have been  
27 acquired or maintained as a result of keeping a place of  
28 juvenile prostitution, exploitation of a child, or child  
29 pornography.

30 (3) Any computer that contains a depiction of child  
31 pornography in any encoded or decoded format in violation

1       of Section 11-20.1 of this Code. For purposes of this  
2       paragraph (3), "computer" has the meaning ascribed to it  
3       in Section 16D-2 of this Code.

4       (b) (1) The court shall, upon petition by the Attorney  
5       General or State's Attorney at any time following  
6       sentencing, conduct a hearing to determine whether any  
7       property or property interest is subject to forfeiture  
8       under this Section. At the forfeiture hearing the people  
9       shall have the burden of establishing, by a preponderance  
10      of the evidence, that property or property interests are  
11      subject to forfeiture under this Section.

12       (2) In any action brought by the People of the  
13      State of Illinois under this Section, wherein any  
14      restraining order, injunction or prohibition or any other  
15      action in connection with any property or interest  
16      subject to forfeiture under this Section is sought, the  
17      circuit court presiding over the trial of the person or  
18      persons charged with keeping a place of juvenile  
19      prostitution, exploitation of a child or child  
20      pornography shall first determine whether there is  
21      probable cause to believe that the person or persons so  
22      charged have committed the offense of keeping a place of  
23      juvenile prostitution, exploitation of a child or child  
24      pornography and whether the property or interest is  
25      subject to forfeiture pursuant to this Section. In order  
26      to make such a determination, prior to entering any such  
27      order, the court shall conduct a hearing without a jury,  
28      wherein the People shall establish that there is: (i)  
29      probable cause that the person or persons so charged have  
30      committed the offense of keeping a place of juvenile  
31      prostitution, exploitation of a child or child  
32      pornography and (ii) probable cause that any property or  
33      interest may be subject to forfeiture pursuant to this  
34      Section. Such hearing may be conducted simultaneously

1 with a preliminary hearing, if the prosecution is  
2 commenced by information or complaint, or by motion of  
3 the People, at any stage in the proceedings. The court  
4 may accept a finding of probable cause at a preliminary  
5 hearing following the filing of an information charging  
6 the offense of keeping a place of juvenile prostitution,  
7 exploitation of a child or child pornography or the  
8 return of an indictment by a grand jury charging the  
9 offense of keeping a place of juvenile prostitution,  
10 exploitation of a child or child pornography as  
11 sufficient evidence of probable cause as provided in item  
12 (i) above. Upon such a finding, the circuit court shall  
13 enter such restraining order, injunction or prohibition,  
14 or shall take such other action in connection with any  
15 such property or other interest subject to forfeiture, as  
16 is necessary to insure that such property is not removed  
17 from the jurisdiction of the court, concealed, destroyed  
18 or otherwise disposed of by the owner of that property or  
19 interest prior to a forfeiture hearing under this  
20 Section. The Attorney General or State's Attorney shall  
21 file a certified copy of such restraining order,  
22 injunction or other prohibition with the recorder of  
23 deeds or registrar of titles of each county where any  
24 such property of the defendant may be located. No such  
25 injunction, restraining order or other prohibition shall  
26 affect the rights of any bona fide purchaser, mortgagee,  
27 judgment creditor or other lienholder arising prior to  
28 the date of such filing. The court may, at any time, upon  
29 verified petition by the defendant or an innocent owner  
30 or innocent bona fide third party lienholder who neither  
31 had knowledge of, nor consented to, the illegal act or  
32 omission, conduct a hearing to release all or portions of  
33 any such property or interest which the court previously  
34 determined to be subject to forfeiture or subject to any

1           restraining order, injunction, or prohibition or other  
2           action. The court may release such property to the  
3           defendant or innocent owner or innocent bona fide third  
4           party lienholder who neither had knowledge of, nor  
5           consented to, the illegal act or omission for good cause  
6           shown and within the sound discretion of the court.

7           A forfeiture under this Section may be commenced by  
8           the Attorney General or a State's Attorney.

9           (3) Upon conviction of a person of keeping a place  
10          of juvenile prostitution, exploitation of a child or  
11          child pornography, the court shall authorize the Attorney  
12          General to seize all property or other interest declared  
13          forfeited under this Section upon such terms and  
14          conditions as the court shall deem proper.

15          (4) The Attorney General is authorized to sell all  
16          property forfeited and seized pursuant to this Section,  
17          unless such property is required by law to be destroyed  
18          or is harmful to the public, and, after the deduction of  
19          all requisite expenses of administration and sale, shall  
20          distribute the proceeds of such sale, along with any  
21          moneys forfeited or seized, in accordance with subsection  
22          (c) of this Section.

23          (c) All monies forfeited and the sale proceeds of all  
24          other property forfeited and seized under this Section shall  
25          be distributed as follows:

26                 (1) One-half shall be divided equally among all  
27                 State agencies and units of local government whose  
28                 officers or employees conducted the investigation which  
29                 resulted in the forfeiture; and

30                 (2) One-half shall be deposited in the Violent Crime  
31                 Victims Assistance Fund.

32          (Source: P.A. 91-229, eff. 1-1-00.)