

HOUSE BILL No. 1560

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-24-1; IC 35-33-5-5.

Synopsis: Forfeiture. Provides that seized property may be forfeited to the state only if the owner of the property has been convicted of a criminal offense. Repeals a provision permitting the state to turn over seized property to the federal government. Makes conforming amendments.

Effective: July 1, 2017.

Pierce

January 23, 2017, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1560

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-24-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. **(a) A person's**
3 **property may be forfeited under this chapter only if the state or the**
4 **state and the unit (if applicable) prove by clear and convincing**
5 **evidence that:**

6 **(1) the property is subject to seizure under section 1 of this**
7 **chapter;**

8 **(2) the owner of the property has been convicted of the related**
9 **criminal offense permitting seizure of the property under**
10 **section 1 of this chapter; and**

11 **(3) all other requirements described in this chapter for**
12 **forfeiture of the property have been met.**

13 **(b) Following a person's conviction for an offense permitting**
14 **seizure of the property under section 1 of this chapter, a court may**
15 **order the person to forfeit property described in section 1 of this**
16 **chapter that:**

17 **(1) was acquired by the person through commission of the**



1 offense;

2 (2) is directly traceable to property acquired through
3 commission of the offense; or

4 (3) is an instrumentality of the person used in the commission
5 of the offense.

6 (c) At the request of the state or the state and the unit (if
7 applicable), a court may issue an ex parte preliminary order to
8 seize property described in section 1 of this chapter. Before issuing
9 an order under this subsection, the court must find that:

10 (1) there is a substantial probability that:

11 (A) the property is subject to seizure;

12 (B) the state or the state and the unit (if applicable) will
13 prevail on the issue of forfeiture; and

14 (C) failure to enter the order will result in the property
15 being destroyed, removed from Indiana, or otherwise
16 made unavailable for forfeiture; and

17 (2) the need to preserve the availability of the property
18 through the entry of the requested order outweighs the
19 hardship to the owner and other parties known to be claiming
20 an interest in the property.

21 (a) (d) Property may be seized under this chapter by a law
22 enforcement officer ~~only~~ **without a court order** if:

23 (1) the seizure is incident to a lawful:

24 (A) arrest; **or**

25 (B) search; ~~or~~

26 ~~(C) administrative inspection;~~

27 **and the law enforcement officer conducting the arrest or**
28 **search has probable cause to believe that the property is**
29 **subject to seizure and that the subject of the arrest or search**
30 **is the owner of the property;**

31 (2) the property has been the subject of a prior judgment in favor
32 of the state or unit in a proceeding under this chapter; ~~for~~
33 ~~IC 34-4-30.1 before its repeal~~; or

34 (3) a court **issues an order to seize the property** after making an
35 ex parte determination that: ~~there is probable cause to believe the~~
36 ~~property is subject to seizure under this chapter, issues an order~~
37 ~~for seizure.~~

38 (A) there is a substantial probability that:

39 (i) the property is subject to seizure;

40 (ii) the state or the state and the unit (if applicable) will
41 prevail on the issue of forfeiture; and

42 (iii) failure to enter the order will result in the property



1 **being destroyed, removed from Indiana, or otherwise**
 2 **made unavailable for forfeiture; and**

3 **(B) the need to preserve the availability of the property**
 4 **through the entry of the requested order outweighs the**
 5 **hardship to the owner and other parties known to be**
 6 **claiming an interest in the property.**

7 ~~(b)~~ **(e)** When property is seized under ~~subsection (a);~~ **this section,**
 8 the law enforcement agency making the seizure may, pending final
 9 disposition:

- 10 (1) place the property under seal;
 11 (2) remove the property to a place designated by the court; or
 12 (3) require another agency authorized by law to take custody of
 13 the property and remove it to an appropriate location.

14 ~~(c)~~ **(f)** Property that is seized under ~~subsection (a)~~ ~~(or~~
 15 ~~IC 34-4-30.1-2(a) before its repeal)~~ **this section** is not subject to
 16 replevin but is considered to be in the custody of the law enforcement
 17 agency making the seizure.

18 SECTION 2. IC 34-24-1-3, AS AMENDED BY P.L.201-2011,
 19 SECTION 108, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) ~~The prosecuting attorney for~~
 21 ~~the county in which the seizure occurs may, within ninety (90) days~~
 22 ~~after receiving written notice from the owner demanding return of the~~
 23 ~~seized property or within one hundred eighty (180) days after the~~
 24 ~~property is seized; whichever occurs first, cause an action for~~
 25 ~~reimbursement of law enforcement costs and forfeiture to be brought~~
 26 ~~by filing a complaint in the circuit or superior court in the jurisdiction~~
 27 ~~where the seizure occurred. The action must be brought:~~

- 28 ~~(1) in the name of the state or the state and the unit that employed~~
 29 ~~the law enforcement officers who made the seizure if the state~~
 30 ~~was not the employer; and~~
 31 ~~(2) within the period that a prosecution may be commenced under~~
 32 ~~IC 35-41-4-2 for the offense that is the basis for the seizure.~~

33 **Not later than thirty (30) days after property is seized under this**
 34 **chapter, or at the time the indictment or information is filed**
 35 **against the owner of the property, whichever occurs earlier, the**
 36 **prosecuting attorney shall:**

- 37 **(1) file an action for forfeiture and reimbursement of law**
 38 **enforcement costs in the court having jurisdiction over the**
 39 **related criminal case; or**
 40 **(2) return the property to the owner.**

41 **An action for forfeiture must be brought in the name of the state,**
 42 **or in the name of the state and the unit that employed the law**



1 **enforcement officer who made the seizure, if the state was not the**
 2 **employer.**

3 (b) If the property seized was a vehicle or real property, the
 4 prosecuting attorney shall serve, under the Indiana Rules of Trial
 5 Procedure, a copy of the **complaint action for forfeiture** upon each
 6 person whose right, title, or interest is of record in the bureau of motor
 7 vehicles, in the county recorder's office, or other office authorized to
 8 receive or record vehicle or real property ownership interests.

9 (c) The owner of the seized property, or any person whose right,
 10 title, or interest is of record may, **within not later than** twenty (20)
 11 days after service of the **complaint action for forfeiture** under the
 12 Indiana Rules of Trial Procedure, file an answer to the **complaint**
 13 **action** and may appear at the hearing on the action.

14 (d) If, at the end of the time allotted for an answer, there is no
 15 answer on file, the court, upon motion, shall enter judgment in favor of
 16 the state and the unit (if appropriate) for reimbursement of law
 17 enforcement costs and shall order the property disposed of in
 18 accordance with section 4 of this chapter.

19 SECTION 3. IC 34-24-1-4 IS REPEALED [EFFECTIVE JULY 1,
 20 2017]. Sec. 4: (a) At the hearing, the prosecuting attorney must show
 21 by a preponderance of the evidence that the property was within the
 22 definition of property subject to seizure under section 1 of this chapter.
 23 If the property seized was a vehicle, the prosecuting attorney must also
 24 show by a preponderance of the evidence that a person who has an
 25 ownership interest of record in the bureau of motor vehicles knew or
 26 had reason to know that the vehicle was being used in the commission
 27 of the offense.

28 (b) If the prosecuting attorney fails to meet the burden of proof, the
 29 court shall order the property released to the owner.

30 (c) If the court enters judgment in favor of the state, or the state and
 31 a unit (if appropriate), the court, subject to section 5 of this chapter,
 32 shall order delivery to the law enforcement agency that seized the
 33 property. The court's order may permit the agency to use the property
 34 for a period not to exceed three (3) years. However, the order must
 35 require that, after the period specified by the court, the law
 36 enforcement agency shall deliver the property to the county sheriff for
 37 public sale.

38 (d) If the court enters judgment in favor of the state, or the state and
 39 a unit (if appropriate), the court shall, subject to section 5 of this
 40 chapter:

- 41 (1) determine the amount of law enforcement costs; and
 42 (2) order that:



1 (A) the property, if it is not money or real property, be sold
 2 under section 6 of this chapter, by the sheriff of the county in
 3 which the property was seized; and if the property is a vehicle,
 4 this sale must occur after any period of use specified in
 5 subsection (c);

6 (B) the property, if it is real property, be sold in the same
 7 manner as real property is sold on execution under IC 34-55-6;

8 (C) the proceeds of the sale or the money be:

9 (i) deposited in the general fund of the state; or the unit that
 10 employed the law enforcement officers that seized the
 11 property; or

12 (ii) deposited in the general fund of a unit if the property
 13 was seized by a local law enforcement agency of the unit for
 14 an offense, an attempted offense, or a conspiracy to commit
 15 an offense under IC 35-47 as part of or in furtherance of an
 16 act of terrorism; and

17 (D) any excess in value of the proceeds or the money over the
 18 law enforcement costs be forfeited and transferred to the
 19 treasurer of state for deposit in the common school fund.

20 (e) If property that is seized under this chapter (or IC 34-4-30.1-4
 21 before its repeal) is transferred:

22 (1) after its seizure, but before an action is filed under section 3
 23 of this chapter (or IC 34-4-30.1-3 before its repeal); or

24 (2) when an action filed under section 3 of this chapter (or
 25 IC 34-4-30.1-3 before its repeal) is pending;

26 the person to whom the property is transferred must establish an
 27 ownership interest of record as a bona fide purchaser for value. A
 28 person is a bona fide purchaser for value under this section if the
 29 person, at the time of the transfer, did not have reasonable cause to
 30 believe that the property was subject to forfeiture under this chapter.

31 (f) If the property seized was an unlawful telecommunications
 32 device (as defined in IC 35-45-13-6) or plans, instructions, or
 33 publications used to commit an offense under IC 35-45-13; the court
 34 may order the sheriff of the county in which the person was convicted
 35 of an offense under IC 35-45-13 to destroy as contraband or to
 36 otherwise lawfully dispose of the property.

37 SECTION 4. IC 34-24-1-4.1 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2017]: **Sec. 4.1. (a) A forfeiture proceeding:**

40 (1) must begin not later than seven (7) days after the
 41 conclusion of the trial for the related criminal case; and

42 (2) may, with the consent of the trial court, be held



- 1 immediately after the jury returns its verdict, in the same
2 manner as bifurcated trials are held.
- 3 (b) The proceeding under subsection (a) must be conducted
4 before the same judge and, if applicable, the same jury that heard
5 the related criminal case.
- 6 (c) If the owner of the property is a defendant who was
7 represented by a public defender in the related criminal case, the
8 public defender may, if authorized by the chief public defender of
9 the county, represent the defendant in the forfeiture proceeding.
- 10 (d) Discovery in a forfeiture proceeding is subject to the Indiana
11 Rules of Criminal Procedure.
- 12 (e) If the state or the state and the unit (if applicable) fail to
13 prove by clear and convincing evidence that a person whose
14 property is alleged to be subject to forfeiture is an owner of the
15 property:
- 16 (1) the forfeiture proceeding must be dismissed and the
17 property shall be delivered to the owner, unless the owner's
18 possession of the property is illegal; and
- 19 (2) the owner is not subject to any charges for storage of the
20 property or other expenses incurred in the preservation of the
21 property.
- 22 (f) The court shall order seized property forfeited if the state or
23 the state and the unit (if applicable) prove by clear and convincing
24 evidence that:
- 25 (1) the property is subject to seizure under section 1 of this
26 chapter;
- 27 (2) the related criminal prosecution of the owner of the seized
28 property resulted in a conviction; and
- 29 (3) the value of the property to be forfeited does not
30 unreasonably exceed the:
- 31 (A) pecuniary:
- 32 (i) gain derived or sought to be derived by the crime; or
33 (ii) loss caused or sought to be caused by the crime; and
- 34 (B) value of the convicted owner's interest in the property.
- 35 (g) In determining whether the value of property subject to
36 forfeiture unreasonably exceeds the amounts described in
37 subsection (f)(3), the court shall consider all relevant factors,
38 including the:
- 39 (1) fair market value of the property;
- 40 (2) value of the property to the defendant, including any
41 hardship that the defendant will suffer if the property is
42 forfeited; and



1 **(3) hardship from the loss of a primary residence, motor**
 2 **vehicle, or other property to the defendant's family members**
 3 **or others if the property is forfeited.**

4 **In making its determination under this subsection, the court may**
 5 **not consider the value of the property to the state or the state and**
 6 **the unit (if applicable).**

7 **(h) A court may not accept a plea agreement in which a**
 8 **defendant agrees to donate property otherwise subject to forfeiture**
 9 **to a person, a charity, or other organization.**

10 **(i) A person is not jointly and severally liable for an order of**
 11 **forfeiture. If property owned by more than one (1) person is**
 12 **subject to forfeiture, the court shall, subject to section 5 of this**
 13 **chapter, order each convicted owner to forfeit the owner's share of**
 14 **the property on a pro rata basis or by another means the court**
 15 **finds to be equitable.**

16 **SECTION 5. IC 34-24-1-4.2 IS ADDED TO THE INDIANA CODE**
 17 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 18 **1, 2017]: Sec. 4.2. (a) If the court enters judgment in favor of the**
 19 **state or the state and a unit (if applicable), the court, subject to**
 20 **section 5 of this chapter, shall order delivery of the property to the**
 21 **law enforcement agency that seized the property. The court's order**
 22 **may permit the agency to use the property for a period not to**
 23 **exceed three (3) years. However, the order must require that, after**
 24 **the period specified by the court, the law enforcement agency**
 25 **deliver the property to the county sheriff for public sale.**

26 **(b) If the court enters judgment in favor of the state or the state**
 27 **and a unit (if applicable), the court shall, subject to section 5 of this**
 28 **chapter:**

- 29 **(1) determine the amount of law enforcement costs; and**
 30 **(2) order that:**

31 **(A) the property, if it is not money or real property, must**
 32 **be sold under section 6 of this chapter by the sheriff of the**
 33 **county in which the property was seized, and if the**
 34 **property is a vehicle, the sale must occur after any period**
 35 **of use specified in subsection (a);**

36 **(B) the property, if it is real property, must be sold in the**
 37 **same manner as real property is sold on execution under**
 38 **IC 34-55-6;**

39 **(C) the proceeds of the sale or the money must be:**

- 40 **(i) deposited in the state general fund or the general fund**
 41 **of the unit that employed the law enforcement officers**
 42 **who seized the property; or**



1 (ii) deposited in the general fund of a unit if the property
 2 was seized by a local law enforcement agency of the unit
 3 for an offense, an attempted offense, or a conspiracy to
 4 commit an offense under IC 35-47 as part of or in
 5 furtherance of an act of terrorism; and

6 (D) any excess in value of the proceeds of the sale or the
 7 money over the law enforcement costs be forfeited and
 8 transferred to the treasurer of state for deposit in the
 9 common school fund.

10 (c) If property that is seized under this chapter is transferred:

11 (1) after its seizure, but before an action for forfeiture is filed
 12 under section 3 of this chapter; or

13 (2) while an action for forfeiture filed under section 3 of this
 14 chapter is pending;

15 the person to whom the property is transferred must establish an
 16 ownership interest of record as a bona fide purchaser for value. A
 17 person is a bona fide purchaser for value under this section if the
 18 person, at the time of the transfer, did not have reasonable cause
 19 to believe that the property was subject to forfeiture under this
 20 chapter.

21 (d) If the property seized was an unlawful telecommunications
 22 device (as defined in IC 35-45-13-6) or plans, instructions, or
 23 publications used to commit an offense under IC 35-45-13, the
 24 court may order the sheriff of the county in which the person was
 25 convicted of an offense under IC 35-45-13 to destroy as contraband
 26 or to otherwise lawfully dispose of the property.

27 SECTION 6. IC 34-24-1-4.5, AS ADDED BY P.L.237-2015,
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2017]: Sec. 4.5. (a) After a court enters a judgment in favor of
 30 the state or **the state and** a unit (**if applicable**) under section **4 4.1** of
 31 this chapter, the prosecuting attorney shall report the:

32 (1) amount of money or property that is the subject of the
 33 judgment; and

34 (2) law enforcement agency to which the money or property is
 35 ordered to be transferred;

36 to the Indiana prosecuting attorneys council. This subsection applies
 37 even if the prosecuting attorney has retained an attorney to bring an
 38 action under this chapter.

39 (b) After a court, upon motion of the prosecuting attorney under
 40 IC 35-33-5-5(j) (**before its repeal and the repeal of section 9 of this**
 41 **chapter**), orders property transferred to a federal authority for
 42 disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C.



1 881(e), and any related regulations adopted by the United States
 2 Department of Justice, the prosecuting attorney shall report to the
 3 Indiana prosecuting attorneys council the amount of money or property
 4 transferred. This subsection applies even if the prosecuting attorney has
 5 retained an attorney to bring an action under this chapter.

6 (c) A report made to the Indiana prosecuting attorneys council under
 7 this section must be in a format approved by the prosecuting attorneys
 8 council.

9 SECTION 7. IC 34-24-1-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) If:

11 (1) the court has entered judgment in favor of the state and a unit
 12 (if appropriate) concerning property that is subject to seizure
 13 under this chapter; and

14 (2) a person:

15 (A) holding a valid lien, mortgage, security interest, or interest
 16 under a conditional sales contract; or

17 (B) who is a co-owner of the property;

18 did not know of the illegal use;

19 the court shall determine whether the secured interest or the co-owner's
 20 interest is equal to or in excess of the appraised value of the property.

21 (b) Appraised value is to be determined as of the date of judgment
 22 on a wholesale basis by:

23 (1) agreement between the secured party or the co-owner and the
 24 prosecuting attorney; or

25 (2) the inheritance tax appraiser for the county in which the action
 26 is brought.

27 (c) If the amount:

28 (1) due to the secured party; or

29 (2) of the co-owner's interest;

30 is equal to or greater than the appraised value of the property, the court
 31 shall order the property released to the secured party or the co-owner.

32 (d) If the amount:

33 (1) due the secured party; or

34 (2) of the co-owner's interest;

35 is less than the appraised value of the property, the holder of the
 36 interest or the co-owner may pay into the court an amount equal to the
 37 owner's equity, which shall be the difference between the appraised
 38 value and the amount of the lien, mortgage, security interest, interest
 39 under a conditional sales contract, or co-owner's interest. Upon such
 40 payment, the state or unit, or both, shall relinquish all claims to the
 41 property, and the court shall order the payment deposited as provided
 42 in section ~~4(d)~~ 4.2(b) of this chapter.



1 (e) If the seized property is a vehicle and if the security holder or the
 2 co-owner elects not to make payment as stated in subsection (d), the
 3 vehicle shall be disposed of in accordance with section ~~4(e)~~ **4.2(a)** of
 4 this chapter.

5 SECTION 8. IC 34-24-1-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Where
 7 disposition of property is to be made at a public sale, notice of sale
 8 shall be published in accordance with IC 34-55-6.

9 (b) When property is sold at a public sale under this chapter, the
 10 proceeds shall be distributed in the following order:

11 (1) First, to the sheriff of the county for all expenditures made or
 12 incurred in connection with the sale, including storage,
 13 transportation, and necessary repair.

14 (2) Second, to any person:

15 (A) holding a valid lien, mortgage, land contract, or interest
 16 under a conditional sales contract or the holder of other such
 17 interest; or

18 (B) who is a co-owner and has an ownership interest;
 19 up to the amount of that person's interest as determined by the
 20 court.

21 (3) The remainder, if any, shall be transferred by the sheriff to the
 22 appropriate fund as ordered by the court in section ~~4(d)~~ **4.2(b)** of
 23 this chapter.

24 SECTION 9. IC 34-24-1-9 IS REPEALED [EFFECTIVE JULY 1,
 25 2017]. Sec. 9: (a) Upon motion of a prosecuting attorney under
 26 IC 35-33-5-5(j), property seized under this chapter must be transferred,
 27 subject to the perfected liens or other security interests of any person
 28 in the property, to the appropriate federal authority for disposition
 29 under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any
 30 related regulations adopted by the United States Department of Justice.

31 (b) Money received by a law enforcement agency as a result of a
 32 forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C.
 33 881(e) and any related regulations adopted by the United States
 34 Department of Justice must be deposited into a nonreverting fund and
 35 may be expended only with the approval of:

36 (1) the executive (as defined in IC 36-1-2-5), if the money is
 37 received by a local law enforcement agency; or

38 (2) the governor, if the money is received by a law enforcement
 39 agency in the executive branch.

40 The money received under this subsection must be used solely for the
 41 benefit of any agency directly participating in the seizure or forfeiture
 42 for purposes consistent with federal laws and regulations.



1 SECTION 10. IC 35-33-5-5, AS AMENDED BY P.L.1-2007,
2 SECTION 225, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) All items of property seized
4 by any law enforcement agency as a result of an arrest, search warrant,
5 or warrantless search, shall be securely held by the law enforcement
6 agency under the order of the court trying the cause, except as provided
7 in this section.

8 (b) Evidence that consists of property obtained unlawfully from its
9 owner may be returned by the law enforcement agency to the owner
10 before trial, in accordance with IC 35-43-4-4(h).

11 (c) Following the final disposition of the cause at trial level or any
12 other final disposition the following shall be done:

13 (1) Property which may be lawfully possessed shall be returned
14 to its rightful owner, if known. If ownership is unknown, a
15 reasonable attempt shall be made by the law enforcement agency
16 holding the property to ascertain ownership of the property. After
17 ninety (90) days from the time:

18 (A) the rightful owner has been notified to take possession of
19 the property; or

20 (B) a reasonable effort has been made to ascertain ownership
21 of the property;

22 the law enforcement agency holding the property shall, at a
23 convenient time, dispose of this property at a public auction. The
24 proceeds of this property shall be paid into the county general
25 fund.

26 (2) Except as provided in subsection (e), property, the possession
27 of which is unlawful, shall be destroyed by the law enforcement
28 agency holding it sixty (60) days after final disposition of the
29 cause.

30 (3) A firearm that has been seized from a person who is
31 dangerous (as defined in IC 35-47-14-1) shall be retained,
32 returned, or disposed of in accordance with IC 35-47-14.

33 (d) If any property described in subsection (c) was admitted into
34 evidence in the cause, the property shall be disposed of in accordance
35 with an order of the court trying the cause.

36 (e) A law enforcement agency may destroy or cause to be destroyed
37 chemicals, controlled substances, or chemically contaminated
38 equipment (including drug paraphernalia as described in
39 IC 35-48-4-8.5) associated with the illegal manufacture of drugs or
40 controlled substances without a court order if all the following
41 conditions are met:

42 (1) The law enforcement agency collects and preserves a



1 sufficient quantity of the chemicals, controlled substances, or
2 chemically contaminated equipment to demonstrate that the
3 chemicals, controlled substances, or chemically contaminated
4 equipment was associated with the illegal manufacture of drugs
5 or controlled substances.

6 (2) The law enforcement agency takes photographs of the illegal
7 drug manufacturing site that accurately depict the presence and
8 quantity of chemicals, controlled substances, and chemically
9 contaminated equipment.

10 (3) The law enforcement agency completes a chemical inventory
11 report that describes the type and quantities of chemicals,
12 controlled substances, and chemically contaminated equipment
13 present at the illegal manufacturing site.

14 The photographs and description of the property shall be admissible
15 into evidence in place of the actual physical evidence.

16 (f) For purposes of preserving the record of any conviction on
17 appeal, a photograph demonstrating the nature of the property and an
18 adequate description of the property must be obtained before the
19 disposition of the property. In the event of a retrial, the photograph and
20 description of the property shall be admissible into evidence in place
21 of the actual physical evidence. All other rules of law governing the
22 admissibility of evidence shall apply to the photographs.

23 (g) The law enforcement agency disposing of property in any
24 manner provided in subsection (b), (c), or (e) shall maintain certified
25 records of any disposition under subsection (b), (c), or (e). Disposition
26 by destruction of property shall be witnessed by two (2) persons who
27 shall also attest to the destruction.

28 (h) This section does not affect the procedure for the disposition of
29 firearms seized by a law enforcement agency.

30 (i) A law enforcement agency that disposes of property by auction
31 under this section shall permanently stamp or otherwise permanently
32 identify the property as property sold by the law enforcement agency.

33 ~~(j) Upon motion of the prosecuting attorney, the court shall order~~
34 ~~property seized under IC 34-24-1 transferred, subject to the perfected~~
35 ~~liens or other security interests of any person in the property, to the~~
36 ~~appropriate federal authority for disposition under 18 U.S.C. 981(e), 19~~
37 ~~U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted~~
38 ~~by the United States Department of Justice.~~

