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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **3725**

03/14/2018 Authored by Knoblach, Omar, Scott, Lesch, Howe and others
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy
03/22/2018 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to forfeiture; providing for criminal forfeiture; limiting participation in
1.3 the federal equitable sharing program; eliminating administrative forfeiture;
1.4 amending Minnesota Statutes 2016, sections 84.7741, subdivisions 7, 9, 10, 11;
1.5 169A.63, subdivisions 3, 5, 6, 9, 10, 11; 609.531, subdivisions 1, 1a, 4, 5, 6a, 8,
1.6 by adding subdivisions; 609.5312, subdivisions 3, 4; 609.5313; 609.5315,
1.7 subdivisions 1, 5, 5a, 5b; 609.5318, subdivisions 2, 4; 609B.515; 611.32,
1.8 subdivision 2; Minnesota Statutes 2017 Supplement, sections 169A.63, subdivisions
1.9 1, 7; 609.5315, subdivision 5c; repealing Minnesota Statutes 2016, sections 84.7741,
1.10 subdivision 8; 169A.63, subdivision 8; 609.531, subdivision 7; 609.5314; 609.5315,
1.11 subdivisions 2, 3; 609.5318, subdivision 3.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 **ARTICLE 1**

1.14 **FORFEITURE PROCEDURES**

1.15 Section 1. Minnesota Statutes 2016, section 609.531, subdivision 1, is amended to read:

1.16 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the
1.17 following terms have the meanings given them.

1.18 (a) "Conveyance device" means a device used for transportation and includes, but is not
1.19 limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment
1.20 attached to it. The term "conveyance device" does not include property which is, in fact,
1.21 itself stolen or taken in violation of the law.

1.22 (b) "Weapon used" means a dangerous weapon as defined under section 609.02,
1.23 subdivision 6, that the actor used or had in possession in furtherance of a crime.

1.24 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

1.25 (d) "Contraband" means property which is illegal to possess under Minnesota law.

2.1 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Department
2.2 of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle Services, the
2.3 Minnesota State Patrol, a county sheriff's department, the Three Rivers Park District park
2.4 rangers, the Department of Natural Resources Division of Enforcement, the University of
2.5 Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit,
2.6 a city, metropolitan transit, or airport police department; or a multijurisdictional entity
2.7 established under section 299A.642 or 299A.681.

2.8 (f) "Designated offense" includes:

2.9 (1) for weapons used: any violation of this chapter, chapter 152 or 624;

2.10 (2) for driver's license or identification card transactions: any violation of section 171.22;
2.11 and

2.12 (3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy
2.13 to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112; 609.2113;
2.14 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245; 609.25;
2.15 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343,
2.16 subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j);
2.17 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
2.18 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
2.19 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
2.20 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89;
2.21 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section
2.22 609.891 or 624.7181; or any violation of section 609.324; or a felony violation of, or a
2.23 felony-level attempt or conspiracy to violate, Minnesota Statutes 2012, section 609.21.

2.24 (g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

2.25 (h) "Prosecuting authority" means the attorney who is responsible for prosecuting an
2.26 offense that is the basis for a forfeiture under sections 609.531 to 609.5318.

2.27 (i) "Abandoned property" means personal property left by an owner who relinquishes
2.28 all rights to its control. Real property may not be abandoned.

2.29 (j) "Conviction" has the meaning given in section 609.02, subdivision 5, and, for purposes
2.30 of forfeiture of property under this chapter, includes an admission of guilt to an offense
2.31 chargeable under chapter 152, a sentence under section 152.152, or a stay of adjudication
2.32 under section 152.18.

3.1 Sec. 2. Minnesota Statutes 2016, section 609.531, subdivision 1a, is amended to read:

3.2 Subd. 1a. **Construction.** Forfeiture is disfavored. Sections 609.531 to 609.5318 must
3.3 be ~~liberally~~ construed to carry out the following ~~remedial~~ purposes:

3.4 (1) to enforce the law;

3.5 (2) to deter crime;

3.6 (3) to reduce the economic incentive to engage in criminal enterprise;

3.7 (4) to increase the pecuniary loss resulting from the detection of criminal activity; ~~and~~

3.8 (5) to forfeit property unlawfully used or acquired ~~and divert the property to law~~
3.9 ~~enforcement purposes; and~~

3.10 (6) to protect property and due process rights of innocent property owners.

3.11 Sec. 3. Minnesota Statutes 2016, section 609.531, subdivision 4, is amended to read:

3.12 Subd. 4. **Seizure.** (a) Property subject to forfeiture under sections 609.531 to 609.5318
3.13 may be seized by the appropriate agency upon process issued by any court having jurisdiction
3.14 over the property. Property may be seized without process if:

3.15 (1) the seizure is incident to a lawful arrest or a lawful search;

3.16 (2) the property subject to seizure has been the subject of a prior judgment in favor of
3.17 the state in a criminal injunction or forfeiture proceeding under this chapter; or

3.18 (3) the appropriate agency has probable cause to believe that the delay occasioned by
3.19 the necessity to obtain process would result in the removal or destruction of the property
3.20 and that:

3.21 (i) the property was used or is intended to be used in commission of a felony; or

3.22 (ii) the property is dangerous to health or safety.

3.23 If property is seized without process under item (i), the prosecuting authority must
3.24 institute a forfeiture action under section 609.5313 as soon as is reasonably possible.

3.25 (b) When property is seized, the officer must provide a receipt to the person found in
3.26 possession of the property; or in the absence of any person, the officer must leave a receipt
3.27 in the place where the property was found, if reasonably possible.

3.28 (c) The mere presence or possession of United States currency, debit cards, or credit
3.29 cards, without other indicia of a crime that subjects property to forfeiture, is insufficient
3.30 probable cause for seizure of United States currency, debit cards, or credit cards.

4.1 Sec. 4. Minnesota Statutes 2016, section 609.531, subdivision 5, is amended to read:

4.2 Subd. 5. **Right to possession vests immediately; custody of seized property.** All right,
4.3 title, and interest in property subject to forfeiture under sections 609.531 to 609.5318 vests
4.4 in the appropriate agency upon commission of the act or omission giving rise to the forfeiture.
4.5 Any property seized under sections 609.531 to 609.5318 ~~is not subject to replevin, but is~~
4.6 deemed to be in the custody of the appropriate agency subject to the orders and decrees of
4.7 the court having jurisdiction over the forfeiture proceedings. When property is so seized,
4.8 the appropriate agency shall use reasonable diligence to secure the property and prevent
4.9 waste and may do any of the following:

4.10 (1) place the property under seal;

4.11 (2) remove the property to a place designated by it; and

4.12 (3) in the case of controlled substances, require the state Board of Pharmacy to take
4.13 custody of the property and remove it to an appropriate location for disposition in accordance
4.14 with law.

4.15 Sec. 5. Minnesota Statutes 2016, section 609.531, subdivision 6a, is amended to read:

4.16 Subd. 6a. **Forfeiture a civil procedure; conviction required.** (a) An action for forfeiture
4.17 ~~is a civil in rem action and is independent of any part of a criminal prosecution, except as~~
4.18 ~~provided in this subdivision.~~

4.19 (b) An asset is subject to forfeiture by judicial determination under sections 609.5311
4.20 to 609.5318 only if:

4.21 (1) a person is convicted of the criminal offense related to the action for forfeiture; ~~or~~

4.22 (2) a person is not charged with a criminal offense under chapter 152 related to the action
4.23 for forfeiture based in whole or in part on the person's agreement to provide information
4.24 regarding the criminal activity of another person;

4.25 (3) the property is abandoned property; or

4.26 (4) the defendant dies or is deported.

4.27 ~~For purposes of clause (1), An admission of guilt to an offense chargeable under chapter~~
4.28 ~~152, a sentence under section 152.152, a stay of adjudication under section 152.18, or a~~
4.29 ~~referral to a diversion program for an offense chargeable under chapter 152 is considered~~
4.30 ~~a conviction.~~

5.1 ~~(e) The appropriate agency handling the judicial forfeiture may introduce into evidence~~
5.2 ~~in the judicial forfeiture case in civil court the agreement in paragraph (b), clause (2).~~

5.3 ~~(d)~~ (c) The appropriate agency handling the judicial forfeiture bears the burden of proving
5.4 by clear and convincing evidence that the property is an instrument or represents the proceeds
5.5 of the underlying offense.

5.6 Sec. 6. Minnesota Statutes 2016, section 609.531, is amended by adding a subdivision to
5.7 read:

5.8 Subd. 6b. **Property exempt from forfeiture.** The following property is exempt from
5.9 forfeiture and shall be returned to the owner upon request:

5.10 (1) homesteaded real property;

5.11 (2) a motor vehicle of less than \$10,000 in market value, except that this provision does
5.12 not apply to forfeiture proceedings pursuant to section 609.5318; and

5.13 (3) United States currency totaling no more than \$500.

5.14 Sec. 7. Minnesota Statutes 2016, section 609.531, subdivision 8, is amended to read:

5.15 Subd. 8. **Forfeiture policies; statewide model policy required.** (a) By December 1,
5.16 2010, the Peace Officer Standards and Training Board, after consulting with the Minnesota
5.17 County Attorneys Association, the Minnesota Sheriffs' Association, the Minnesota Chiefs
5.18 of Police Association, and the Minnesota Police and Peace Officers Association, shall
5.19 develop a model policy that articulates best practices for forfeiture and is designed to
5.20 encourage the uniform application of forfeiture laws statewide. At a minimum, the policy
5.21 shall address the following:

5.22 (1) best practices in pursuing, seizing, and tracking forfeitures;

5.23 (2) type and frequency of training for law enforcement on forfeiture laws; and

5.24 (3) situations in which forfeitures should not be pursued.

5.25 (b) By December 1, 2010, the Minnesota County Attorneys Association, after consulting
5.26 with the attorney general, the Peace Officer Standards and Training Board, the Minnesota
5.27 Sheriffs' Association, the Minnesota Chiefs of Police Association, and the Minnesota Police
5.28 and Peace Officers Association, shall develop a model policy that articulates best practices
5.29 for forfeiture and is designed to encourage the uniform application of forfeiture laws
5.30 statewide. At a minimum, the policy shall address the following:

5.31 (1) statutory role of prosecuting authorities in forfeiture procedures;

6.1 (2) best practices for timely and fair resolution of forfeiture cases;

6.2 (3) type and frequency of training for prosecuting authorities on forfeiture laws; and

6.3 (4) situations in which forfeitures should not be pursued.

6.4 (c) By December 1, 2010, the Minnesota County Attorneys Association and the Peace
6.5 Officer Standards and Training Board shall forward an electronic copy of its respective
6.6 model policy to the chairs and ranking minority members of the senate and house of
6.7 representatives committees having jurisdiction over criminal justice and civil law policy.

6.8 (d) By March 1, 2011, the chief law enforcement officer of every state and local law
6.9 enforcement agency and every prosecution office in the state shall adopt and implement a
6.10 written policy on forfeiture that is identical or substantially similar to the model policies
6.11 developed under paragraphs (a) and (b). The written policy shall be made available to the
6.12 public upon request.

6.13 (e) By December 1, 2018, the County Attorneys Association and Peace Officer Standards
6.14 and Training Board must update the model policies identified in paragraphs (a) and (b) and
6.15 forward an electronic copy of the updated model policy to the chairs and ranking minority
6.16 members of the senate and house of representatives committees having jurisdiction over
6.17 criminal justice and civil law policy.

6.18 (f) By March 1, 2019, the chief law enforcement officer of every state and local law
6.19 enforcement agency and every prosecution office in the state must update the written policy
6.20 adopted and implemented under paragraph (d) to be identical or substantially similar to the
6.21 model policies updated under paragraph (e).

6.22 Sec. 8. Minnesota Statutes 2016, section 609.531, is amended by adding a subdivision to
6.23 read:

6.24 **Subd. 9. Adoption; joint task forces; receipt of payment proceeds from federal**
6.25 **government.** (a) An appropriate agency shall not refer, transfer, or otherwise relinquish
6.26 possession of property seized under state law to a federal agency by way of adoption of the
6.27 seized property or other means by the federal agency for the purpose of the property's
6.28 forfeiture under federal law.

6.29 (b) An appropriate agency or participant in a joint task force or other multijurisdictional
6.30 collaboration with the federal government shall not accept payment of any kind or distribution
6.31 of forfeiture proceeds resulting from a joint task force or other multijurisdictional
6.32 collaboration unless the aggregate net equity value of the property and currency seized in
6.33 a case exceeds \$100,000, excluding the value of contraband.

7.1 (c) Nothing in paragraph (a) or (b) shall be construed to restrict an appropriate agency
7.2 from acting alone or collaborating with a federal agency or other agency to seize contraband
7.3 or property a law enforcement agent has probable cause to believe is the proceeds or
7.4 instruments of a crime that subjects the property to forfeiture.

7.5 Sec. 9. Minnesota Statutes 2016, section 609.5312, subdivision 3, is amended to read:

7.6 Subd. 3. **Vehicle forfeiture for prostitution offenses.** (a) A motor vehicle is subject to
7.7 forfeiture under this subdivision if it was used to commit or facilitate, or used during the
7.8 commission of, a violation of section 609.324 or a violation of a local ordinance substantially
7.9 similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision
7.10 only if the offense is established by proof of a criminal conviction for the offense. Except
7.11 as otherwise provided in this subdivision, a forfeiture under this subdivision is governed
7.12 by sections 609.531, 609.5312, and 609.5313.

7.13 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance
7.14 of a ~~judicial~~ forfeiture order, a hearing before a judge or referee must be held within 96
7.15 hours of the seizure. Notice of the hearing must be given to the registered owner within 48
7.16 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of
7.17 the hearing, that it has filed or intends to file charges against the alleged violator for violating
7.18 section 609.324 or a local ordinance substantially similar to section 609.324. After conducting
7.19 the hearing, the court shall order that the motor vehicle be returned to the owner if:

7.20 (1) the prosecuting authority has failed to make the certification required by paragraph
7.21 (b);

7.22 (2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the
7.23 owner has a defense to the forfeiture, including but not limited to the defenses contained in
7.24 subdivision 2; or

7.25 (3) the court determines that seizure of the vehicle creates or would create an undue
7.26 hardship for members of the owner's family.

7.27 (c) If the defendant is acquitted or prostitution charges against the defendant are
7.28 dismissed, neither the owner nor the defendant is responsible for paying any costs associated
7.29 with the seizure or storage of the vehicle.

7.30 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180
7.31 days or less is not subject to forfeiture under this subdivision.

7.32 (e) For purposes of this subdivision, seizure occurs either:

8.1 (1) at the date at which personal service of process upon the registered owner is made;
8.2 or

8.3 (2) at the date when the registered owner has been notified by certified mail at the address
8.4 listed in the Minnesota Department of Public Safety computerized motor vehicle registration
8.5 records.

8.6 (f) The Department of Corrections Fugitive Apprehension Unit shall not participate in
8.7 paragraphs (a) to (e).

8.8 Sec. 10. Minnesota Statutes 2016, section 609.5312, subdivision 4, is amended to read:

8.9 Subd. 4. **Vehicle forfeiture for fleeing peace officer.** (a) A motor vehicle is subject to
8.10 forfeiture under this subdivision if it was used to commit a violation of section 609.487 and
8.11 endanger life or property. A motor vehicle is subject to forfeiture under this subdivision
8.12 only if the offense is established by proof of a criminal conviction for the offense. Except
8.13 as otherwise provided in this subdivision, a forfeiture under this subdivision is governed
8.14 by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

8.15 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance
8.16 of a ~~judicial~~ forfeiture order, a hearing before a judge or referee must be held within 96
8.17 hours of the seizure. Notice of the hearing must be given to the registered owner within 48
8.18 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of
8.19 the hearing, that it has filed or intends to file charges against the alleged violator for violating
8.20 section 609.487. After conducting the hearing, the court shall order that the motor vehicle
8.21 be returned to the owner if:

8.22 (1) the prosecuting authority has failed to make the certification required by this
8.23 paragraph;

8.24 (2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the
8.25 owner has a defense to the forfeiture, including but not limited to the defenses contained in
8.26 subdivision 2; or

8.27 (3) the court determines that seizure of the vehicle creates or would create an undue
8.28 hardship for members of the owner's family.

8.29 (c) If the defendant is acquitted or the charges against the defendant are dismissed,
8.30 neither the owner nor the defendant is responsible for paying any costs associated with the
8.31 seizure or storage of the vehicle.

9.1 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180
9.2 days or less is not subject to forfeiture under this subdivision.

9.3 (e) A motor vehicle that is an off-road recreational vehicle as defined in section 169A.03,
9.4 subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13, is not subject
9.5 to paragraph (b).

9.6 (f) For purposes of this subdivision, seizure occurs either:

9.7 (1) at the date at which personal service of process upon the registered owner is made;
9.8 or

9.9 (2) at the date when the registered owner has been notified by certified mail at the address
9.10 listed in the Minnesota Department of Public Safety computerized motor vehicle registration
9.11 records.

9.12 (g) The Department of Corrections Fugitive Apprehension Unit shall not seize a motor
9.13 vehicle for the purposes of forfeiture under paragraphs (a) to (f).

9.14 Sec. 11. Minnesota Statutes 2016, section 609.5313, is amended to read:

9.15 **609.5313 FORFEITURE ~~BY JUDICIAL ACTION~~; PROCEDURE.**

9.16 Subdivision 1. **Complaint; service of process.** (a) The forfeiture of property under
9.17 sections 169A.63, 609.5311 and, 609.5312, and 609.5318 is governed by this section. ~~A~~
9.18 ~~separate complaint must be filed against the property stating the act, omission, or occurrence~~
9.19 ~~giving rise to the forfeiture and the date and place of the act or occurrence. Within 60 days~~
9.20 ~~from when the seizure occurs,~~ In any case in which the state seeks forfeiture of property,
9.21 the prosecuting authority shall notify the owner or possessor of the property of the action,
9.22 if known or readily ascertainable. The action must be captioned in the name of the prosecuting
9.23 authority or the prosecuting authority's designee as plaintiff and the property as defendant
9.24 file a complaint that includes the information identified in paragraph (b) at the time of the
9.25 defendant's first appearance in court. Upon motion by the prosecuting authority, a court
9.26 may extend the time period for sending notice for a period not to exceed 90 ~~permit the filing~~
9.27 of an amended complaint within seven days of the first appearance for good cause shown.
9.28 Service of an amended complaint on a represented party must be made on the attorney.
9.29 Service on the attorney or party must be made in the manner provided in civil actions or as
9.30 ordered by the court. Service may be made by electronic means as authorized or required
9.31 by the General Rules of Practice for the District Courts. The court shall verify service at
9.32 the defendant's next appearance.

9.33 (b) A complaint in any case in which the state seeks forfeiture of property must include:

- 10.1 (1) a description of the property seized;
 10.2 (2) the date and place of the seizure;
 10.3 (3) the name and address of the appropriate agency responsible for the seizure;
 10.4 (4) a statement of facts establishing probable cause to believe that the charged offense
 10.5 has been committed, that the defendant committed it, and that the seized property is an
 10.6 instrument or represents the proceeds of the underlying offense; and
 10.7 (5) the name of any person known to the prosecuting authority to have an interest in the
 10.8 property, and the nature of that interest.

10.9 (c) If notice a complaint is not sent filed in accordance with paragraph (a), and no time
 10.10 extension is granted or the extension period has expired, the appropriate agency shall, upon
 10.11 the owner's request, return the property to the person from whom the property was seized,
 10.12 if known. An agency's return of property due to lack of proper notice does not restrict the
 10.13 right of the agency to commence a forfeiture proceeding at a later time. The agency shall
 10.14 not be required to return contraband or other property that the person from whom the property
 10.15 was seized may not legally possess.

10.16 Subd. 2. Notice to registered owner. (a) Unless otherwise specified in law, the
 10.17 prosecuting authority shall provide notice of the forfeiture proceeding to the registered
 10.18 owner of any vehicle and any other individual known to have an interest in any property
 10.19 subject to forfeiture under this section who is not charged with a crime in the complaint.
 10.20 Notice must be given within seven days of the filing of the complaint pursuant to subdivision
 10.21 1 or, if an interest was not known at the time of the filing, within seven days of discovery
 10.22 of an individual with an interest in the property and may be made by personal service if the
 10.23 owner is a resident of this state, or by certified mail if the person is the resident of another
 10.24 state.

10.25 (b) The notice must be in writing and contain:

- 10.26 (1) a description of the property seized;
 10.27 (2) the date of seizure; and
 10.28 (3) a copy of the complaint filed pursuant to subdivision 1.

10.29 (c) Substantially, the following language must appear conspicuously in the notice:

10.30 "WARNING: You may lose the right to be heard in court if you do not file a statement
 10.31 of interest or ownership within 20 days. You must file in district court. You do not have to
 10.32 pay a filing fee for your notice."

11.1 Subd. 3. **Statement of interest or ownership.** (a) Any person, other than the defendant,
11.2 who claims an interest in seized property shall file a simple statement of interest or ownership
11.3 within 20 days of the date of service of the complaint. The filing fee for the statement under
11.4 this subdivision is waived.

11.5 (b) No information in the statement of interest or ownership filed pursuant to this section
11.6 shall be used as evidence in the criminal matter. Nothing in this paragraph prevents any
11.7 individual who has filed a statement of interest or ownership under this section from
11.8 providing information to any prosecuting authority or defendant involved in the related
11.9 criminal matter or their representatives, or from testifying in any trial as to facts within the
11.10 individual's knowledge.

11.11 Subd. 4. **Venue.** The district court with jurisdiction over the related criminal matter has
11.12 jurisdiction over the ancillary forfeiture proceeding.

11.13 Subd. 5. **Hearing; time.** A forfeiture hearing under this section shall be held as soon as
11.14 practicable after a conviction in the related criminal matter.

11.15 Subd. 6. **Innocent owner.** (a) Any person, other than the defendant, asserting a legal
11.16 interest in property which has been seized or restrained may, until the criminal conviction,
11.17 petition the court for a hearing to adjudicate the validity of the person's alleged interest in
11.18 the property. The hearing shall be held before the court.

11.19 (b) The petition shall be signed by the petitioner under penalty of perjury and shall set
11.20 forth the nature and extent of the petitioner's right, title, or interest in the property, the time
11.21 and circumstances of the petitioner's acquisition of the right, title, or interest in the property,
11.22 any additional facts supporting the petitioner's claim, and the relief sought.

11.23 (c) The hearing on the petition shall, to the extent practicable and consistent with the
11.24 interests of justice, be held within 30 days of the filing of the petition. The court may
11.25 consolidate the hearing on the petition with a hearing on any other petition filed by a person
11.26 other than the defendant under this subdivision.

11.27 (d) At the hearing, the petitioner may testify and present evidence and witnesses on the
11.28 petitioner's own behalf, and cross-examine witnesses who appear at the hearing. The state
11.29 may present evidence and witnesses in rebuttal and in defense of its claim to the property
11.30 and cross-examine witnesses who appear at the hearing.

11.31 (e) The petitioner who has an ownership interest in property subject to forfeiture existing
11.32 at the time the illegal conduct giving rise to forfeiture occurred and who claims to be an

12.1 innocent owner bears the burden of proving by clear and convincing evidence that the person
12.2 has a legal interest in the seized property.

12.3 (f) If paragraph (e) is satisfied and the state seeks to proceed with the forfeiture against
12.4 the property, the state shall prove by clear and convincing evidence that the petitioner
12.5 actively or passively permitted the defendant to use the property while having actual or
12.6 constructive knowledge that the property would be used in the manner contrary to law for
12.7 which the defendant was charged and failed to take reasonable steps to prevent use of the
12.8 property by the defendant.

12.9 (g) For purposes of this subdivision, a person, other than the defendant, who claims an
12.10 interest in seized property is presumed to know that property would be used in a manner
12.11 contrary to law consistent with the offense of which the defendant was convicted if the
12.12 defendant is a family or household member as defined in section 169A.63, subdivision 1,
12.13 paragraph (e), and:

12.14 (1) the defendant has three or more prior impaired driving convictions and the underlying
12.15 criminal matter alleges a violation of a designated offense as defined in section 169A.63,
12.16 subdivision 1, paragraph (d), or conduct resulting in a designated license revocation as
12.17 defined in section 169A.63, subdivision 1, paragraph (d);

12.18 (2) the defendant has three or more prior controlled substance convictions and the
12.19 underlying criminal matter alleges a controlled substance violation; or

12.20 (3) the defendant has three or more designated offense convictions and the underlying
12.21 criminal matter alleges a designated offense violation.

12.22 (h) A petitioner who acquired an ownership interest in property subject to forfeiture
12.23 after the commission of a crime giving rise to the forfeiture and who claims to be an innocent
12.24 owner bears the burden of proving by clear and convincing evidence that the person has a
12.25 legal interest in the seized property.

12.26 (i) If paragraph (g) is satisfied and the state seeks to proceed with the forfeiture against
12.27 the property, the state shall prove by clear and convincing evidence that, at the time the
12.28 petitioner acquired the property, the person:

12.29 (1) had actual knowledge that the property was subject to forfeiture; or

12.30 (2) was not a bona fide purchaser who made the purchase (1) without notice of any
12.31 defect in title, and (2) for valuable consideration.

13.1 (j) If the state fails to meet its burden in paragraph (f) or (i), the court shall find that the
13.2 petitioner is an innocent owner and shall order the state to relinquish all claims of title to
13.3 the property.

13.4 (k) An individual who asserts a claim pursuant to this subdivision is barred from asserting
13.5 a claim pursuant to subdivision 9.

13.6 (l) The defendant or convicted offender may invoke the right against self-incrimination
13.7 or the marital privilege during the forfeiture-related stage of the prosecution. The trier of
13.8 fact at the hearing may draw an adverse inference from the invocation of the right or
13.9 privilege.

13.10 Subd. 7. **Replevin hearing.** (a) Following the seizure of property, a defendant has a
13.11 right to a pretrial hearing to determine the validity of the seizure.

13.12 (b) The defendant may claim at any time prior to 60 days before trial of the related
13.13 criminal offense the right to possession of property by motion to the court to issue a writ
13.14 of replevin.

13.15 (c) The claimant shall file a motion establishing the validity of the alleged interest in
13.16 the property.

13.17 (d) The court shall hear the motion no more than 30 days after the motion is filed.

13.18 (e) The state shall file an answer showing probable cause for the seizure or cross motions
13.19 at least ten days before the hearing.

13.20 (f) Either party may, by agreement or for good cause, move the court for one extension
13.21 of no more than ten days. Any such motion may be supported by affidavits or other
13.22 submissions.

13.23 (g) The court shall issue a writ of replevin if it finds that:

13.24 (1) it is likely the final judgment will be that the state must return the property to the
13.25 claimant;

13.26 (2) the property is not reasonably required to be held for evidentiary reasons; or

13.27 (3) the property is the only reasonable means for a defendant to pay for legal
13.28 representation in the forfeiture or criminal proceeding.

13.29 At the court's discretion under clause (2), it may order the return of funds or property
13.30 sufficient to obtain counsel of choice but less than the total amount seized.

14.1 (h) In lieu of ordering the issuance of the writ, the court may order the state to give
14.2 security or written assurance for satisfaction of any judgment, including damages, that may
14.3 be rendered in the action, or order other relief as may be just.

14.4 (i) A defendant who asserts a claim under this subdivision is not barred from asserting
14.5 a claim pursuant to subdivision 9.

14.6 Subd. 8. **Discovery.** Discovery in a forfeiture proceeding is subject to the Rules of
14.7 Criminal Procedure.

14.8 Subd. 9. **Proceeding.** (a) A contested forfeiture proceeding shall be held before a judge.

14.9 (b) The court shall provide notice of the hearing to the defendant in the related criminal
14.10 matter, any person who filed a statement of interest or ownership pursuant to subdivision
14.11 3, and any person who claims an interest in seized property and did not receive the notice
14.12 required under subdivision 2.

14.13 (c) Except as otherwise provided in this section, when a judge conducts a contested
14.14 forfeiture proceeding, the judge is not bound by the common law or statutory rules of
14.15 evidence or technical or formal rules of pleading or procedure. Hearsay evidence which is
14.16 reliable is admissible.

14.17 (d) The defendant, any person who filed a statement of interest or ownership pursuant
14.18 to subdivision 3, and any person who claims an interest in seized property and did not receive
14.19 the notice required under subdivision 2 shall be entitled to challenge the forfeiture and may
14.20 be represented by counsel. If the defendant in the related criminal matter was represented
14.21 by the public defender, the state public defender or chief public defender of the judicial
14.22 district may authorize representation of the defendant in the forfeiture proceeding.

14.23 (e) Nothing in this subdivision prohibits resolution of the forfeiture proceeding by
14.24 stipulation or as part of a plea agreement except that the court shall not accept a plea
14.25 agreement or other arrangement that:

14.26 (1) allows a defendant to contribute or donate property to a person, charity, or other
14.27 organization; or

14.28 (2) prevents the claims of any person who filed a statement of interest or ownership
14.29 pursuant to subdivision 3 or any person who claims an interest in seized property and did
14.30 not receive the notice required under subdivision 2 from being heard.

14.31 Subd. 10. **Standards of proof.** (a) At a hearing held pursuant to subdivision 9, a person,
14.32 other than the defendant, who claims an interest in seized property has the burden to prove
14.33 by clear and convincing evidence that the person has a legal interest in the seized property.

15.1 (b) The prosecuting authority has the burden to prove by clear and convincing evidence
15.2 that:

15.3 (1) the defendant in the related criminal matter is the sole owner of the property, or any
15.4 other person who claims an ownership interest in seized property actively or passively
15.5 permitted the defendant to use the property while having actual or constructive knowledge
15.6 that the property would be used in the manner contrary to law for which the defendant was
15.7 charged and failed to take reasonable steps to prevent use of the property by the defendant;

15.8 (2) the related criminal matter resulted in a conviction for the criminal offense related
15.9 to the action for forfeiture; and

15.10 (3) the seized property was an instrument or represents the proceeds of the underlying
15.11 offense.

15.12 (c) The presumptions in subdivision 6, paragraph (g), apply to a hearing under this
15.13 subdivision.

15.14 Subd. 11. **Proportionality hearing.** (a) At any time following the determination of
15.15 forfeiture by the judge, the defendant may petition the court to determine whether the
15.16 forfeiture is excessive under the state or federal constitution.

15.17 (b) The defendant has the burden of establishing that the forfeiture is disproportional to
15.18 the seriousness of the offense by a preponderance of the evidence at a hearing conducted
15.19 by the court.

15.20 (c) In determining whether the forfeiture is excessive, the court may consider all relevant
15.21 factors including but not limited to:

15.22 (1) the seriousness of the offense and its impact on the community, including the duration
15.23 of the activity and the harm caused by the defendant;

15.24 (2) the extent to which the defendant participated in the offense;

15.25 (3) the extent to which the property was used in committing the offense;

15.26 (4) the sentence imposed for committing the crime subject to forfeiture; and

15.27 (5) whether the offense was completed or attempted.

15.28 (d) In determining the value of the instrumentality subject to forfeiture, the court may
15.29 consider all relevant factors including:

15.30 (1) the fair market value of the property;

16.1 (2) the value of the property to the defendant including hardship to the defendant if the
16.2 forfeiture is realized and if the forfeiture would deprive the property owner of the owner's
16.3 livelihood; and

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

16.6 (e) The court may not consider the value of the instrumentality to the state in determining
16.7 whether the forfeiture of an instrumentality is constitutionally excessive.

16.8 Subd. 12. **Judgment.** (a) If the prosecuting authority fails to meet its burden as to any
16.9 claimant, the court must enter judgment dismissing the forfeiture proceeding and delivering
16.10 the property to the prevailing owner, unless the owner's possession of the property is illegal.

16.11 (b) If the prosecuting authority meets its burden as to all claimants, the court shall enter
16.12 judgment forfeiting the seized property.

16.13 (c) If the court orders return of property, the law enforcement agency that holds the
16.14 property shall return the property to the owner or other prevailing claimant within a
16.15 reasonable period of time not to exceed five days after entry of judgment.

16.16 (d) Any owner to whom property is returned shall not be subject to any charges for
16.17 storage of the property or expenses incurred in the preservation of the property.

16.18 (e) The law enforcement agency that holds the property is responsible for any damages,
16.19 storage fees, and related costs applicable to property returned under this section.

16.20 (f) A court may enter judgment following a hearing or pursuant to a stipulation or plea
16.21 agreement.

16.22 Subd. 13. **Appeal.** A defendant or any individual who asserted an ownership claim at a
16.23 hearing under this section may appeal a decision regarding seizure or forfeiture. Decisions
16.24 regarding seizure may be made on an interlocutory basis.

16.25 Sec. 12. Minnesota Statutes 2016, section 609.5315, subdivision 1, is amended to read:

16.26 Subdivision 1. **Disposition.** (a) Subject to paragraph (b), if the court finds under section
16.27 ~~609.5313, 609.5314, or 609.5318~~ that the property is subject to forfeiture, it shall order the
16.28 appropriate agency to do one of the following:

16.29 (1) unless a different disposition is provided under clause (3) or (4), either destroy
16.30 firearms, ammunition, and firearm accessories that the agency decides not to use for law
16.31 enforcement purposes under clause (8), or sell them to federally licensed firearms dealers,

17.1 as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision
17.2 5 or 5b;

17.3 (2) sell property that is not required to be destroyed by law and is not harmful to the
17.4 public and distribute the proceeds under subdivision 5 or 5b;

17.5 (3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and
17.6 distribute the proceeds under subdivision 5 or 5b;

17.7 (4) destroy or use for law enforcement purposes semiautomatic military-style assault
17.8 weapons, as defined in section 624.712, subdivision 7;

17.9 (5) take custody of the property and remove it for disposition in accordance with law;

17.10 (6) forward the property to the federal drug enforcement administration; or

17.11 (7) disburse money as provided under subdivision 5, 5b, or 5c; ~~or~~

17.12 ~~(8) keep property other than money for official use by the agency and the prosecuting~~
17.13 ~~agency.~~

17.14 (b) Notwithstanding paragraph (a), the Hennepin or Ramsey County sheriff may not sell
17.15 firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable
17.16 county board.

17.17 (c) If property is sold under paragraph (a), the appropriate agency shall not sell property
17.18 to: (1) an officer or employee of the agency that seized the property or to a person related
17.19 to the officer or employee by blood or marriage; or (2) the prosecuting authority or any
17.20 individual working in the same office or a person related to the authority or individual by
17.21 blood or marriage.

17.22 (d) Sales of forfeited property under this section must be conducted in a commercially
17.23 reasonable manner.

17.24 Sec. 13. Minnesota Statutes 2016, section 609.5315, subdivision 5, is amended to read:

17.25 Subd. 5. **Distribution of money.** The money or proceeds from the sale of forfeited
17.26 property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction
17.27 of valid liens against the property, must be ~~distributed as follows:~~

17.28 ~~(1) 70 percent of the money or proceeds must be forwarded to the appropriate agency~~
17.29 ~~for deposit as a supplement to the agency's operating fund or similar fund for use in law~~
17.30 ~~enforcement;~~

18.1 ~~(2) 20 percent of the money or proceeds must be forwarded to the prosecuting authority~~
18.2 ~~that handled the forfeiture for deposit as a supplement to its operating fund or similar fund~~
18.3 ~~for prosecutorial purposes; and~~

18.4 ~~(3) the remaining ten percent of the money or proceeds must be forwarded within 60~~
18.5 ~~days after resolution of the forfeiture to the state treasury and credited to the general fund.~~
18.6 Any local police relief association organized under chapter 423 which received or was
18.7 entitled to receive the proceeds of any sale made under this section before the effective date
18.8 of Laws 1988, chapter 665, sections 1 to 17, shall continue to receive and retain the proceeds
18.9 of these sales.

18.10 Sec. 14. Minnesota Statutes 2016, section 609.5315, subdivision 5a, is amended to read:

18.11 Subd. 5a. **Disposition of certain forfeited proceeds; prostitution.** The proceeds from
18.12 the sale of motor vehicles forfeited under section 609.5312, subdivision 3, after payment
18.13 of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the
18.14 vehicle, shall be distributed as follows:

18.15 ~~(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit~~
18.16 ~~as a supplement to the agency's operating fund or similar fund for use in law enforcement;~~

18.17 ~~(2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled~~
18.18 ~~the forfeiture for deposit as a supplement to its operating fund or similar fund for~~
18.19 ~~prosecutorial purposes; and~~

18.20 ~~(3) the remaining 40~~ (1) 50 percent of the proceeds must be forwarded to the city treasury
18.21 for distribution to neighborhood crime prevention programs; and

18.22 (2) the remaining 50 percent forwarded within 60 days after resolution of the forfeiture
18.23 to the state treasury and credited to the general fund.

18.24 Sec. 15. Minnesota Statutes 2016, section 609.5315, subdivision 5b, is amended to read:

18.25 Subd. 5b. **Disposition of certain forfeited proceeds; trafficking of persons; report**
18.26 **required.** (a) Except as provided in subdivision 5c, for forfeitures resulting from violations
18.27 of section 609.282, 609.283, or 609.322, the money or proceeds from the sale of forfeited
18.28 property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction
18.29 of valid liens against the property, must be distributed as follows:

18.30 ~~(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit~~
18.31 ~~as a supplement to the agency's operating fund or similar fund for use in law enforcement;~~

19.1 ~~(2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled~~
19.2 ~~the forfeiture for deposit as a supplement to its operating fund or similar fund for~~
19.3 ~~prosecutorial purposes; and~~

19.4 ~~(3) the remaining 40~~ (1) 50 percent of the proceeds must be forwarded to the
19.5 commissioner of public safety and are appropriated to the commissioner for distribution to
19.6 crime victims services organizations that provide services to victims of trafficking offenses;
19.7 and

19.8 (2) the remaining 50 percent forwarded within 60 days after resolution of the forfeiture
19.9 to the state treasury and credited to the general fund.

19.10 (b) By February 15 of each year, the commissioner of public safety shall report to the
19.11 chairs and ranking minority members of the senate and house of representatives committees
19.12 or divisions having jurisdiction over criminal justice funding on the money collected under
19.13 paragraph (a), clause (3). The report must indicate the following relating to the preceding
19.14 calendar year:

19.15 (1) the amount of money appropriated to the commissioner;

19.16 (2) how the money was distributed by the commissioner; and

19.17 (3) what the organizations that received the money did with it.

19.18 Sec. 16. Minnesota Statutes 2017 Supplement, section 609.5315, subdivision 5c, is amended
19.19 to read:

19.20 Subd. 5c. **Disposition of money; prostitution.** Money forfeited under section 609.5312,
19.21 subdivision 1, paragraph (b), must be distributed as follows:

19.22 ~~(1) 40 percent must be forwarded to the appropriate agency for deposit as a supplement~~
19.23 ~~to the agency's operating fund or similar fund for use in law enforcement;~~

19.24 ~~(2) 20 percent must be forwarded to the prosecuting authority that handled the forfeiture~~
19.25 ~~for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes;~~
19.26 and

19.27 ~~(3) the remaining 40~~ (1) 50 percent must be forwarded to the commissioner of health to
19.28 be deposited in the safe harbor for youth account in the special revenue fund and is
19.29 appropriated to the commissioner for distribution to crime victims services organizations
19.30 that provide services to sexually exploited youth, as defined in section 260C.007, subdivision
19.31 31; and

20.1 (2) the remaining 50 percent forwarded within 60 days after resolution of the forfeiture
20.2 to the state treasury and credited to the general fund.

20.3 Sec. 17. Minnesota Statutes 2016, section 609.5318, subdivision 2, is amended to read:

20.4 Subd. 2. **Notice.** (a) The registered owner of the vehicle must be notified of the seizure
20.5 and intent to forfeit the vehicle within seven days after the seizure. Notice by certified mail
20.6 to the address shown in Department of Public Safety records is deemed to be sufficient
20.7 notice to the registered owner.

20.8 (b) The notice must be in writing and:

20.9 (1) contain a description of the property seized;

20.10 (2) contain the date of seizure; and

20.11 (3) be printed in English. This requirement does not preclude the appropriate agency
20.12 from printing the notice in other languages in addition to English.

20.13 ~~(c) Substantially, the following language must appear conspicuously in the notice:~~

20.14 ~~"WARNING: You will automatically lose the above-described property and the right~~
20.15 ~~to be heard in court if you do not file a lawsuit and serve the prosecuting authority within~~
20.16 ~~60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or~~
20.17 ~~less; otherwise, you must file in district court. You may not have to pay a filing fee for your~~
20.18 ~~lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee~~
20.19 ~~if your property is worth less than \$500."~~

20.20 Sec. 18. Minnesota Statutes 2016, section 609.5318, subdivision 4, is amended to read:

20.21 Subd. 4. **Procedure.** ~~(a) If a judicial determination of the forfeiture is requested, a~~
20.22 ~~separate complaint must be filed against the vehicle, stating the specific act giving rise to~~
20.23 ~~the forfeiture and the date, time, and place of the act. The action must be captioned in the~~
20.24 ~~name of The prosecuting authority or the prosecuting authority's designee as plaintiff and~~
20.25 ~~the property as defendant~~ must conduct the forfeiture under sections 609.531, subdivision
20.26 6a, and 609.5313.

20.27 ~~(b) If a demand for judicial determination of an administrative forfeiture is filed and the~~
20.28 ~~court orders the return of the seized property, the court shall order that filing fees be~~
20.29 ~~reimbursed to the person who filed the demand. In addition, the court may order the payment~~
20.30 ~~of reasonable costs, expenses, attorney fees, and towing and storage fees. If the court orders~~
20.31 ~~payment of these costs, they must be paid from forfeited money or proceeds from the sale~~

21.1 of forfeited property from the appropriate law enforcement and prosecuting agencies in the
 21.2 same proportion as they would be distributed under section 609.5315, subdivision 5.

21.3 Sec. 19. **REPEALER.**

21.4 Minnesota Statutes 2016, sections 609.531, subdivision 7; 609.5314; 609.5315,
 21.5 subdivisions 2 and 3; and 609.5318, subdivision 3, are repealed.

21.6 Sec. 20. **EFFECTIVE DATE.**

21.7 This article is effective August 1, 2019.

21.8 **ARTICLE 2**

21.9 **DRIVING WHILE IMPAIRED VEHICLE FORFEITURE**

21.10 Section 1. Minnesota Statutes 2017 Supplement, section 169A.63, subdivision 1, is
 21.11 amended to read:

21.12 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
 21.13 meanings given them.

21.14 (b) "Appropriate agency" means a law enforcement agency that has the authority to
 21.15 make an arrest for a violation of a designated offense or to require a test under section
 21.16 169A.51 (chemical tests for intoxication).

21.17 (c) "Claimant" means an owner of a motor vehicle or a person claiming a leasehold or
 21.18 security interest in a motor vehicle.

21.19 ~~(d) "Designated license revocation" includes a license revocation under section 169A.52~~
 21.20 ~~(license revocation for test failure or refusal) or 171.177 (revocation; search warrant) or a~~
 21.21 ~~license disqualification under section 171.165 (commercial driver's license disqualification)~~
 21.22 ~~resulting from a violation of section 169A.52 or 171.177; within ten years of the first of~~
 21.23 ~~two or more qualified prior impaired driving incidents.~~

21.24 ~~(e)~~ (d) "Designated offense" includes:

21.25 (1) a violation of section 169A.20 (driving while impaired) under the circumstances
 21.26 described in section 169A.24 (first-degree driving while impaired), or 169A.25
 21.27 (second-degree driving while impaired); or

21.28 (2) a violation of section 169A.20 or an ordinance in conformity with it:

21.29 (i) by a person whose driver's license or driving privileges have been canceled as inimical
 21.30 to public safety under section 171.04, subdivision 1, clause (10), and not reinstated; or

22.1 (ii) by a person who is subject to a restriction on the person's driver's license under
 22.2 section 171.09 (commissioner's license restrictions), which provides that the person may
 22.3 not use or consume any amount of alcohol or a controlled substance.

22.4 ~~(f)~~ (e) "Family or household member" means:

22.5 (1) a parent, stepparent, or guardian;

22.6 (2) any of the following persons related by blood, marriage, or adoption: brother, sister,
 22.7 stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent,
 22.8 great-grandparent, great-uncle, great-aunt; or

22.9 (3) persons residing together or persons who regularly associate and communicate with
 22.10 one another outside of a workplace setting.

22.11 ~~(g)~~ (f) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken
 22.12 in violation of the law.

22.13 ~~(h)~~ (g) "Owner" means a person legally entitled to possession, use, and control of a
 22.14 motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of
 22.15 180 days or more. There is a rebuttable presumption that a person registered as the owner
 22.16 of a motor vehicle according to the records of the Department of Public Safety is the legal
 22.17 owner. For purposes of this section, if a motor vehicle is owned jointly by two or more
 22.18 people, each owner's interest extends to the whole of the vehicle and is not subject to
 22.19 apportionment.

22.20 ~~(i)~~ (h) "Prosecuting authority" means the attorney in the jurisdiction in which the
 22.21 designated offense occurred who is responsible for prosecuting violations of a designated
 22.22 offense or a designee. If a state agency initiated the forfeiture, and the attorney responsible
 22.23 for prosecuting the designated offense declines to pursue forfeiture, the Attorney General's
 22.24 Office or its designee may initiate forfeiture under this section.

22.25 ~~(j)~~ (i) "Security interest" means a bona fide security interest perfected according to
 22.26 section 168A.17, subdivision 2, based on a loan or other financing that, if a vehicle is
 22.27 required to be registered under chapter 168, is listed on the vehicle's title.

22.28 Sec. 2. Minnesota Statutes 2016, section 169A.63, subdivision 3, is amended to read:

22.29 Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest
 22.30 in a vehicle subject to forfeiture under this section vests in the appropriate agency upon
 22.31 commission of the conduct resulting in the designated offense ~~or designated license~~
 22.32 ~~revocation~~ giving rise to the forfeiture. Any vehicle seized under this section is not subject

23.1 to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders
 23.2 and decrees of the court having jurisdiction over the forfeiture proceedings. When a vehicle
 23.3 is seized under this section, the appropriate agency shall use reasonable diligence to secure
 23.4 the property and prevent waste and may do any of the following:

- 23.5 (1) place the vehicle under seal;
- 23.6 (2) remove the vehicle to a place designated by it; and
- 23.7 (3) place a disabling device on the vehicle.

23.8 Sec. 3. Minnesota Statutes 2016, section 169A.63, subdivision 5, is amended to read:

23.9 Subd. 5. **Evidence.** Certified copies of court records and motor vehicle and driver's
 23.10 license records concerning qualified prior impaired driving incidents are admissible as
 23.11 substantive evidence where necessary to prove the commission of a designated offense ~~or~~
 23.12 ~~the occurrence of a designated license revocation.~~

23.13 Sec. 4. Minnesota Statutes 2016, section 169A.63, subdivision 6, is amended to read:

23.14 Subd. 6. **Vehicle subject to forfeiture.** (a) A motor vehicle is subject to forfeiture under
 23.15 this section if it was used in the commission of a designated offense ~~or was used in conduct~~
 23.16 ~~resulting in a designated license revocation.~~

23.17 (b) Motorboats subject to seizure and forfeiture under this section also include their
 23.18 trailers.

23.19 Sec. 5. Minnesota Statutes 2017 Supplement, section 169A.63, subdivision 7, is amended
 23.20 to read:

23.21 Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to forfeiture
 23.22 under this section if:

- 23.23 ~~(1) the driver is convicted of the designated offense upon which the forfeiture is based;~~
- 23.24 ~~(2) the driver fails to appear for a scheduled court appearance with respect to the~~
 23.25 ~~designated offense charged and fails to voluntarily surrender within 48 hours after the time~~
 23.26 ~~required for appearance; or~~
- 23.27 ~~(3) the driver's conduct results in a designated license revocation and the driver fails to~~
 23.28 ~~seek judicial review of the revocation in a timely manner as required by section 169A.53,~~
 23.29 ~~subdivision 2, (petition for judicial review), or the license revocation is judicially reviewed~~
 23.30 ~~and sustained under section 169A.53, subdivision 2.~~

24.1 (b) A vehicle encumbered by a security interest perfected according to section 168A.17,
24.2 subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the
24.3 interest of the secured party or lessor unless the party or lessor had knowledge of or consented
24.4 to the act upon which the forfeiture is based. However, when the proceeds of the sale of a
24.5 seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency
24.6 shall remit all proceeds of the sale to the secured party after deducting the agency's costs
24.7 for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is
24.8 conducted in a commercially reasonable manner consistent with the provisions of section
24.9 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in
24.10 excess of the sale proceeds. The validity and amount of a nonperfected security interest
24.11 must be established by its holder by clear and convincing evidence.

24.12 (c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle is
24.13 not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act
24.14 or omission upon which the forfeiture is based if the secured party or lessor demonstrates
24.15 by clear and convincing evidence that the party or lessor took reasonable steps to terminate
24.16 use of the vehicle by the offender.

24.17 ~~(d) A motor vehicle is not subject to forfeiture under this section if any of its owners
24.18 who petition the court can demonstrate by clear and convincing evidence that the petitioning
24.19 owner did not have actual or constructive knowledge that the vehicle would be used or
24.20 operated in any manner contrary to law or that the petitioning owner took reasonable steps
24.21 to prevent use of the vehicle by the offender. If the offender is a family or household member
24.22 of any of the owners who petition the court and has three or more prior impaired driving
24.23 convictions, the petitioning owner is presumed to know of any vehicle use by the offender
24.24 that is contrary to law. "Vehicle use contrary to law" includes, but is not limited to, violations
24.25 of the following statutes:~~

24.26 ~~(1) section 171.24 (violations; driving without valid license);~~

24.27 ~~(2) section 169.791 (criminal penalty for failure to produce proof of insurance);~~

24.28 ~~(3) section 171.09 (driving restrictions; authority; violations);~~

24.29 ~~(4) section 169A.20 (driving while impaired);~~

24.30 ~~(5) section 169A.33 (underage drinking and driving); and~~

24.31 ~~(6) section 169A.35 (open bottle law).~~

24.32 (d) Any person, other than the defendant, asserting a legal interest in the motor vehicle
24.33 may petition the court pursuant to section 609.5315, subdivision 6.

25.1 Sec. 6. Minnesota Statutes 2016, section 169A.63, subdivision 9, is amended to read:

25.2 Subd. 9. **Judicial Forfeiture procedure.** (a) ~~This subdivision governs judicial~~
25.3 ~~determinations of the~~ Except as otherwise stated in this section, section 609.5313 governs
25.4 ~~forfeiture of proceedings for~~ a motor vehicle used to commit a designated offense ~~or used~~
25.5 ~~in conduct resulting in a designated license revocation. An action for forfeiture is a civil in~~
25.6 ~~rem action and is independent of any criminal prosecution. All proceedings are governed~~
25.7 ~~by the Rules of Civil Procedure.~~

25.8 (b) ~~If no demand for judicial determination of the forfeiture is pending, the prosecuting~~
25.9 ~~authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint~~
25.10 ~~against the vehicle, describing it, specifying that it was used in the commission of a~~
25.11 ~~designated offense or was used in conduct resulting in a designated license revocation, and~~
25.12 ~~specifying the time and place of its unlawful use.~~

25.13 (c) ~~The prosecuting authority may file an answer to a properly served demand for judicial~~
25.14 ~~determination, including an affirmative counterclaim for forfeiture. The prosecuting authority~~
25.15 ~~is not required to file an answer.~~

25.16 (d) ~~A judicial determination under this subdivision must be held at the earliest practicable~~
25.17 ~~date, and in any event no later than 180 days following the filing of the demand by the~~
25.18 ~~claimant. If a related criminal proceeding is pending, the hearing shall not be held until the~~
25.19 ~~conclusion of the criminal proceedings. The district court administrator shall schedule the~~
25.20 ~~hearing as soon as practicable after the conclusion of the criminal prosecution. The district~~
25.21 ~~court administrator shall establish procedures to ensure efficient compliance with this~~
25.22 ~~subdivision. The hearing is to the court without a jury.~~

25.23 (e) ~~There is a presumption that a vehicle seized under this section is subject to forfeiture~~
25.24 ~~if the prosecuting authority establishes that the vehicle was used in the commission of a~~
25.25 ~~designated offense or designated license revocation. A claimant bears the burden of proving~~
25.26 ~~any affirmative defense raised.~~

25.27 (f) (b) ~~If the forfeiture is based on the commission of a designated offense and the person~~
25.28 ~~charged with the designated offense appears in court as required and is not convicted of the~~
25.29 ~~offense, the court shall order the property returned to the person legally entitled to it upon~~
25.30 ~~that person's compliance with the redemption requirements of section 169A.42. If the~~
25.31 ~~forfeiture is based on a designated license revocation, and the license revocation is rescinded~~
25.32 ~~under section 169A.53, subdivision 3 (judicial review hearing, issues, order, appeal), the~~
25.33 ~~court shall order the property returned to the person legally entitled to it upon that person's~~
25.34 ~~compliance with the redemption requirements of section 169A.42, except that any owner~~

26.1 to whom property is returned shall not be subject to any charges for storage of the motor
 26.2 vehicle or expenses incurred in the preservation of the motor vehicle.

26.3 ~~(g)~~ (c) If the lawful ownership of the vehicle used in the commission of a designated
 26.4 offense or used in conduct resulting in a designated license revocation can be determined
 26.5 and the owner makes the demonstration required under ~~subdivision 7, paragraph (d)~~ section
 26.6 609.5313, subdivision 6, the vehicle must be returned immediately upon the owner's
 26.7 compliance with the redemption requirements of section 169A.42, except that any owner
 26.8 to whom property is returned shall not be subject to any charges for storage of the motor
 26.9 vehicle or expenses incurred in the preservation of the motor vehicle.

26.10 ~~(h) If the court orders the return of a seized vehicle under this subdivision it must order~~
 26.11 ~~that filing fees be reimbursed to the person who filed the demand for judicial determination.~~
 26.12 ~~In addition, the court may order sanctions under section 549.211 (sanctions in civil actions).~~
 26.13 ~~Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the~~
 26.14 ~~law enforcement agency and prosecuting authority involved and in the same proportion as~~
 26.15 ~~distributed under subdivision 10, paragraph (b).~~

26.16 Sec. 7. Minnesota Statutes 2016, section 169A.63, subdivision 10, is amended to read:

26.17 Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited
 26.18 under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to
 26.19 forfeiture under subdivisions 6 and 7, the appropriate agency shall:

26.20 ~~(1) sell the vehicle and distribute the proceeds under paragraph (b); or~~

26.21 ~~(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for~~
 26.22 ~~official use, it shall make reasonable efforts to ensure that the motor vehicle is available for~~
 26.23 ~~use by the agency's officers who participate in the drug abuse resistance education program.~~

26.24 (b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing,
 26.25 storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property,
 26.26 must be ~~distributed as follows:~~ forwarded within 60 days after resolution of the forfeiture
 26.27 to the state treasury and credited to the general fund.

26.28 ~~(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit~~
 26.29 ~~as a supplement to the state or local agency's operating fund or similar fund for use in~~
 26.30 ~~DWI-related enforcement, training, and education; and~~

26.31 ~~(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority~~
 26.32 ~~that handled the forfeiture for deposit as a supplement to its operating fund or similar fund~~
 26.33 ~~for prosecutorial purposes.~~

27.1 (c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the
27.2 vehicle to: (1) an officer or employee of the agency that seized the property or to a person
27.3 related to the officer or employee by blood or marriage; or (2) the prosecuting authority or
27.4 any individual working in the same office or a person related to the authority or individual
27.5 by blood or marriage.

27.6 (d) Sales of forfeited vehicles under this section must be conducted in a commercially
27.7 reasonable manner.

27.8 ~~(e) If a vehicle is forfeited administratively under this section and no demand for judicial~~
27.9 ~~determination is made, the appropriate agency shall provide the prosecuting authority with~~
27.10 ~~a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a~~
27.11 ~~statement of probable cause for forfeiture of the property, and a description of the property~~
27.12 ~~and its estimated value. Upon review and certification by the prosecuting authority that (1)~~
27.13 ~~the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (e),~~
27.14 ~~(2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable~~
27.15 ~~cause for forfeiture exists based on the officer's statement, the appropriate agency may~~
27.16 ~~dispose of the property in any of the ways listed in this subdivision.~~

27.17 Sec. 8. Minnesota Statutes 2016, section 169A.63, subdivision 11, is amended to read:

27.18 Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a
27.19 valid security interest in or a valid lease covering a forfeited vehicle may choose to dispose
27.20 of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the
27.21 vehicle under subdivision 9. A financial institution wishing to dispose of a vehicle under
27.22 this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days
27.23 after receiving notice of the seizure and forfeiture. The appropriate agency shall release the
27.24 vehicle to the financial institution or its agent after the financial institution presents proof
27.25 of its valid security agreement or of its lease agreement and the financial institution agrees
27.26 not to sell the vehicle to a member of the violator's household, unless the violator is not
27.27 convicted of the offense on which the forfeiture is based. The financial institution shall
27.28 dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

27.29 (b) After disposing of the forfeited vehicle, the financial institution shall reimburse the
27.30 appropriate agency for its seizure, storage, and forfeiture costs. The financial institution
27.31 may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to
27.32 satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution
27.33 shall forward the proceeds to the state treasury, ~~which shall credit the appropriate fund as~~
27.34 ~~specified in subdivision 9.~~

28.1 Sec. 9. **REPEALER.**28.2 Minnesota Statutes 2016, section 169A.63, subdivision 8, is repealed.28.3 Sec. 10. **EFFECTIVE DATE.**28.4 This article is effective August 1, 2019.28.5 **ARTICLE 3**28.6 **CONFORMING CHANGES**

28.7 Section 1. Minnesota Statutes 2016, section 84.7741, subdivision 7, is amended to read:

28.8 Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle
28.9 is presumed subject to forfeiture under this section if the driver:28.10 ~~(1) is convicted of the designated offense upon which the forfeiture is based; or~~28.11 ~~(2) fails to appear for a scheduled court appearance with respect to the designated offense~~
28.12 ~~charged and fails to voluntarily surrender within 48 hours after the time required for~~
28.13 ~~appearance.~~28.14 (b) An off-highway vehicle encumbered by a security interest perfected according to
28.15 section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more,
28.16 is subject to the interest of the secured party or lessor unless the party or lessor had knowledge
28.17 of or consented to the act upon which the forfeiture is based. However, when the proceeds
28.18 of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the
28.19 appropriate agency shall remit all proceeds of the sale to the secured party after deducting
28.20 the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale
28.21 of the vehicle is conducted in a commercially reasonable manner consistent with section
28.22 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in
28.23 excess of the sale proceeds. The validity and amount of a nonperfected security interest
28.24 must be established by its holder by clear and convincing evidence.28.25 (c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an
28.26 off-highway vehicle is not subject to forfeiture based solely on the secured party's or lessor's
28.27 knowledge of the act or omission upon which the forfeiture is based if the secured party or
28.28 lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable
28.29 steps to terminate use of the vehicle by the offender.28.30 ~~(d) An off-highway vehicle is not subject to forfeiture under this section if its owner can~~
28.31 ~~demonstrate by clear and convincing evidence that the owner did not have actual or~~

29.1 ~~constructive knowledge that the vehicle would be used or operated in any manner contrary~~
29.2 ~~to law or that the owner took reasonable steps to prevent use of the vehicle by the offender.~~
29.3 ~~If the offender is a family or household member of the owner and has three or more prior~~
29.4 ~~off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the~~
29.5 ~~offender that is contrary to law.~~

29.6 (d) Any person, other than the defendant, asserting a legal interest in the off-highway
29.7 vehicle may petition the court pursuant to section 609.5315, subdivision 6.

29.8 Sec. 2. Minnesota Statutes 2016, section 84.7741, subdivision 9, is amended to read:

29.9 Subd. 9. **Judicial Forfeiture procedure.** ~~(a) This subdivision governs judicial~~
29.10 ~~determinations of~~ Except as otherwise stated in this section, section 609.5313 governs the
29.11 forfeiture of an off-highway vehicle used to commit a designated offense. ~~An action for~~
29.12 ~~forfeiture is a civil in rem action and is independent of any criminal prosecution. All~~
29.13 ~~proceedings are governed by the Rules of Civil Procedure.~~

29.14 ~~(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting~~
29.15 ~~authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint~~
29.16 ~~against the vehicle, describing it, specifying that it was used in the commission of a~~
29.17 ~~designated offense, and specifying the time and place of its unlawful use.~~

29.18 ~~(c) The prosecuting authority may file an answer to a properly served demand for judicial~~
29.19 ~~determination, including an affirmative counterclaim for forfeiture. The prosecuting authority~~
29.20 ~~is not required to file an answer.~~

29.21 ~~(d) A judicial determination under this subdivision must be held at the earliest practicable~~
29.22 ~~date, and in any event no later than 180 days following the filing of the demand by the~~
29.23 ~~claimant. If a related criminal proceeding is pending, the hearing shall not be held until the~~
29.24 ~~conclusion of the criminal proceedings. The district court administrator shall schedule the~~
29.25 ~~hearing as soon as practicable after the conclusion of the criminal prosecution. The district~~
29.26 ~~court administrator shall establish procedures to ensure efficient compliance with this~~
29.27 ~~subdivision. The hearing is to the court without a jury.~~

29.28 ~~(e) There is a presumption that an off-highway vehicle seized under this section is subject~~
29.29 ~~to forfeiture if the prosecuting authority establishes that the vehicle was used in the~~
29.30 ~~commission of a designated offense. A claimant bears the burden of proving any affirmative~~
29.31 ~~defense raised.~~

29.32 ~~(f)~~ (b) If the forfeiture is based on the commission of a designated offense and the person
29.33 charged with the designated offense appears in court as required and is not convicted of the

30.1 offense, the court shall order the property returned to the person legally entitled to it upon
30.2 that person's compliance with the redemption requirements of subdivision 12.

30.3 ~~(g)~~ (c) If the lawful ownership of the vehicle used in the commission of a designated
30.4 offense can be determined and the owner makes the demonstration required under subdivision
30.5 7, ~~paragraph (d)~~ section 609.5313, subdivision 6, the vehicle must be returned immediately
30.6 upon the owner's compliance with the redemption requirements of subdivision 12.

30.7 ~~(h) If the court orders the return of a seized vehicle under this subdivision, it must order~~
30.8 ~~that filing fees be reimbursed to the person who filed the demand for judicial determination.~~
30.9 ~~In addition, the court may order sanctions under section 549.211. Any reimbursement fees~~
30.10 ~~or sanctions must be paid from other forfeiture proceeds of the law enforcement agency~~
30.11 ~~and prosecuting authority involved and in the same proportion as distributed under~~
30.12 ~~subdivision 10, paragraph (b).~~

30.13 Sec. 3. Minnesota Statutes 2016, section 84.7741, subdivision 10, is amended to read:

30.14 Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is ~~administratively forfeited~~
30.15 ~~under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to~~
30.16 ~~forfeiture under subdivisions 6 and 7, the appropriate agency shall:~~

30.17 ~~(1) sell the vehicle and distribute the proceeds under paragraph (b); or~~

30.18 ~~(2) keep the vehicle for official use. If the agency keeps a forfeited off-highway vehicle~~
30.19 ~~for official use, the agency shall make reasonable efforts to ensure that the off-highway~~
30.20 ~~vehicle is available for use by the agency's officers who participate in off-highway vehicle~~
30.21 ~~enforcement or education programs.~~

30.22 (b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing,
30.23 storage, forfeiture, and sale expenses and satisfaction of valid liens against the property,
30.24 must be ~~distributed as follows:~~ forwarded within 60 days after resolution of the forfeiture
30.25 to the state treasury and credited to the general fund.

30.26 ~~(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit~~
30.27 ~~as a supplement to the state or local agency's operating fund or similar fund for use in~~
30.28 ~~purchasing equipment for off-highway vehicle enforcement, training, and education; and~~

30.29 ~~(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority~~
30.30 ~~that handled the forfeiture for deposit as a supplement to its operating fund or similar fund~~
30.31 ~~for prosecutorial purposes.~~

31.1 (c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the
31.2 vehicle to: (1) an officer or employee of the agency that seized the property or to a person
31.3 related to the officer or employee by blood or marriage; or (2) the prosecuting authority or
31.4 any individual working in the same office or a person related to the authority or individual
31.5 by blood or marriage.

31.6 (d) Sales of forfeited vehicles under this section must be conducted in a commercially
31.7 reasonable manner.

31.8 ~~(e) If a vehicle is forfeited administratively under this section and no demand for judicial~~
31.9 ~~determination is made, the appropriate agency shall provide the prosecuting authority with~~
31.10 ~~a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a~~
31.11 ~~statement of probable cause for forfeiture of the property, and a description of the property~~
31.12 ~~and its estimated value. Upon review and certification by the prosecuting authority that (1)~~
31.13 ~~the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (e),~~
31.14 ~~(2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable~~
31.15 ~~cause for forfeiture exists based on the officer's statement, the appropriate agency may~~
31.16 ~~dispose of the property in any of the ways listed in this subdivision.~~

31.17 Sec. 4. Minnesota Statutes 2016, section 84.7741, subdivision 11, is amended to read:

31.18 Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a
31.19 valid security interest in or a valid lease covering a forfeited off-highway vehicle may choose
31.20 to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing
31.21 of the vehicle under subdivision 10. A financial institution wishing to dispose of an
31.22 off-highway vehicle under this subdivision shall notify the appropriate agency of its intent,
31.23 in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate
31.24 agency shall release the vehicle to the financial institution or its agent after the financial
31.25 institution presents proof of its valid security agreement or of its lease agreement and the
31.26 financial institution agrees not to sell the vehicle to a family or household member of the
31.27 violator, unless the violator is not convicted of the offense on which the forfeiture is based.
31.28 The financial institution shall dispose of the vehicle in a commercially reasonable manner
31.29 as defined in section 336.9-610.

31.30 (b) After disposing of the forfeited vehicle, the financial institution shall reimburse the
31.31 appropriate agency for its seizure, storage, and forfeiture costs. The financial institution
31.32 may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to
31.33 satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution

32.1 shall forward the proceeds to the state treasury, ~~which shall credit the appropriate fund as~~
32.2 ~~specified in subdivision 10.~~

32.3 Sec. 5. Minnesota Statutes 2016, section 609B.515, is amended to read:

32.4 **609B.515 DWI; VEHICLE FORFEITURE.**

32.5 Under section 169A.63, a motor vehicle is subject to forfeiture if a driver is convicted
32.6 of a "designated offense," as defined in section 169A.63, subdivision 1.

32.7 Section 169A.63, subdivision 7, specifies limitations on vehicle forfeiture. Section
32.8 169A.63, ~~subdivisions 8 and subdivision 9, provide~~ provides for ~~administrative forfeiture~~
32.9 ~~procedure and judicial forfeiture procedure.~~ Section 169A.63, subdivisions 10 and 11,
32.10 provide for disposition of a forfeited vehicle.

32.11 Sec. 6. Minnesota Statutes 2016, section 611.32, subdivision 2, is amended to read:

32.12 Subd. 2. **Proceedings at time of apprehension or arrest.** Following the apprehension
32.13 or arrest of a person disabled in communication for an alleged violation of a criminal law,
32.14 the arresting officer, sheriff or other law enforcement official shall immediately make
32.15 necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the
32.16 earliest possible time at the place of detention. A law enforcement officer shall, with the
32.17 assistance of the interpreter, explain to the person disabled in communication, all charges
32.18 filed against the person, and all procedures relating to the person's detainment and release.
32.19 If the property of a person is seized under section 609.531, subdivision 4, the seizing officer,
32.20 sheriff, or other law enforcement official shall, ~~upon request,~~ make available to the person
32.21 at the earliest possible time a qualified interpreter to assist the person in understanding the
32.22 possible consequences of the seizure and the person's right to ~~judicial~~ review. ~~If the seizure~~
32.23 ~~is governed by section 609.5314, subdivision 2, a request for an interpreter must be made~~
32.24 ~~within 15 days after service of the notice of seizure and forfeiture. For a person who requests~~
32.25 ~~an interpreter under this section because of a seizure of property under section 609.5314,~~
32.26 ~~the 60 days for filing a demand for a judicial determination of a forfeiture begins when the~~
32.27 ~~interpreter is provided.~~ The interpreter shall also assist the person with all other
32.28 communications, including communications relating to needed medical attention. Prior to
32.29 interrogating or taking the statement of the person disabled in communication, the arresting
32.30 officer, sheriff, or other law enforcement official shall make available to the person a
32.31 qualified interpreter to assist the person throughout the interrogation or taking of a statement.

33.1 Sec. 7. **REPEALER.**

33.2 Minnesota Statutes 2016, section 84.7741, subdivision 8, is repealed.

33.3 Sec. 8. **EFFECTIVE DATE.**

33.4 This article is effective August 1, 2019.

APPENDIX
Article locations in HF3725-1

| | | |
|-----------|--|--------------|
| ARTICLE 1 | FORFEITURE PROCEDURES..... | Page.Ln 1.13 |
| ARTICLE 2 | DRIVING WHILE IMPAIRED VEHICLE FORFEITURE..... | Page.Ln 21.8 |
| ARTICLE 3 | CONFORMING CHANGES..... | Page.Ln 28.5 |

84.7741 OFF-HIGHWAY VEHICLE FORFEITURE.

Subd. 8. **Administrative forfeiture procedure.** (a) An off-highway vehicle used to commit a designated offense is subject to administrative forfeiture under this subdivision.

(b) Within 60 days from when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For off-highway vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than \$500."

(d) If notice is not sent in accordance with paragraph (b), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(e) Within 60 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 60 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(f) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return

of an off-highway vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(g) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted according to subdivision 9.

169A.63 VEHICLE FORFEITURE.

Subd. 8. **Administrative forfeiture procedure.** (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) Within 60 days from when a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than \$500."

(d) If notice is not sent in accordance with paragraph (b), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(e) Within 60 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, including the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint by any means permitted by court rules. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture, within 60 days following service of the notice of seizure and

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forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(f) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(g) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted as provided under subdivision 9.

609.531 FORFEITURES.

Subd. 7. **Petition for remission or mitigation.** Prior to the entry of a court order disposing with the forfeiture action, any person who has an interest in forfeited property may file with the prosecuting authority a petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and conditions the prosecuting authority deems reasonable if the prosecuting authority finds that: (1) the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or (2) extenuating circumstances justify the remission or mitigation of the forfeiture.

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

Subdivision 1. **Property subject to administrative forfeiture; presumption.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize items listed in paragraph (a), clauses (2) and (3), for the purposes of forfeiture.

(c) A claimant of the property bears the burden to rebut this presumption.

Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in subdivision 1 that does not exceed \$50,000 in value is governed by this subdivision. Within 60 days from when seizure occurs, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner. The notification to a person known to have a security interest in seized property

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required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security interest is listed on the vehicle's title. Upon motion by the appropriate agency or the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

- (1) a description of the property seized;
- (2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than \$500."

(c) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

Subd. 3. Judicial determination. (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The district court administrator shall schedule the hearing as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

609.5315 DISPOSITION OF FORFEITED PROPERTY.

Subd. 2. **Disposition of administratively forfeited property.** If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with section 609.531, subdivision 4, or 626.16; (2) the appropriate agency served notice in accordance with section 609.5314, subdivision 2, or 609.5318, subdivision 2; and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in subdivision 1.

Subd. 3. **Use by law enforcement.** (a) Property kept under this section may be used only in the performance of official duties of the appropriate agency or prosecuting agency and may not be used for any other purpose. If an appropriate agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use and adaptation by the agency's officers who participate in the drug abuse resistance education program.

(b) Proceeds from the sale of property kept under this subdivision must be disbursed as provided in subdivision 5.

609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.

Subd. 3. **Hearing.** (a) Within 60 days following service of a notice of seizure and forfeiture, a claimant may demand a judicial determination of the forfeiture. If a related criminal proceeding is pending, the 60-day period begins to run at the conclusion of those proceedings.

(b) The demand must be in the form of a civil complaint as provided in section 609.5314, subdivision 3, except as otherwise provided in this section.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 4.