

**Midwestern States' Civil Asset Forfeiture Laws
(as of December 2022)**

State	Standard of Proof*	Burden of Proof	Law Enforcement Share of Proceeds	Reporting Requirements	General Notes	Laws Passed since 2015 (with link to bill)	Notes on Latest Law(s)
Illinois	In general, preponderance of the evidence. The standard of proof increases to clear and convincing evidence in certain situations where a related criminal case results in acquittal or non-indictment.	Owner	90 percent	Seizing agencies must provide an inventory of drug-related seizures to Dept. of State Police, and reports for all property seized for forfeiture to the appropriate county.	Forfeiture is not permitted for currency under \$500 in drug cases and under \$100 in all other cases.	2017 (HB 303)	Removed burden on owners to prove property is not subject to forfeiture; required government to prove owners' culpability or negligence—which is not a crime—at forfeiture trial, though innocent owners still bear the burden of proving their own innocence at pretrial innocent owner hearings; eliminated bond requirement for owners challenging administrative forfeiture; strengthened transparency requirements.
Indiana	Preponderance of the evidence	Depends on the property	Up to 93%, notwithstanding a state constitutional provision requiring that "all forfeitures" be paid into the Common School Fund.	The Indiana Prosecuting Attorneys Council is required to aggregate forfeiture reports submitted by judicial districts and, beginning July 2016, must submit a compiled report to the Legislature.		2018 (SB 99)	Made minor changes to prosecutors' deadlines and forfeiture process; allowed innocent owners to petition for provisional release of a vehicle or real property during pending forfeiture actions; required prosecutors to report more details of forfeitures to the Indiana Prosecuting Attorneys Council. Also codified the state's practice of allowing law enforcement to keep nearly all forfeiture proceeds for expenses despite a state constitutional provision requiring that "all forfeitures" be paid into the Common School Fund. In 2019, the Indiana Supreme Court upheld the new law, effectively raising the state's profit incentive from 0% to as much as 93%.
Iowa	After the conviction provision is satisfied (see "General Notes"), prosecutors must show that the property is subject to forfeiture by clear and convincing evidence.	Government	100 percent	Law enforcement agencies that acquire custody of property are required to adopt and comply with a "written internal control policy" that provides detailed information on the property, etc. The records must be open to public inspection.	Re: standard of proof - Conviction provision does not require conviction of an owner, but only "a conviction" of any person—and only for forfeitures of property worth less than \$5,000 and only when a claim is filed.	2017 (SF 446)	Raised standard of proof; created weak conviction provision; shifted burden of proof from innocent owners to government; adopted new transparency requirements.

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Kansas	Preponderance of the evidence	Owner	100 percent	Adopted IJ's model reporting legislation in 2018. The bill creates a new section within the Kansas Standard Asset Seizure and Forfeiture Act (SASFA) requiring the Kansas Bureau of Investigation to establish, on or before July 1, 2019, the Kansas Asset Seizure and Forfeiture Repository, to gather information concerning each seizure for forfeiture made by a seizing agency pursuant to SASFA; creates new reporting requirements for seizing agencies.	Kansas AG issued an opinion on Kansas' civil forfeiture law in Oct. of 2018 concluding "forfeiture proceeds [100% of which go to law enforcement] may not be used for normal operating expenses such as salaries for regular employees."	2018 (HB 2459)	See "Reporting Requirements"
Michigan	After the conviction provision is satisfied (see "General Notes"), property must be linked to drug crimes by clear and convincing evidence and to other crimes by a preponderance of the evidence.	Owner for drug-related over \$50,000; government for other types	100 percent in drug-related forfeitures; 75 percent in other forfeitures.	Agencies are required to file annual forfeiture reports with the State Police, which must compile at the county level, submit to the state Legislature, and beginning July 2017, publish online.	Re: standard of proof - Conviction provision does not require conviction of an owner, but only of a "defendant"—and only for contested forfeitures of property worth less than \$50,000.	2016 (HB 4629) 2019 (HB 4001) 2019 (SB 2) 2019 (HB 4002)	2016 (HB 4629): Eliminated bond requirement for owners challenging forfeiture. 2019 (HB 4001/SB 2): Prohibits civil asset forfeitures for crimes involving controlled substances unless a criminal proceeding is completed and the defendant is convicted or pleads guilty. 2019 (HB 4002): Requires the government to notify an individual if their property has been seized and places the burden on the government to prove that this forfeiture is justified. If it is not, the property must be returned to the owner within 14 days. Also imposes new burdens on owners claiming seized property.
Minnesota	Criminal conviction is required for civil forfeiture, and government must connect property to a crime by clear and convincing evidence	Owner	90 percent (60 percent in cases involving prostitution or human trafficking)	Agencies are required to report their forfeitures to the state auditor on a monthly basis, and the State Auditor must then make annual reports to the Legislature. Minnesota adopted IJ's model reporting legislation in 2021, which expanded what must be reported, and requires the State Auditor to post summary data on seizures, forfeitures and expenditure of proceeds on its website.		2017 (SB 151) 2021 (HF 63)	2017 (SB 151): Allowed innocent joint owners in DWI cases to challenge forfeiture in court. 2021 (HF 63): Strengthened transparency requirements by adopting IJ's model reporting legislation; made other minor improvements, including waiving filing fees for owners requesting judicial determinations of forfeiture.

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Nebraska	As of July 2016, criminal conviction is required for forfeiture, and government must connect property to a crime by clear and convincing evidence. Accused must be convicted of an offense involving illegal drugs, child pornography or illegal gambling to forfeit cash, vehicles, firearms or real estate.	As of July 2016, owner must show he/she had no actual knowledge that property was used in crime.	50 percent	As of July 2016, the appropriate law enforcement agency or prosecuting attorney must provide a written report of the forfeiture to the Auditor of Public Accounts.		2016 (LB 1106)	2016 (LB 1106): abolished civil forfeiture and replaced it with criminal forfeiture; set a standard of clear and convincing evidence to forfeit property following a criminal conviction; imposed new limits on participation in federal equitable sharing; adopted new transparency requirements.
North Dakota	Once the conviction provision is satisfied (see "General Notes"), property must be linked to the crime by clear and convincing evidence. No conviction necessary if property can be connected to a crime beyond a reasonable doubt.	Owner	Up to 100 percent	North Dakota's 2019 law requires the attorney general to develop standard forms, processes, and deadlines for annual submission of forfeiture data by law enforcement agencies. By November first of each year, the attorney general must submit to the legislative management and the governor a written report summarizing activity in the state for the preceding fiscal year, the type, approximate value, and disposition of any civilly forfeited property, and the amount of proceeds received; the report must also be available on the attorney general's website.	Re: standard of proof - Requires the owner's conviction but does not apply if the owner fails to contest forfeiture, putting the burden on owners to engage in a costly legal battle and making it easy for the government to forfeit without a conviction. It also does not apply if the owner has agreed to help investigators in exchange for immunity or a reduced sentence.	2019 (HB 1286)	2019 (HB 1286): Raised standard of proof; created weak conviction provision; adopted new transparency requirements; banned forfeiture of homesteaded real property and vehicles worth less than \$2,000 unless modified to conceal contraband or cash; established proportionality hearing.
Ohio	Clear and convincing evidence	Depends on the property (see "General Notes").	Up to 100 percent (up to 90 percent in juvenile cases)	Agencies must maintain an inventory of seized property	Re: Burden of Proof: For legally titled or registered property and in cases involving property valued over \$15,000 (adjusted annually for inflation), the government bears the burden. In all other cases, the owner bears the burden of proof.	2017 (HB 347)	2017 (HB 347): Raised standard of proof; shifted burden of proof from innocent owners to government; imposed new limits on participation in federal equitable sharing.
South Dakota	Preponderance of the evidence	Owner	100 percent (see "General Notes")	South Dakota's 2022 law requires law enforcement agencies to issue a report to the attorney general within a time specified and in a form prescribed by the attorney general, containing information about any property seized or forfeited. The attorney general, no more than 120 days after the close of the fiscal year, must post on a searchable public website a report containing an itemized list of each property seized and forfeited for the preceding fiscal year.	Re: Law Enforcement Share of Proceeds - forfeiture proceeds go to the attorney general's "drug control fund" and are then distributed to law enforcement for drug enforcement efforts.	2022 (HB 1328)	2022 (HB 1328): Adopted new transparency requirements (see "Reporting Requirements").

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Wisconsin	After the conviction provision is satisfied (see "General Notes"), property must be linked to the crime by clear and convincing evidence	Government	None. All forfeiture proceeds go to fund schools. However, agencies can retain up to 50% of proceeds to pay for forfeiture expenses.	If the agency seizing the property uses any of the proceeds to pay for forfeiture expenses, they must provide an itemized report of the costs and submit the report to the department of administration to make it available on the department's website.	Re Standard of Proof: Conviction provision does not require conviction of an owner, but only of "a person," and a court can waive the provision if the owner fails to contest forfeiture or in other situations, including when a defendant enters into an immunity agreement with prosecutors in exchange for assisting law enforcement.	2018 (SB 61)	2018 (SB 61): Raised standard of proof; created weak conviction provision; shifted burden of proof from innocent owners to government; imposed modest limits on participation in federal equitable sharing; adopted new transparency requirements; required agencies to document expenses paid with forfeiture funds; required prosecutors to file criminal charges within six months or return seized property; established pretrial hearing for owners; created limited right to attorney fees for owners.

Sources: Policing for Profit: The Abuse of Civil Asset Forfeiture, 3rd Edition, Institute for Justice (Dec. 2020); IJ website and CSG-Midwest research

*Legal standards of proof, from lowest to highest:	
Probable cause:	A relatively low standard of proof, which is used in the United States to determine whether a search, or an arrest, is warranted.
Preponderance of the evidence:	The standard is satisfied if there is greater than fifty percent chance that the proposition is true
Clear and convincing evidence:	The evidence presented by a party during the trial must be highly and substantially more probable to be true than not and the trier of fact must have a firm belief or conviction in its factuality.
Beyond reasonable doubt:	Highest standard used as the burden of proof in Anglo-American jurisprudence and typically only applies in criminal proceedings and when considering aggravating circumstances in criminal proceedings.