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State of Minnesota  
**HOUSE OF REPRESENTATIVES**  
***First Division Engrossment***

NINETY-FIRST SESSION

**H. F. No. 2705**

03/25/2019 Authored by Lesch, Mariani, Moller, Her and Cantrell  
The bill was read for the first time and referred to the Committee on Ways and Means

**Division Action**

04/09/2019 *Referred by Chair to the Judiciary Finance and Civil Law Division*  
*Division action, to adopt as amended and return to the Committee on Ways and Means*

1.1 A bill for an act

1.2 relating to judiciary; appropriating money for courts, civil legal services, human

1.3 rights, Guardian Ad Litem Board, Uniform Laws Commission, Board on Judicial

1.4 Standards, Board of Public Defense, Bureau of Mediation Services, and Legislative

1.5 Coordinating Commission; modifying certain provisions related to courts and

1.6 forfeiture; raising the age of marriage to 18; establishing a cooperative private

1.7 divorce program; providing for studies; requiring reports; amending Minnesota

1.8 Statutes 2018, sections 13.599, by adding a subdivision; 62A.21, subdivision 2a;

1.9 84.7741, subdivision 13; 97A.221, subdivision 5; 97A.223, subdivision 6; 97A.225,

1.10 subdivision 10; 152.21, subdivision 6; 152.32, subdivision 2; 169.99, subdivision

1.11 1c, by adding a subdivision; 257.56; 299A.681, subdivision 11; 357.021,

1.12 subdivisions 1a, 2, 6, by adding a subdivision; 363A.03, subdivision 43; 363A.35,

1.13 subdivision 3; 363A.36, subdivisions 1, 4, by adding a subdivision; 363A.44,

1.14 subdivision 1; 484.85; 517.02; 517.03, subdivision 1; 517.08, subdivisions 1a, 1b,

1.15 by adding a subdivision; 518.191, by adding a subdivision; 518.195, by adding a

1.16 subdivision; 518A.43, subdivision 1; 609.101, subdivision 5; 609.66, subdivision

1.17 1d; 609.762, subdivision 2; 609.856, subdivision 2; 609.895, subdivision 5;

1.18 609.908, subdivision 3; 609B.515; 611.32, subdivision 2; 624.714, subdivisions

1.19 1b, 7a, 17; 624.7142, subdivision 6; 629.715, subdivision 2; proposing coding for

1.20 new law in Minnesota Statutes, chapters 3; 518; 609; repealing Minnesota Statutes

1.21 2018, sections 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a, 6a, 7, 8; 609.5311;

1.22 609.5312; 609.5313; 609.5314; 609.5315; 609.5316; 609.5317; 609.5318;

1.23 609.5319; 609.762, subdivisions 3, 4, 5, 6; 609.905, subdivision 3.

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

1.25 **ARTICLE 1**

1.26 **APPROPRIATIONS**

1.27 Section 1. **APPROPRIATIONS.**

1.28 The sums shown in the columns marked "Appropriations" are appropriated to the agencies

1.29 and for the purposes specified in this act. The appropriations are from the general fund, or

1.30 another named fund, and are available for the fiscal years indicated for each purpose. The

1.31 figures "2020" and "2021" used in this act mean that the appropriations listed under them

are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively. "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium" is fiscal years 2020 and 2021.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2020**                      **2021**

**Sec. 2. SUPREME COURT**

**Subdivision 1. Total Appropriation**                      **\$ 59,131,000**   **\$ 61,304,000**

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Supreme Court Operations**                      **43,608,000**                      **44,858,000**

**(a) Contingent Account**

\$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

**(b) Judges' Compensation**

Judges' compensation is increased by three percent each year.

**(c) Cybersecurity Program**

\$2,500,000 each year is for a cybersecurity program.

**(d) Early Neutral Evaluation**

\$50,000 the first year is to contract with the Board of Regents of the University of Minnesota for its Extension Service to develop and conduct a survey of all early neutral evaluation participants and provide a report to the legislature pursuant to article 2, section 8.

**Subd. 3. Civil Legal Services**                      **15,523,000**                      **16,446,000**

3.1 **Legal Services to Low-Income Clients in**

3.2 **Family Law Matters.** \$1,062,000 the first

3.3 year and \$1,125,000 the second year are to

3.4 improve the access of low-income clients to

3.5 legal representation in family law matters.

3.6 This appropriation must be distributed under

3.7 Minnesota Statutes, section 480.242, to the

3.8 qualified legal services program described in

3.9 Minnesota Statutes, section 480.242,

3.10 subdivision 2, paragraph (a). Any

3.11 unencumbered balance remaining in the first

3.12 year does not cancel and is available in the

3.13 second year.

3.14 Sec. 3. **COURT OF APPEALS** \$ **12,878,000** \$ **13,258,000**

3.15 **Judges' Compensation.** Judges' compensation

3.16 is increased by three percent each year.

3.17 Sec. 4. **DISTRICT COURTS** \$ **311,201,000** \$ **321,140,000**

3.18 **(a) Judges' Compensation**

3.19 Judges' compensation is increased by four

3.20 percent each year.

3.21 **(b) New Trial Judges**

3.22 \$912,000 the first year and \$846,000 the

3.23 second year are for two new trial court judge

3.24 units in the Seventh Judicial District.

3.25 **(c) Mandated Psychological Services**

3.26 \$1,070,000 each year is for mandated court

3.27 services.

3.28 **(d) Treatment Courts Stability**

3.29 \$306,000 each year is for treatment courts

3.30 stability.

3.31 **(e) Gun Violence Prevention**

4.1	<u>\$81,000 each year is to process petitions for</u>			
4.2	<u>extreme risk protection orders.</u>			
4.3	Sec. 5. <b><u>GUARDIAN AD LITEM BOARD</u></b>	<b><u>\$</u></b>	<b><u>21,876,000</u></b>	<b><u>\$</u></b> <b><u>22,578,000</u></b>
4.4	<b><u>Compliance Positions.</u></b> \$4,205,000 the first			
4.5	<u>year and \$4,443,000 the second year are for</u>			
4.6	<u>new positions to maintain compliance with</u>			
4.7	<u>federal and state mandates.</u>			
4.8	Sec. 6. <b><u>TAX COURT</u></b>	<b><u>\$</u></b>	<b><u>1,807,000</u></b>	<b><u>\$</u></b> <b><u>1,808,000</u></b>
4.9	Sec. 7. <b><u>UNIFORM LAWS COMMISSION</u></b>	<b><u>\$</u></b>	<b><u>98,000</u></b>	<b><u>\$</u></b> <b><u>98,000</u></b>
4.10	Sec. 8. <b><u>BOARD ON JUDICIAL STANDARDS</u></b>	<b><u>\$</u></b>	<b><u>535,000</u></b>	<b><u>\$</u></b> <b><u>509,000</u></b>
4.11	<b><u>Major Disciplinary Actions.</u></b> \$125,000 each			
4.12	<u>year is for special investigative and hearing</u>			
4.13	<u>costs for major disciplinary actions undertaken</u>			
4.14	<u>by the board. This appropriation does not</u>			
4.15	<u>cancel. Any unencumbered and unspent</u>			
4.16	<u>balances remain available for these</u>			
4.17	<u>expenditures until June 30, 2023.</u>			
4.18	Sec. 9. <b><u>BOARD OF PUBLIC DEFENSE</u></b>	<b><u>\$</u></b>	<b><u>100,029,000</u></b>	<b><u>\$</u></b> <b><u>111,657,000</u></b>
4.19	<b><u>(a) New Positions</u></b>			
4.20	<u>\$3,296,000 the first year and \$9,472,000 the</u>			
4.21	<u>second year are contingent on participation in</u>			
4.22	<u>veteran's specialty courts.</u>			
4.23	<b><u>(b) Forfeiture Representation</u></b>			
4.24	<u>\$205,000 the first year and \$515,000 the</u>			
4.25	<u>second year are for providing representation</u>			
4.26	<u>in forfeiture proceedings for individuals</u>			
4.27	<u>entitled to be represented in criminal matters.</u>			
4.28	<b><u>(c) Base Adjustment</u></b>			
4.29	<u>The general fund base is increased by</u>			
4.30	<u>\$108,000 beginning in fiscal year 2022.</u>			
4.31	Sec. 10. <b><u>HUMAN RIGHTS</u></b>	<b><u>\$</u></b>	<b><u>6,421,000</u></b>	<b><u>\$</u></b> <b><u>6,698,000</u></b>

5.1 \$10,000 the second year is for a microgrant  
5.2 program for capacity building by local units  
5.3 of government and local groups.

5.4 **Sec. 11. BUREAU OF MEDIATION**  
5.5 **SERVICES**

**\$        2,200,000 \$        413,000**

5.6 \$2,200,000 the first year and \$413,000 the  
5.7 second year are to develop and implement the  
5.8 online cooperative private divorce program  
5.9 under article 5, section 4. The cooperative  
5.10 private divorce program must be made  
5.11 available on the Bureau of Mediation Services  
5.12 website by January 1, 2021.

5.13 **Sec. 12. LEGISLATIVE COORDINATING**  
5.14 **COMMISSION**

**\$        7,000 \$        7,000**

5.15 \$7,000 each year is for the Legislative  
5.16 Commission on Intelligence and Technology  
5.17 under article 4, section 1.

5.18 **Sec. 13. TRANSFER.**

5.19 \$10,000 the first year and \$20,000 the second year and annually thereafter are  
5.20 appropriated to the commissioner of management and budget for transfer to the special  
5.21 revenue fund for use by the displaced homemaker program.

5.22 **Sec. 14. TRANSFER.**

5.23 \$1,075,000 annually is appropriated to the commissioner of management and budget  
5.24 for transfer to the Minnesota State Patrol's forfeited property account in the special revenue  
5.25 fund for use by the Minnesota State Patrol as a supplement to the agency's operating fund.

5.26 **Sec. 15. TRANSFER.**

5.27 \$763,000 annually is appropriated to the commissioner of management and budget for  
5.28 transfer to the Bureau of Criminal Apprehension's forfeited property account for use by the  
5.29 Bureau of Criminal Apprehension as a supplement to the agency's operating fund.

ARTICLE 2

COURTS

Section 1. Minnesota Statutes 2018, section 169.99, subdivision 1c, is amended to read:

Subd. 1c. **Notice of surcharge.** All parts of the uniform traffic ticket must ~~give~~ provide conspicuous notice ~~of the fact~~ that, if convicted, the person to whom it was issued ~~must~~ may be required to pay a state-imposed surcharge under section 357.021, subdivision 6, and the current amount of the required surcharge.

**EFFECTIVE DATE.** This section is effective August 1, 2019. The changes to the uniform traffic ticket described in this section must be reflected on the ticket the next time it is revised.

Sec. 2. Minnesota Statutes 2018, section 169.99, is amended by adding a subdivision to read:

Subd. 1d. **Financial hardship.** The first paragraph on the reverse side of the summons on the uniform traffic ticket must include the following, or substantially similar, language: "All or part of the cost of this summons may be waived on a showing of indigency or undue hardship on you or your family. You may schedule a court appearance to request a waiver based on your ability to pay by calling the Minnesota Court Payment Center (CPC) [followed by the Court Payment Center telephone number]. For more information, call the CPC or visit [www.mncourts.gov/fines](http://www.mncourts.gov/fines)."

**EFFECTIVE DATE.** This section is effective August 1, 2019. The changes to the uniform traffic ticket described in this section must be reflected on the ticket the next time it is revised.

Sec. 3. Minnesota Statutes 2018, section 357.021, subdivision 2, is amended to read:

Subd. 2. **Fee amounts.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the Tax Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~\$285~~ \$335, except in marriage dissolution actions the fee is \$315.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~\$285~~ \$335, except

in marriage dissolution actions the fee is \$315. This subdivision does not apply to the filing of an Application for Discharge of Judgment. Section 548.181 applies to an Application for Discharge of Judgment.

The party requesting a trial by jury shall pay \$100.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, \$14, and \$8 for an uncertified copy.

(3) Issuing a subpoena, \$16 for each name.

(4) Filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases, \$75.

(5) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$55.

(6) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$40.

(7) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(8) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(9) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopathic physicians, chiropractors, veterinarians, or optometrists, \$5.

(10) For the filing of each partial, final, or annual account in all trusteeships, \$55.

(11) For the deposit of a will, \$27.

(12) For recording notary commission, \$20.

(13) Filing a motion or response to a motion for modification of child support, a fee of \$50.

(14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

(15) In addition to any other filing fees under this chapter, a surcharge in the amount of \$75 must be assessed in accordance with section 259.52, subdivision 14, for each adoption petition filed in district court to fund the fathers' adoption registry under section 259.52.

The fees in clauses (3) and (5) need not be paid by a public authority or the party the public authority represents.

**EFFECTIVE DATE.** This section is effective July 1, 2019.

Sec. 4. Minnesota Statutes 2018, section 357.021, is amended by adding a subdivision to read:

Subd. 2c. **Court cybersecurity fee.** In addition to any other filing fee under this chapter, the court administrator shall collect a \$1 cybersecurity fee on filings made under subdivision 2, clauses (1) to (13). The court administrator shall transmit the fee monthly to the commissioner of management and budget for deposit in the general fund. This subdivision expires June 30, 2021.

**EFFECTIVE DATE.** This section is effective July 1, 2019.

Sec. 5. Minnesota Statutes 2018, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this ~~paragraph~~ subdivision, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.



~~(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.~~

~~(e)~~ (b) The court may ~~not~~ reduce the amount or waive payment of the surcharge required under this subdivision. ~~Upon~~ on a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, ~~the sentencing court may authorize payment of the surcharge in installments.~~ Additionally, the court may permit the defendant to perform community work service in lieu of a surcharge.

~~(d)~~ (c) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of management and budget.

~~(e)~~ (d) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the court administrator or other entity collecting the surcharge imposed by the court.

~~(f)~~ (e) A person who enters a diversion program, continuance without prosecution, continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay the surcharge described in this subdivision. A surcharge imposed under this paragraph shall be imposed only once per case.

~~(g)~~ (f) The surcharge does not apply to administrative citations issued pursuant to section 169.999.

Sec. 6. Minnesota Statutes 2018, section 484.85, is amended to read:

**484.85 DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS;  
RAMSEY COUNTY DISTRICT COURT.**

(a) In all cases prosecuted in Ramsey County District Court by an attorney for a municipality or subdivision of government within Ramsey County for violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected by the court administrator shall be deposited in the state treasury and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, or other law, on or before the last day of each month, the court shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

~~(1) for offenses committed within the city of St. Paul, two-thirds paid to the treasurer of the city of St. Paul municipality or subdivision of government within Ramsey County and one-third credited to the state general fund; and~~

~~(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half paid to the treasurer of the municipality or subdivision of government and one-half credited to the state general fund.~~

All other fines, penalties, and forfeitures collected by the district court shall be distributed by the courts as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

**EFFECTIVE DATE.** This section is effective July 1, 2019.

Sec. 7. Minnesota Statutes 2018, section 609.101, subdivision 5, is amended to read:

Subd. 5. **Waiver prohibited; reduction and installment payments.** (a) The court may not waive payment of the minimum fine required by this section.

(b) If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the fine would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum fine to not less than \$50. Additionally, the court may permit the defendant to perform community work service in lieu of a fine.

(c) The court also may authorize payment of the fine in installments.

(d) Before sentencing a person convicted of a felony, gross misdemeanor, misdemeanor, or petty misdemeanor to pay money for a fine, fee, or surcharge, the court shall make a finding on the record as to indigency or the convicted person's ability to comply with an order to pay without undue hardship for the convicted person or that person's immediate family. In determining indigency or whether the defendant is able to comply with an order to pay a fine, fee, or surcharge without undue hardship to the convicted person or that person's immediate family, the court shall consider:

(1) income;

- 11.1 (2) dependents;
- 11.2 (3) financial resources, including assets and liabilities;
- 11.3 (4) basic living expenses;
- 11.4 (5) receipt of means-tested public assistance program; and
- 11.5 (6) any special circumstances that may bear on the person's ability to pay.
- 11.6 (e) Paragraph (d) shall not apply when a conviction for a violation that is included on
- 11.7 the uniform fine schedule authorized under section 609.101, subdivision 4, is entered without
- 11.8 a hearing before the court.

11.9 Sec. 8. **EARLY NEUTRAL EVALUATION STUDY AND REPORT.**

- 11.10 (a) The supreme court is requested to contract with the Board of Regents of the University
- 11.11 of Minnesota to develop and conduct a survey and report as provided in this section.

- 11.12 (b) The board, through its Extension Service, is requested to develop and conduct a
- 11.13 survey of all early neutral evaluation participants from November 1, 2019, to November 1,
- 11.14 2020. At a minimum, the survey must seek the following information:

- 11.15 (1) the participant's demographic information, including age, gender, and race;
- 11.16 (2) a participant's satisfaction levels with the early neutral evaluation process and outcome
- 11.17 as it relates to the following:

- 11.18 (i) custody arrangements;
- 11.19 (ii) parenting time;
- 11.20 (iii) property division;
- 11.21 (iv) legal expenses;
- 11.22 (v) length of time of the process;
- 11.23 (vi) level of cooperation of each party; and
- 11.24 (vii) the effectiveness of the neutral or neutrals;

- 11.25 (3) the participant's opinion regarding fairness of the early neutral evaluation process,
- 11.26 whether the participant's expectations were met, whether the participant made decisions
- 11.27 voluntarily, and whether the participant would recommend the early neutral evaluation to
- 11.28 others; and

12.1 (4) the participant's recommendations related to the early neutral evaluation process and  
12.2 outcome.

12.3 (c) The Extension Service is requested to aggregate the results of the survey and report  
12.4 summary data, as defined in Minnesota Statutes, section 13.03, subdivision 19, to the chairs  
12.5 and ranking minority members of the legislative committees and divisions with jurisdiction  
12.6 over children, families, and the judiciary by January 15, 2021. The report is requested to  
12.7 include the following:

12.8 (1) the total number of early neutral evaluation participants;

12.9 (2) the total number of social-early neutral evaluation participants;

12.10 (3) the total number of financial-early neutral evaluation participants;

12.11 (4) all disaggregated data, including survey data, collected by judicial district;

12.12 (5) a description of the methods used to collect data; and

12.13 (6) a description of general trends, findings, and conclusions based on data collected.

12.14 (d) Data collected by the Extension Service in individual participant surveys are private  
12.15 data on individuals, as defined in Minnesota Statutes, section 13.02, subdivision 12.

12.16 **ARTICLE 3**

12.17 **FORFEITURE**

12.18 Section 1. Minnesota Statutes 2018, section 84.7741, subdivision 13, is amended to read:

12.19 Subd. 13. **Reporting.** The appropriate agency and prosecuting authority shall report on  
12.20 forfeitures occurring under this section as described in section ~~609.5315, subdivision 6~~  
12.21 609.112, subdivision 35.

12.22 Sec. 2. Minnesota Statutes 2018, section 97A.221, subdivision 5, is amended to read:

12.23 Subd. 5. **Reporting.** The appropriate agency and prosecuting authority shall report on  
12.24 forfeitures of firearms, bows, and motor vehicles occurring under this section as described  
12.25 in section ~~609.5315, subdivision 6~~ 609.112, subdivision 35.

12.26 Sec. 3. Minnesota Statutes 2018, section 97A.223, subdivision 6, is amended to read:

12.27 Subd. 6. **Reporting.** The appropriate agency and prosecuting authority shall report on  
12.28 forfeitures of firearms, bows, and motor vehicles occurring under this section as described  
12.29 in section ~~609.5315, subdivision 6~~ 609.112, subdivision 35.

13.1 Sec. 4. Minnesota Statutes 2018, section 97A.225, subdivision 10, is amended to read:

13.2 Subd. 10. **Reporting.** The appropriate agency and prosecuting authority shall report on  
13.3 forfeitures occurring under this section as described in section ~~609.5315, subdivision 6~~  
13.4 609.112, subdivision 35.

13.5 Sec. 5. Minnesota Statutes 2018, section 152.21, subdivision 6, is amended to read:

13.6 Subd. 6. **Exemption from criminal sanctions.** For the purposes of this section, the  
13.7 following are not violations under this chapter:

13.8 (1) use or possession of THC, or both, by a patient in the research program;

13.9 (2) possession, prescribing use of, administering, or dispensing THC, or any combination  
13.10 of these actions, by the principal investigator or by any clinical investigator; and

13.11 (3) possession or distribution of THC, or both, by a pharmacy registered to handle  
13.12 Schedule I substances which stores THC on behalf of the principal investigator or a clinical  
13.13 investigator.

13.14 THC obtained and distributed pursuant to this section is not subject to forfeiture under  
13.15 ~~sections 609.531 to 609.5316~~ section 609.112.

13.16 For the purposes of this section, THC is removed from Schedule I contained in section  
13.17 152.02, subdivision 2, and inserted in Schedule II contained in section 152.02, subdivision  
13.18 3.

13.19 Sec. 6. Minnesota Statutes 2018, section 152.32, subdivision 2, is amended to read:

13.20 Subd. 2. **Criminal and civil protections.** (a) Subject to section 152.23, the following  
13.21 are not violations under this chapter:

13.22 (1) use or possession of medical cannabis or medical cannabis products by a patient  
13.23 enrolled in the registry program, or possession by a registered designated caregiver or the  
13.24 parent or legal guardian of a patient if the parent or legal guardian is listed on the registry  
13.25 verification;

13.26 (2) possession, dosage determination, or sale of medical cannabis or medical cannabis  
13.27 products by a medical cannabis manufacturer, employees of a manufacturer, a laboratory  
13.28 conducting testing on medical cannabis, or employees of the laboratory; and

13.29 (3) possession of medical cannabis or medical cannabis products by any person while  
13.30 carrying out the duties required under sections 152.22 to 152.37.

14.1 (b) Medical cannabis obtained and distributed pursuant to sections 152.22 to 152.37 and  
14.2 associated property is not subject to forfeiture under ~~sections 609.531 to 609.5316~~ section  
14.3 609.112.

14.4 (c) The commissioner, the commissioner's staff, the commissioner's agents or contractors,  
14.5 and any health care practitioner are not subject to any civil or disciplinary penalties by the  
14.6 Board of Medical Practice, the Board of Nursing, or by any business, occupational, or  
14.7 professional licensing board or entity, solely for the participation in the registry program  
14.8 under sections 152.22 to 152.37. A pharmacist licensed under chapter 151 is not subject to  
14.9 any civil or disciplinary penalties by the Board of Pharmacy when acting in accordance  
14.10 with the provisions of sections 152.22 to 152.37. Nothing in this section affects a professional  
14.11 licensing board from taking action in response to violations of any other section of law.

14.12 (d) Notwithstanding any law to the contrary, the commissioner, the governor of  
14.13 Minnesota, or an employee of any state agency may not be held civilly or criminally liable  
14.14 for any injury, loss of property, personal injury, or death caused by any act or omission  
14.15 while acting within the scope of office or employment under sections 152.22 to 152.37.

14.16 (e) Federal, state, and local law enforcement authorities are prohibited from accessing  
14.17 the patient registry under sections 152.22 to 152.37 except when acting pursuant to a valid  
14.18 search warrant.

14.19 (f) Notwithstanding any law to the contrary, neither the commissioner nor a public  
14.20 employee may release data or information about an individual contained in any report,  
14.21 document, or registry created under sections 152.22 to 152.37 or any information obtained  
14.22 about a patient participating in the program, except as provided in sections 152.22 to 152.37.

14.23 (g) No information contained in a report, document, or registry or obtained from a patient  
14.24 under sections 152.22 to 152.37 may be admitted as evidence in a criminal proceeding  
14.25 unless independently obtained or in connection with a proceeding involving a violation of  
14.26 sections 152.22 to 152.37.

14.27 (h) Notwithstanding section 13.09, any person who violates paragraph (e) or (f) is guilty  
14.28 of a gross misdemeanor.

14.29 (i) An attorney may not be subject to disciplinary action by the Minnesota Supreme  
14.30 Court or professional responsibility board for providing legal assistance to prospective or  
14.31 registered manufacturers or others related to activity that is no longer subject to criminal  
14.32 penalties under state law pursuant to sections 152.22 to 152.37.

(j) Possession of a registry verification or application for enrollment in the program by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification, or otherwise subject the person or property of the person to inspection by any governmental agency.

Sec. 7. Minnesota Statutes 2018, section 299A.681, subdivision 11, is amended to read:

Subd. 11. **Forfeiture.** Property seized by the task force is subject to forfeiture pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be established. The task force shall receive the proceeds from the sale of all property properly seized and forfeited under section 609.112.

Sec. 8. Minnesota Statutes 2018, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. **Transmittal of fees to commissioner of management and budget.** (a) Every person, including the state of Minnesota and all bodies politic and corporate, who shall transact any business in the district court, shall pay to the court administrator of said court the sundry fees prescribed in subdivision 2. Except as provided in paragraph (d), the court administrator shall transmit the fees monthly to the commissioner of management and budget for deposit in the state treasury and credit to the general fund. \$30 of each fee collected in a dissolution action under subdivision 2, clause (1), must be deposited by the commissioner of management and budget in the special revenue fund and is appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96.

(b) In a county which has a screener-collector position, fees paid by a county pursuant to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the fees first to reimburse the county for the amount of the salary paid for the screener-collector position. The balance of the fees collected shall then be forwarded to the commissioner of management and budget for deposit in the state treasury and credited to the general fund. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), which has a screener-collector position, the fees paid by a county shall be transmitted monthly to the commissioner of management and budget for deposit in the state treasury and credited to the general fund. A screener-collector position for purposes of this paragraph is an employee whose function is to increase the collection of fines and to review the incomes of potential clients of the public defender, in order to verify eligibility for that service.

(c) No fee is required under this section from the public authority or the party the public authority represents in an action for:

(1) child support enforcement or modification, medical assistance enforcement, or establishment of parentage in the district court, or in a proceeding under section 484.702;

(2) civil commitment under chapter 253B;

(3) the appointment of a public conservator or public guardian or any other action under chapters 252A and 525;

(4) wrongfully obtaining public assistance under section 256.98 or 256D.07, or recovery of overpayments of public assistance;

(5) court relief under chapters 260, 260A, 260B, and 260C;

(6) forfeiture of property under ~~sections 169A.63 and 609.531 to 609.5317~~ section 609.112;

(7) recovery of amounts issued by political subdivisions or public institutions under sections 246.52, 252.27, 256.045, 256.25, 256.87, 256B.042, 256B.14, 256B.15, 256B.37, 260B.331, and 260C.331, or other sections referring to other forms of public assistance;

(8) restitution under section 611A.04; or

(9) actions seeking monetary relief in favor of the state pursuant to section 16D.14, subdivision 5.

(d) \$20 from each fee collected for child support modifications under subdivision 2, clause (13), must be transmitted to the county treasurer for deposit in the county general fund and \$35 from each fee shall be credited to the state general fund. The fees must be used by the county to pay for child support enforcement efforts by county attorneys.

**Sec. 9. [609.112] CRIMINAL FORFEITURE.**

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

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

(c) "Actual knowledge" means direct and clear awareness of information, a fact, or a condition.

(d) "Appropriate agency" means the Bureau of Criminal Apprehension; the Department of Commerce Fraud Bureau; the Minnesota Division of Driver and Vehicle Services; the



17.1 Minnesota State Patrol; a county sheriff's department; the Three Rivers Park District park  
17.2 rangers; the University of Minnesota Police Department; the Department of Corrections  
17.3 Fugitive Apprehension Unit; a city, metropolitan transit, or airport police department; or a  
17.4 multijurisdictional entity established under section 299A.642 or 299A.681.

17.5 (e) "Contraband" means goods that, in themselves, are unlawful to possess. Contraband  
17.6 includes but is not limited to scheduled drugs without a valid prescription; bullet-resistant  
17.7 vests, as defined in section 609.486, worn or possessed during the commission or attempted  
17.8 commission of a crime; and weapons upon conviction of the weapon's owner or possessor  
17.9 for:

17.10 (1) a controlled substance crime;

17.11 (2) any offense of this chapter or chapter 624; or

17.12 (3) a violation of an order for protection under section 518B.01, subdivision 14.

17.13 In this chapter, contraband does not include proceeds derived from an alleged crime or an  
17.14 instrumentality used in an alleged crime.

17.15 (f) "Conveyance" means a device used for transportation and includes a motor vehicle,  
17.16 trailer, snowmobile, airplane, vessel, or any equipment attached to one of these devices.  
17.17 The term does not include property that is stolen or taken in violation of the law.

17.18 (g) "Designated offense" means:

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

17.20 (2) for driver's license or identification card transactions, any violation of section 171.22;

17.21 (3) all controlled substances that were manufactured, distributed, dispensed, or acquired  
17.22 in violation of chapter 152, and all property, real and personal, that has been used or is  
17.23 intended for use, or has in any way facilitated, in whole or in part, the manufacturing,  
17.24 compounding, processing, delivering, importing, cultivating, exporting, transporting, or  
17.25 exchanging of contraband, or a controlled substance that has not been lawfully manufactured,  
17.26 distributed, dispensed, and acquired, is subject to forfeiture under this section, except as  
17.27 provided in this section;

17.28 (4) a violation of section 169A.20 (driving while impaired) under the circumstances  
17.29 described in section 169A.24 (first-degree driving while impaired) or 169A.25 (second-degree  
17.30 driving while impaired);

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

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

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

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

(h) "Instrumentality" means property otherwise lawful to possess that is used in the commission of a designated offense. An instrumentality includes but is not limited to land, buildings, a container, a conveyance, equipment, materials, products, a tool, a computer, computer software, a telecommunications device, a firearm, or ammunition.

(i) "Proceeds" means money, securities, negotiable instruments, or other means of exchange obtained by the sale of property.

Subd. 2. **Purpose.** Forfeiture is disfavored. The purpose of this chapter is to:

(1) deter criminal activity by reducing its economic incentives;

(2) confiscate property used in violation of the law and disgorge the fruits of illegal conduct; and

(3) protect rights due to defendants and innocent owners.

Subd. 3. **Seizure of personal property with process.** At the request of the state at any time, a court may issue an ex parte preliminary order to attach, seize, or secure personal property for which forfeiture is sought and to provide for its custody. Application, issuance, execution, and return are subject to state statute and court rules.

**Subd. 4. Seizure of personal property without process.** (a) Personal property is subject to forfeiture and may be seized without a court order if:

(1) the personal property is the subject of a prior judgment in favor of the state;

(2) the seizure of personal property is incident to a lawful arrest for a designated offense, the property was discovered in a lawful search, and the appropriate agency has probable cause to believe the property:

(i) was used in any manner or part to commit or to facilitate the commission of the designated offense; or

(ii) constitutes or was derived directly from proceeds of a designated offense; or

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

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

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

(b) Mere presence or possession of United States currency, without other indicia of an offense that authorizes forfeiture of property, is insufficient probable cause for seizure of United States currency.

**Subd. 5. Seizure or restraint of real property with process.** (a) Seizure or restraint of real property requires a court order. Except as provided in subdivision 6, a court may issue an order to seize or secure real property for which forfeiture is sought only after proper notice to property owners and an opportunity for a contested hearing to determine the sufficiency of probable cause for the seizure.

(b) Except as provided in subdivision 6, nothing in this section prohibits the prosecuting authority from seeking a lis pendens or restraining order to hinder the sale or destruction of the real property. However, if the prosecuting attorney obtains a lis pendens or restraining order, the prosecuting authority shall notify any party with an interest in any real property within 30 days.

(c) Application, filing, issuance, execution, and return of any order are subject to state law.

**Subd. 6. Rental property.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the prosecuting authority shall give the notice required

20.1 by this subdivision to (1) the landlord of the property or the fee owner identified in the  
20.2 records of the county assessor, and (2) the agent authorized by the owner to accept service  
20.3 pursuant to section 504B.181. The notice is not required during an ongoing investigation.  
20.4 The notice shall state what has been seized and specify the applicable duties and penalties  
20.5 under this subdivision. The notice shall state that the landlord who chooses to assign the  
20.6 right to bring an eviction action retains all rights and duties, including removal of a tenant's  
20.7 personal property following issuance of the writ of recovery and delivery of the writ to the  
20.8 sheriff for execution. The notice shall also state that the landlord may contact the prosecuting  
20.9 authority if threatened by the tenant. Notice shall be sent by certified letter, return receipt  
20.10 requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in  
20.11 the manner provided by law for service of summons in a civil action.

20.12 (b) Within 15 days after notice of the first occurrence, the landlord shall bring or assign  
20.13 to the prosecuting authority of the county in which the real property is located the right to  
20.14 bring an eviction action against the tenant. The assignment must be in writing on a form  
20.15 prepared by the prosecuting authority. If the landlord chooses to assign the right to bring  
20.16 an eviction action, the assignment shall be limited to those rights and duties up to and  
20.17 including delivery of the writ of recovery to the sheriff for execution.

20.18 (c) Upon notice of a second occurrence on any residential rental property owned by the  
20.19 same landlord in the same county and involving the same tenant, and within one year after  
20.20 notice of the first occurrence, the property is subject to forfeiture under this section unless  
20.21 an eviction action has been commenced as provided in paragraph (b) or the right to bring  
20.22 an eviction action was assigned to the prosecuting authority as provided in paragraph (b).  
20.23 If the right has been assigned and not previously exercised, or if the prosecuting authority  
20.24 requests an assignment and the landlord makes an assignment, the prosecuting authority  
20.25 may bring an eviction action rather than an action for forfeiture.

20.26 (d) The Department of Corrections Fugitive Apprehension Unit shall not seize real  
20.27 property for the purposes of forfeiture as described in paragraphs (a) to (c).

20.28 (e) It is a defense against a proceeding under paragraph (b) that the tenant had no  
20.29 knowledge or reason to know of the presence of the contraband or controlled substance or  
20.30 could not prevent its being brought onto the property. It is a defense against a proceeding  
20.31 under paragraph (c) that the landlord made every reasonable attempt to evict a tenant or to  
20.32 assign the prosecuting authority the right to bring an eviction action against the tenant or  
20.33 that the landlord did not receive notice of the seizure.

21.1 (f) This subdivision shall not apply if the retail value of the controlled substance is less  
21.2 than \$100, but this subdivision does not subject real property to forfeiture unless (1) the  
21.3 retail value of the controlled substance is \$1,000 or more, or (2) there have been two previous  
21.4 controlled substance seizures involving the same tenant.

21.5 Subd. 7. **Exemptions.** (a) The following property is exempt from seizure and forfeiture:

21.6 (1) homestead real property;

21.7 (2) United States currency totaling no more than \$300; and

21.8 (3) a motor vehicle of no more than \$2,500 in market value, except that this provision  
21.9 does not apply to a motor vehicle used in violation of section 609.66, subdivision 1e.

21.10 (b) A prosecuting authority may establish an exemption with a minimum dollar amount  
21.11 larger than those in paragraph (a), clauses (2) and (3), in the prosecuting authority's  
21.12 jurisdiction.

21.13 Subd. 8. **Contraband.** No property right exists in contraband. Contraband is subject to  
21.14 seizure and shall be disposed of according to law.

21.15 Subd. 9. **Waiver prohibition.** (a) An appropriate agency may not request, require, or  
21.16 in any manner induce any person to execute a document purporting to waive, for purposes  
21.17 of forfeiture under this section, the person's interest in or rights to property seized. This  
21.18 prohibition does not apply to the prosecuting agency responsible for the litigation of the  
21.19 forfeiture case.

21.20 (b) Any document in violation of paragraph (a) purporting to waive a person's interest  
21.21 in, or right to, property seized under this chapter is null, void, and inadmissible in court.

21.22 Subd. 10. **Receipt.** When property is seized, the appropriate agency shall give an itemized  
21.23 receipt to the person possessing the property or, in the absence of any person, leave a receipt  
21.24 in the place where the property was found, if reasonably possible.

21.25 Subd. 11. **Criminal forfeiture; property subject to forfeiture.** When a person is  
21.26 convicted of violating a designated offense, the court, consistent with this chapter, may  
21.27 order the person to forfeit:

21.28 (1) any property constituting or derived directly from proceeds of the underlying offense  
21.29 for which the person is convicted; or

21.30 (2) any of the person's property used in any manner or part to commit or to facilitate the  
21.31 commission of the offense for which the person is convicted.

22.1 Subd. 12. **Conviction required; standard of proof.** (a) There shall be no civil forfeiture  
22.2 under this chapter.

22.3 (b) Property may be forfeited if (1) the offense is a designated offense, (2) the offense  
22.4 is established by proof of a criminal conviction, and (3) the state establishes that the property  
22.5 is subject to forfeiture under subdivision 11 by clear and convincing evidence.

22.6 (c) Nothing in this section prevents property from being forfeited by plea agreement  
22.7 approved by the presiding criminal court except the court shall not accept a plea agreement  
22.8 or other arrangement that prevents the claims of any person who filed a statement of interest  
22.9 or ownership pursuant to subdivision 20 or 21 from being adjudicated.

22.10 (d) The court may waive the conviction requirement if the prosecuting authority shows  
22.11 by clear and convincing evidence that, before conviction, the defendant:

22.12 (1) died;

22.13 (2) no longer resides in the United States;

22.14 (3) was granted immunity or reduced punishment in exchange for testifying or assisting  
22.15 a law enforcement investigation or prosecution;

22.16 (4) fled state jurisdiction; or

22.17 (5) abandoned the property.

22.18 (e) Notwithstanding any law to the contrary, the court shall order the sale of personal  
22.19 property that is (1) seized from a person who flees state jurisdiction, or (2) abandoned to  
22.20 be credited to the state general fund.

22.21 (f) The court shall order currency that is (1) seized from a person who flees the  
22.22 jurisdiction, or (2) abandoned to be credited to the state general fund.

22.23 Subd. 13. **Forfeiture indictment.** (a) In any case in which the state seeks forfeiture of  
22.24 property except through a complaint as provided in subdivision 14, the prosecuting authority  
22.25 shall file an indictment or information that includes:

22.26 (1) a criminal charge; and

22.27 (2) a charge for which forfeiture of property under this chapter may be ordered. This  
22.28 property-related charge shall identify the specific assets to be forfeited, if known, or the  
22.29 relevant forfeiture statutes if specific assets to be forfeited are not known at the time the  
22.30 prosecuting authority requests the issuance of the indictment.

(b) Upon application of the prosecuting authority, the court may enter a restraining order or injunction, or take other action to preserve the availability of property only:

(1) upon the issuance of an indictment or information according to paragraph (a); or

(2) prior to the issuance of such an indictment or information if the court determines there is a substantial probability the state will prevail on the issue of criminal forfeiture and that failure to enter the order will result in property being destroyed, removed from the jurisdiction, or otherwise made unavailable for forfeiture.

(c) Any order entered pursuant to paragraph (b) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in paragraph (b), clause (1), has been subsequently issued.

(d) Notice must be provided as set forth in the complaint process provided in subdivision 14 to all persons known to have an interest in the property who are not named in the indictment or information.

Subd. 14. **Forfeiture complaint; service of process.** (a) In any case in which the state seeks forfeiture of property, except when the state seeks forfeiture through indictment or information as provided in subdivision 13, the prosecuting authority shall file a criminal complaint that includes (1) criminal charges, and (2) the information identified in paragraph (b) before the defendant's first appearance in court. Upon motion by the prosecuting authority, a court may permit the filing of an amended criminal complaint within seven days of the first appearance for good cause shown. Service of an amended criminal complaint on a represented party must be made on the attorney. Service on the attorney or party must be made in the manner provided by the rules of practice of the court, including by electronic means as authorized by the court. The court shall verify service at the defendant's next appearance.

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

(1) a description of the property seized;

(2) the date and place of the seizure;

(3) the name and address of the appropriate agency responsible for the seizure;

(4) a statement of facts establishing probable cause to believe that the charged offense has been committed, that the defendant committed it, and that the seized property is an instrument or represents the proceeds of the underlying offense;

(5) the name of any person known to the prosecuting authority to have an interest in the property and the nature of that interest; and

(6) references to the relevant statutory provisions required to show the property is the type of property that may be forfeited under subdivision 11.

(c) If notice is not served in accordance with paragraphs (a) and (b) to all persons appearing to have an interest in the property and no time extension is granted or the extension period has expired, the appropriate agency shall, upon the owner's request, return the property to the person from whom the property was seized, if known. The agency shall not be required to return contraband.

(d) Failure to file a forfeiture complaint required by this subdivision shall not invalidate prosecution for the underlying criminal offense.

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

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

(1) a description of the property seized;

(2) the date of seizure; and

(3) a copy of the complaint filed pursuant to paragraph (a).

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

"WARNING: You may lose the right to be heard in court if you do not file a petition pursuant to Minnesota Statutes, section 609.112, subdivision 20 or 21. You do not have to pay a filing fee to file your notice."

Subd. 15. **Title.** (a) Title to the property subject to forfeiture vests with the state when the court issues a forfeiture judgment and relates back to the time when the state seizes or restrains the property.

(b) Title to substitute assets vests when the court issues an order forfeiting substitute assets.



(c) For either paragraph (a) or (b), title is subject to claims by third parties adjudicated under this chapter.

Subd. 16. **Defendant's pretrial replevin hearing.** (a) Following the seizure of property, a defendant has a right to a pretrial hearing to determine the validity of the seizure.

(b) The court shall hold the hearing at the time the defendant enters a plea or no later than 14 days after the defendant's first appearance under rule 5 of the Rules of Criminal Procedure.

(c) Either party may, by agreement or for good cause, move the court for one extension of no more than ten days. This motion may be supported by affidavits or other submissions.

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

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

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

(3) the property is the only reasonable means for the defendant to pay for legal representation and minimum living expenses in the forfeiture or criminal proceeding unless the prosecuting authority shows by clear and convincing evidence that the property is the instrument or proceeds of an offense for which the defendant is charged. At the court's discretion, it may order the return of funds or property sufficient to obtain counsel of choice but less than the total amount seized.

Subd. 17. **Discovery.** Discovery is subject to the Rules of Criminal Procedure.

Subd. 18. **Venue; trial proceedings.** (a) The district court with jurisdiction over the related criminal matter has jurisdiction over the forfeiture proceeding.

(b) The litigation related to the forfeiture of property shall be held in a single proceeding following entry of a plea of guilty or the trial of the related alleged offense. The litigation associated with the forfeiture of property of less than \$10,000 in value shall be held before only a judge.

(c) The court is not bound by the rules of evidence or technical or formal rules of pleading or procedure in the litigation related to the forfeiture of property when a property owner engages in pro se representation in a case before a judge.

(d) If the defendant in the related criminal matter was represented by the public defender, the state public defender or chief public defender of the judicial district may authorize representation of the defendant in the forfeiture proceeding.

Subd. 19. **Proportionality hearing.** (a) At any time during a hearing pursuant to subdivision 16 or 18, the defendant may petition the court to determine whether the forfeiture is unconstitutionally excessive under the state or federal constitution.

(b) The defendant has the burden of proving the forfeiture is disproportional to the seriousness of the offense by a preponderance of the evidence at a hearing conducted by the court without a jury.

(c) In determining whether the forfeiture of an instrumentality is unconstitutionally excessive, the court may consider all relevant factors, including but not limited to:

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

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

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

(4) the sentence imposed for committing the crime authorizing forfeiture; and

(5) whether the offense was completed or attempted.

(d) In determining the value of the instrumentality subject to forfeiture, the court may consider the fair market value of the property.

(e) The court may also consider:

(1) the hardship to the defendant if the forfeiture is realized and if the forfeiture would deprive the property owner of the owner's livelihood; and

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

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

Subd. 20. **Secured interest.** (a) Property encumbered by a bona fide security interest is not subject to forfeiture. A person claiming a security interest must establish by clear and convincing evidence the validity of the interest.

(b) The prosecuting authority summarily and without unreasonable delay shall return seized property to the person with a bona fide security interest, up to the value of the secured interest.

(c) If the person alleges a valid security interest but the state seeks to proceed with the forfeiture against the property claimed by the person, the state shall prove by clear and

convincing evidence that the person had actual knowledge of the underlying crime giving rise to the forfeiture. Either party may ask the court for a hearing at any time before the court enters a judgment in the criminal prosecution.

Subd. 21. **Innocent owner.** (a) Any person, including an heir but excluding the defendant or a secured-interest holder, asserting a legal interest in property that has been seized or restrained may, at any time before the court enters judgment in the criminal prosecution, petition the court for a hearing to adjudicate the validity of the person's alleged interest in the property. The hearing shall be held before the court without a jury.

(b) The petitioner shall file a simple statement of interest or ownership. The petitioner shall sign the petition under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property; the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property; any additional facts supporting the petitioner's claim; and the relief sought.

(c) The filing fee for the statement under this subdivision is waived.

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

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

(f) The petitioner who has an ownership interest in property subject to forfeiture at the time the commission of the crime giving rise to forfeiture occurred and who claims to be an innocent owner bears the burden of proving by clear and convincing evidence that the person has a legal right, title, or interest in the property seized under this chapter.

(g) If paragraph (f) is satisfied and the state seeks to proceed with the forfeiture of the property, the state shall prove by clear and convincing evidence that the petitioner had actual knowledge of the underlying crime giving rise to the forfeiture.

(h) A petitioner who acquired an ownership interest in property subject to forfeiture after the commission of the crime giving rise to the forfeiture and who claims to be an innocent owner bears the burden of proving by clear and convincing evidence that the person has a legal right, title, or interest in the property seized under this chapter.

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

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

(2) was not a bona fide purchaser without notice of any defect in title and for valuable consideration.

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

(k) No information in the statement of interest or ownership filed pursuant to this section shall be used as evidence in the criminal matter. Nothing in this section prohibits the petitioner who has filed a statement of interest or ownership under this section from providing information to any prosecuting authority or defendant involved in the related criminal matter or representatives of any prosecuting authority or defendant, or from testifying in any criminal trial as to facts within the petitioner's knowledge.

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

Subd. 22. **Judgment.** (a) If the prosecuting authority fails to meet its burden as to any claimant, the court must enter judgment dismissing the forfeiture proceeding and delivering the property to the prevailing owner, unless the owner's possession of the property is illegal.

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

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

Subd. 23. **Substitution of assets.** Upon the state's motion following conviction, the court may order the forfeiture of substitute property owned by the defendant up to the value of unreachable property that is beyond the court's jurisdiction or cannot be located through due diligence only if the state proves by a preponderance of the evidence that the defendant intentionally:

(1) dissipated property;

(2) transferred, sold, or deposited property with a third party to avoid forfeiture;

(3) diminished substantially the value of the property; or

(4) commingled property with other property that cannot be divided without difficulty.

Subd. 24. **No additional remedies.** The state may not seek personal money judgments or other remedies related to the forfeiture of property not provided for in this section.

Subd. 25. **No joint and several liability.** A defendant is not jointly and severally liable for forfeiture awards owed by other defendants. When ownership is unclear, a court may order each defendant to forfeit property on a pro rata basis or by another means the court finds equitable.

Subd. 26. **Appeal.** (a) A party to forfeiture litigation, other than the defendant, may appeal the district court's decision regarding the seizure, on an interlocutory basis, or forfeiture of property under this chapter.

(b) The defendant may appeal the district court's decision regarding the seizure or forfeiture of property following judgment in the forfeiture litigation.

Subd. 27. **Attorney fees.** In any proceeding in which a property owner's claims prevail by recovering at least half, by value, of the property or currency claimed, the seizing agency shall be liable for:

(1) attorney fees and other litigation costs reasonably incurred by the claimant;

(2) postjudgment interest; and

(3) in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, any interest actually paid from the date of seizure.

Subd. 28. **Return of property; damages; costs.** (a) If the court orders the return of property, the appropriate agency that holds the property shall return the property to the owner or other prevailing claimant within a reasonable period of time not to exceed five days after entry of judgment.

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

(c) The appropriate agency that holds the property is responsible for any damages, storage fees, and related costs applicable to property returned under this section.

Subd. 29. **Disposition of property and proceeds.** (a) At any time when contraband held for evidentiary purposes is no longer needed for that purpose, the court may order that it be destroyed pursuant to state law.

(b) At any time when abandoned property held for evidentiary purposes is no longer needed for that purpose, the court may order the property to be sold and the proceeds distributed pursuant to subdivision 12, paragraphs (e) and (f).

(c) If forfeiture is granted, the proceeds from the sale of forfeited personal property shall first be used to pay all outstanding recorded liens on the forfeited property.

(d) The court may then order that a portion of the currency seized or proceeds from the sale of forfeited property be used to (1) pay the victim of the crime for which the defendant is convicted, and (2) pay reasonable nonpersonnel expenses for the seizure, storage, and maintenance of any forfeited property.

(e) The court must then order remaining funds be credited equally to:

(1) the justice programs forfeiture account in the special revenue fund and is appropriated to the commissioner of public safety for grants administered through the Office of Justice Programs;

(2) the commissioner of health to be deposited in the safe harbor for youth account in the special revenue fund and is appropriated to the commissioner of health for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31;

(3) the public defender forfeiture account in the special revenue fund and is appropriated to the Minnesota Board of Public Defense; and

(4) the state general fund.

(f) A justice programs forfeiture account is established as a special account in the state treasury.

(g) A public defender forfeiture account is established as a special account in the state treasury.

Subd. 30. **Prohibition on retaining property; sale restrictions.** No appropriate agency may retain forfeited or abandoned property for its own use or sell it directly or indirectly to any employee of the agency, to a person related to an employee by blood or marriage, or to another appropriate agency or any other law enforcement agency.

31.1 Subd. 31. **Prohibition of federal adoption.** A local, county, or state law enforcement  
31.2 agency shall not refer, transfer, or otherwise relinquish possession of property seized under  
31.3 state law to a federal agency by way of adoption of the seized property or other means by  
31.4 the federal agency for the purpose of the property's forfeiture under the federal Controlled  
31.5 Substances Act, United States Code, title 21, section 881, or the Comprehensive Drug Abuse  
31.6 Prevention and Control Act of 1970, Public Law 91-513, section 413.

31.7 Subd. 32. **Limit on receiving forfeiture proceeds from joint task forces.** (a) In a case  
31.8 in which the aggregate net equity value of the property and currency seized has a value of  
31.9 \$50,000 or less, excluding the value of contraband, a local, county, or state law enforcement  
31.10 agency or participant in a joint task force or other multijurisdictional collaboration with the  
31.11 federal government shall transfer responsibility for the seized property to the state prosecuting  
31.12 authority for forfeiture under state law.

31.13 (b) If the federal government prohibits the transfer of seized property and currency to  
31.14 the state prosecuting authority as required by paragraph (a) and instead requires the property  
31.15 be transferred to the federal government for forfeiture under federal law, the agency is  
31.16 prohibited from accepting payment of any kind or distribution of forfeiture proceeds from  
31.17 the federal government.

31.18 (c) Nothing in paragraph (a) or (b) shall be construed to restrict an agency from  
31.19 transferring responsibility to the federal government for forfeiture of seized property and  
31.20 currency that has an aggregate net equity value of greater than \$50,000, excluding the value  
31.21 of contraband.

31.22 (d) Nothing in paragraph (a) or (b) or subdivision 31 shall be construed to restrict a local,  
31.23 county, or state law enforcement agency from acting alone or collaborating with a federal  
31.24 agency or other agency to seize contraband or property a law enforcement agent has probable  
31.25 cause to believe is the proceeds or instruments of a crime that subjects property to forfeiture.

31.26 (e) Nothing in paragraph (a) or (b) or subdivision 31 shall be construed to prohibit the  
31.27 federal government, acting without the involvement of a local, county, or state law  
31.28 enforcement agency, from seizing property and seeking forfeiture under federal law.

31.29 Subd. 33. **Preemption.** This chapter preempts laws by other governments in the state  
31.30 that regulate forfeiture of property in crimes related to controlled substances and driving  
31.31 while impaired.

31.32 Subd. 34. **Exception.** The provisions of this section other than the reporting requirement  
31.33 under subdivision 35 do not apply to seizure or forfeiture proceedings under chapter 84 or  
31.34 97A.

Subd. 35. **Reporting requirement.** (a) For each forfeiture occurring in the state, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, the date, a brief description of the circumstances involved, and whether the forfeiture was contested. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecuting authority shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecuting authority is not required to report information required by this subdivision unless the prosecuting authority has been notified by the state auditor that the appropriate agency has not reported it.

Sec. 10. Minnesota Statutes 2018, section 609.66, subdivision 1d, is amended to read:

**Subd. 1d. Possession on school property; penalty.** (a) Except as provided under paragraphs (d) and (f), whoever possesses, stores, or keeps a dangerous weapon while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) Whoever uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a gross misdemeanor.

(c) Whoever possesses, stores, or keeps a replica firearm or a BB gun while knowingly on school property is guilty of a misdemeanor.

(d) Notwithstanding paragraph (a), (b), or (c), it is a misdemeanor for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding ~~section 609.531~~ any law to the contrary, a firearm carried in violation of this paragraph is not subject to forfeiture.

(e) As used in this subdivision:



- 33.1 (1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less  
33.2 in diameter;
- 33.3 (2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;
- 33.4 (3) "replica firearm" has the meaning given it in section 609.713; and
- 33.5 (4) "school property" means:
- 33.6 (i) a public or private elementary, middle, or secondary school building and its improved  
33.7 grounds, whether leased or owned by the school;
- 33.8 (ii) a child care center licensed under chapter 245A during the period children are present  
33.9 and participating in a child care program;
- 33.10 (iii) the area within a school bus when that bus is being used by a school to transport  
33.11 one or more elementary, middle, or secondary school students to and from school-related  
33.12 activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary  
33.13 activities; and
- 33.14 (iv) that portion of a building or facility under the temporary, exclusive control of a  
33.15 public or private school, a school district, or an association of such entities where conspicuous  
33.16 signs are prominently posted at each entrance that give actual notice to persons of the  
33.17 school-related use.
- 33.18 (f) This subdivision does not apply to:
- 33.19 (1) active licensed peace officers;
- 33.20 (2) military personnel or students participating in military training, who are on-duty,  
33.21 performing official duties;
- 33.22 (3) persons authorized to carry a pistol under section 624.714 while in a motor vehicle  
33.23 or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or  
33.24 rear area of the vehicle;
- 33.25 (4) persons who keep or store in a motor vehicle pistols in accordance with section  
33.26 624.714 or 624.715 or other firearms in accordance with section 97B.045;
- 33.27 (5) firearm safety or marksmanship courses or activities conducted on school property;
- 33.28 (6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial  
33.29 color guard;
- 33.30 (7) a gun or knife show held on school property;

(8) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or

(9) persons who are on unimproved property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

(g) Notwithstanding section 471.634, a school district or other entity composed exclusively of school districts may not regulate firearms, ammunition, or their respective components, when possessed or carried by nonstudents or nonemployees, in a manner that is inconsistent with this subdivision.

Sec. 11. Minnesota Statutes 2018, section 609.762, subdivision 2, is amended to read:

Subd. 2. **Seizure.** Forfeiture of property subject to forfeiture under identified in subdivision 1 may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if: must be made pursuant to section 609.112.

~~(1) the seizure is incident to an arrest or a search under a search warrant;~~

~~(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or~~

~~(3) the law enforcement agency has probable cause to believe that the property was used or is intended to be used in a gambling violation and the delay occasioned by the necessity to obtain process would result in the removal, loss, or destruction of the property.~~

Sec. 12. Minnesota Statutes 2018, section 609.856, subdivision 2, is amended to read:

Subd. 2. **Forfeiture.** A radio or device defined in subdivision 1 that is used in the commission of a felony or violation of section 609.487 or attempt to commit a felony or violation of section 609.487 is contraband property and subject to the forfeiture provisions of section ~~609.531~~ 609.112.

Sec. 13. Minnesota Statutes 2018, section 609.895, subdivision 5, is amended to read:

Subd. 5. **Forfeiture.** Property used to commit or facilitate the commission of a violation of this section, and all money and property representing proceeds of a violation of this section, shall be forfeited in accordance with ~~sections 609.531 to 609.5316~~ section 609.112. Notwithstanding any provision of section ~~609.5315~~ 609.112 to the contrary, forfeited items

35.1 bearing or identified by a counterfeit mark must be destroyed unless the intellectual property  
35.2 owner consents to another disposition.

35.3 Sec. 14. Minnesota Statutes 2018, section 609.908, subdivision 3, is amended to read:

35.4 Subd. 3. **Sale proceeds.** The proceeds of a sale or other disposition of forfeited property  
35.5 under this section whether by final judgment, settlement, or otherwise, must be applied as  
35.6 follows:

35.7 (1) to the fees and costs of the forfeiture and sale including expenses of seizure,  
35.8 maintenance, and custody of the property pending its disposition, advertising, and court  
35.9 costs;

35.10 (2) to all costs and expenses of investigation and prosecution including costs of resources  
35.11 and personnel incurred in investigation and prosecution; and

35.12 (3) the balance to the appropriate agencies under section ~~609.5315, subdivision 5~~ 609.112,  
35.13 subdivision 28.

35.14 Sec. 15. Minnesota Statutes 2018, section 609B.515, is amended to read:

35.15 **609B.515 DWI; VEHICLE FORFEITURE.**

35.16 Under section ~~169A.63~~ 609.112, a motor vehicle is subject to forfeiture if a driver is  
35.17 convicted of a "designated offense," as defined in section ~~169A.63, subdivision 4~~ 609.112,  
35.18 subdivision 1.

35.19 Section ~~169A.63, subdivision 7,~~ 609.112 specifies limitations on vehicle forfeiture.  
35.20 ~~Section 169A.63, subdivisions 8 and 9, provide for administrative forfeiture procedure and~~  
35.21 ~~judicial forfeiture procedure. Section 169A.63, subdivisions 10 and 11, provide for disposition~~  
35.22 ~~of a forfeited vehicle.~~

35.23 Sec. 16. Minnesota Statutes 2018, section 611.32, subdivision 2, is amended to read:

35.24 Subd. 2. **Proceedings at time of apprehension or arrest.** Following the apprehension  
35.25 or arrest of a person disabled in communication for an alleged violation of a criminal law,  
35.26 the arresting officer, sheriff or other law enforcement official shall immediately make  
35.27 necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the  
35.28 earliest possible time at the place of detention. A law enforcement officer shall, with the  
35.29 assistance of the interpreter, explain to the person disabled in communication, all charges  
35.30 filed against the person, and all procedures relating to the person's detainment and release.  
35.31 If the property of a person is seized under section ~~609.531, subdivision 4~~ 609.112, the seizing

officer, sheriff, or other law enforcement official shall, upon request, make available to the person at the earliest possible time a qualified interpreter to assist the person in understanding the possible consequences of the seizure and the person's right to judicial review. ~~If the seizure is governed by section 609.5314, subdivision 2, a request for an interpreter must be made within 15 days after service of the notice of seizure and forfeiture. For a person who requests an interpreter under this section because of a seizure of property under section 609.5314, the 60 days for filing a demand for a judicial determination of a forfeiture begins when the interpreter is provided.~~ The interpreter shall also assist the person with all other communications, including communications relating to needed medical attention. Prior to interrogating or taking the statement of the person disabled in communication, the arresting officer, sheriff, or other law enforcement official shall make available to the person a qualified interpreter to assist the person throughout the interrogation or taking of a statement.

Sec. 17. Minnesota Statutes 2018, section 624.714, subdivision 1b, is amended to read:

**Subd. 1b. Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section ~~609.531~~ 609.112, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Sec. 18. Minnesota Statutes 2018, section 624.714, subdivision 7a, is amended to read:

**Subd. 7a. Change of address; loss or destruction of permit.** (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for

a first offense must not exceed \$25. Notwithstanding section ~~609.531~~ 609.112, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying \$10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the permit card has been lost or destroyed.

Sec. 19. Minnesota Statutes 2018, section 624.714, subdivision 17, is amended to read:

**Subd. 17. Posting; trespass.** (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section ~~609.531~~ 609.112, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; or

(ii) the requester or the requester's agent personally informs the person that guns are prohibited in the premises and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms by a peace officer, as defined in section 626.84, subdivision 1,

paragraph (c), within the private establishment or deny the officer access thereto, except when specifically authorized by statute. The owner or operator of the private establishment may require the display of official credentials issued by the agency that employs the peace officer prior to granting the officer entry into the private establishment.

(e) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(f) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(g) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(h) This subdivision does not apply to a security guard acting in the course and scope of employment. The owner or operator of a private establishment may require the display of official credentials issued by the company, which must be licensed by the Private Detective and Protective Agent Services Board, that employs the security guard and the guard's permit card prior to granting the guard entrance into the private establishment.

Sec. 20. Minnesota Statutes 2018, section 624.7142, subdivision 6, is amended to read:

Subd. 6. **Penalties.** (a) A person who violates a prohibition under subdivision 1, clauses (1) to (5), is guilty of a misdemeanor. A second or subsequent violation is a gross misdemeanor.

(b) A person who violates subdivision 1, clause (6), is guilty of a misdemeanor.

(c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is revoked and the person may not reapply for a period of one year from the date of conviction.

(d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is suspended for 180 days from the date of conviction.

(e) Notwithstanding section ~~609.531~~ 609.112, a firearm carried in violation of subdivision 1, clause (6), is not subject to forfeiture.

Sec. 21. Minnesota Statutes 2018, section 629.715, subdivision 2, is amended to read:

Subd. 2. **Surrender of firearms.** The judge may order as a condition of release that the person surrender to the local law enforcement agency all firearms, destructive devices, or dangerous weapons owned or possessed by the person, and may not live in a residence where others possess firearms. Any firearm, destructive device, or dangerous weapon surrendered under this subdivision shall be inventoried and retained, with due care to preserve its quality and function, by the local law enforcement agency, and must be returned to the person upon the person's acquittal, when charges are dismissed, or if no charges are filed. If the person is convicted, the firearm must be returned when the court orders the return or when the person is discharged from probation and restored to civil rights. If the person is convicted of a ~~designated~~ an offense as defined in section 609.531, under which the firearm ~~is subject to forfeiture, it is subject to forfeiture as provided under that section 609.112.~~ This condition may be imposed in addition to any other condition authorized by rule 6.02 of the Rules of Criminal Procedure.

Sec. 22. **REPEALER.**

Minnesota Statutes 2018, sections 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a, 6a, 7, and 8; 609.5311; 609.5312; 609.5313; 609.5314; 609.5315; 609.5316; 609.5317; 609.5318; 609.5319; 609.762, subdivisions 3, 4, 5, and 6; and 609.905, subdivision 3, are repealed.

Sec. 23. **EFFECTIVE DATE.**

This article is effective July 1, 2019.

## ARTICLE 4

### CIVIL POLICY

Section 1. **[3.8844] LEGISLATIVE COMMISSION ON INTELLIGENCE AND TECHNOLOGY.**

Subdivision 1. **Established.** The Legislative Commission on Intelligence and Technology is created to study and make recommendations on issues relating to the effect of emerging technology on privacy. The commission has investigatory and oversight jurisdiction over government surveillance programs and technology, including subpoena power.

Subd. 2. **Membership.** The commission consists of four members of the senate, two appointed by the majority leader and two appointed by the minority leader, and four members of the house of representatives, two appointed by the speaker of the house and two appointed

by the minority leader. Each appointing authority must make appointments as soon as possible after the beginning of the regular legislative session in an odd-numbered year. Each member of the commission must take an oath, swearing to faithfully discharge the duties of members of the commission in compliance with the laws governing the commission.

**Subd. 3. Terms; vacancies.** Commission member terms begin upon appointment and end at the beginning of the regular legislative session in the next odd-numbered year. In the case of a vacancy, the appropriate appointing authority must fill the vacancy for the remainder of the unexpired term.

**Subd. 4. Officers.** The commission must elect a chair and vice-chair and may elect other officers as the commission determines is necessary. The chair alternates between a member of the senate and a member of the house of representatives in January of each odd-numbered year.

**Subd. 5. Staff.** Legislative staff must provide administrative and research assistance to the commission.

**Subd. 6. Meetings; data.** Notwithstanding any other laws or legislative rules to the contrary, the commission may determine that a meeting shall not be open to the public. Notwithstanding any contrary provision of chapter 13 or other law, the commission may require a law enforcement official to disclose not public data to the commission, as the commission determines is necessary for performance of the commission's duties. If data provided to the commission is disseminated by the commission or its members or agents in violation of section 13.05, subdivision 4, the commission is subject to liability under section 13.08, subdivisions 1 and 3. Disclosure of not public data by a member of the commission is grounds for an ethics complaint to the committee with jurisdiction over ethics in the chamber in which the member serves.

**Subd. 7. Subpoena power.** The chair or vice-chair or a member of the commission designated by the chair may issue subpoenas requiring the appearance of persons, producing relevant records, and giving relevant testimony on matters within the jurisdiction of the commission. The person issuing the subpoena may request the issuance of an attachment to compel the attendance of a witness who, having been duly subpoenaed to attend, fails to do so. Section 3.153 applies to issuance of subpoenas under this section, except as otherwise provided in this section.

**EFFECTIVE DATE.** This section is effective the day following final enactment. Appointing authorities must make initial appointments by June 1, 2019. The speaker of the



41.1 house must designate one member of the commission to convene the first meeting of the  
41.2 commission by June 15, 2019.

41.3 Sec. 2. Minnesota Statutes 2018, section 13.599, is amended by adding a subdivision to  
41.4 read:

41.5 Subd. 5. **State Arts Board.** Notwithstanding subdivision 3, responses submitted by a  
41.6 grantee to the State Arts Board or to a regional arts council under chapter 129D become  
41.7 public data at the public review meeting at which they are considered, except for trade secret  
41.8 data as defined and classified in section 13.37.

41.9 Sec. 3. Minnesota Statutes 2018, section 257.56, is amended to read:

41.10 **257.56 ARTIFICIAL INSEMINATION ASSISTED REPRODUCTION.**

41.11 Subdivision 1. ~~**Husband**~~ **Spouse treated as biological father parent.** If, under the  
41.12 supervision of a licensed physician and with the consent of her ~~husband~~ spouse, a ~~wife is~~  
41.13 ~~inseminated artificially~~ woman conceives through assisted reproduction with semen or ova  
41.14 or both, donated by a ~~man not her husband~~ donor or donors not her spouse, the ~~husband~~  
41.15 spouse is treated in law as ~~if he were the biological father~~ the parent of a child thereby  
41.16 conceived. The ~~husband's~~ spouse's consent must be in writing and signed by ~~him and his~~  
41.17 ~~wife~~ the spouse and the woman conceiving through assisted reproduction. The consent must  
41.18 be retained by the physician for at least four years after the confirmation of a pregnancy  
41.19 that occurs during the process of ~~artificial insemination~~ assisted reproduction.

41.20 All papers and records pertaining to the ~~insemination~~ assisted reproduction, whether  
41.21 part of the permanent record of a court or of a file held by the supervising physician or  
41.22 elsewhere, are subject to inspection only upon an order of the court for good cause shown.

41.23 Subd. 2. ~~**Donor not treated as biological father parent.**~~ The donor of semen or ova  
41.24 provided to a licensed physician for use in ~~artificial insemination of~~ assisted reproduction  
41.25 by a married woman other than the donor's ~~wife~~ spouse is treated in law as if ~~he were the~~  
41.26 donor is not the ~~biological father~~ parent of a child thereby conceived, unless a court finds  
41.27 satisfactory evidence that the donor and the woman intended for the donor to be a parent.

41.28 Sec. 4. Minnesota Statutes 2018, section 363A.03, subdivision 43, is amended to read:

41.29 Subd. 43. **Sexual harassment.** (a) "Sexual harassment" includes unwelcome sexual  
41.30 advances, requests for sexual favors, sexually motivated physical contact or other verbal or  
41.31 physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or materially offensive employment, public accommodations, public services, educational, or housing environment.

(b) Paragraph (a), clause (3), does not require the harassing conduct or communication to be severe or pervasive. Conduct or communication has the purpose or effect of creating an intimidating, hostile, or materially offensive environment when:

(1) a reasonable person in similar circumstances to the plaintiff would find the environment intimidating, hostile, or materially offensive; and

(2) the plaintiff found the environment intimidating, hostile, or materially offensive.

The intimidating, hostile, or materially offensive environment must be determined based on the totality of the circumstances.

**EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to causes of action arising on or after that date.

Sec. 5. Minnesota Statutes 2018, section 363A.35, subdivision 3, is amended to read:

Subd. 3. **Access to closed files.** (a) Except as otherwise provided in this subdivision, human rights investigative data contained in a closed case file are private data on individuals or nonpublic data. The name and address of the charging party and respondent, factual basis of the allegations, the statute under which the action is brought, the part of the summary of the investigation that does not contain identifying data on a person other than the complainant or respondent, and the commissioner's memorandum determining whether probable cause has been shown are public data.

(b) The commissioner may make human rights investigative data contained in a closed case file inaccessible to the charging party or the respondent in order to protect medical or other security interests of the parties or third persons.

(c) Except for paragraph (b), when the charging party files a case in district court, the commissioner may provide private data or nonpublic data in a closed case file to the charging party and respondent.

Sec. 6. Minnesota Statutes 2018, section 363A.36, subdivision 1, is amended to read:

Subdivision 1. **Scope of application.** ~~(a) For all contracts for goods and services in excess of \$100,000, no department or agency of the state shall accept any bid or proposal for a contract or agreement from any business having more than 40 full-time employees within this state on a single working day during the previous 12 months, unless the commissioner is in receipt of the business' affirmative action plan for the employment of minority persons, women, and qualified disabled individuals. No department or agency of the state shall execute any such contract or agreement until the affirmative action plan has been approved by the commissioner. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of four years.~~ A department, an agency of the state, the Metropolitan Council, an agency subject to section 473.143, subdivision 1, or a public officer or agency subject to section 16A.695 shall not execute a contract for goods or services in excess of \$100,000 with a business that has 40 or more full-time employees in this state or a state where the business has its primary place of business on a single day during the prior 12 months, unless the business has a workforce certificate, as created in sections 363A.36 and 363A.37, from the commissioner of human rights or has certified in writing that it is exempt. Determinations of exempt status shall be made by the commissioner of human rights. A certificate is valid for four years. A municipality as defined in section 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, people with disabilities, people of color, and women, and the qualified disabled and to submit the plan to the commissioner.

~~(b) This paragraph applies to a contract for goods or services in excess of \$100,000 to be entered into between a department or agency of the state and a business that is not subject to paragraph (a), but that has more than 40 full-time employees on a single working day during the previous 12 months in the state where the business has its primary place of business. A department or agency of the state may not execute a contract or agreement with a business covered by this paragraph unless the business has a certificate of compliance issued by the commissioner under paragraph (a) or the business certifies that it is in compliance with federal affirmative action requirements.~~

~~(e)~~ (b) This section does not apply to contracts entered into by the State Board of Investment for investment options under section 356.645.

~~(d)~~ (c) The commissioner shall issue a certificate of compliance or notice of denial within 15 days of the application submitted by the business or firm.

Sec. 7. Minnesota Statutes 2018, section 363A.36, subdivision 4, is amended to read:

Subd. 4. **Revocation of contract.** A contract awarded by a department or agency of the state, the Metropolitan Council, an agency subject to section 473.143, subdivision 1, or a public officer or agency subject to section 16A.695, may be terminated or abridged by the department or agency, the Metropolitan Council, an agency subject to section 473.143, subdivision 1, or a public officer or agency subject to section 16A.695, because of suspension or revocation of a certificate based upon a contractor's failure to implement or make a good faith effort to implement an affirmative action plan approved by the commissioner under this section. If a contract is awarded to a person who does not have a contract compliance certificate required under subdivision 1, the commissioner may void the contract on behalf of the state.

Sec. 8. Minnesota Statutes 2018, section 363A.36, is amended by adding a subdivision to read:

Subd. 6. **Access to data.** Data created, collected, and maintained by the commissioner for a business to receive and retain a certificate of compliance under this section is private data or nonpublic data. Applications, forms, or similar documents submitted by a business seeking a certificate of compliance is public data. A letter that states the commissioner's decision to issue, not issue, revoke, or suspend a certificate of compliance is public data.

Sec. 9. Minnesota Statutes 2018, section 363A.44, subdivision 1, is amended to read:

Subdivision 1. **Scope.** (a) ~~Not~~ A department, an agency of the state, the Metropolitan Council, ~~or~~ an agency subject to section 473.143, subdivision 1, or a public officer or agency subject to section 16A.695 shall not execute a contract for goods or services or an agreement for goods or services in excess of \$500,000 with a business that has 40 or more full-time employees in this state or a state where the business has its primary place of business on a single day during the prior 12 months, unless the business has an equal pay certificate or it has certified in writing that it is exempt. A certificate is valid for four years.

(b) This section does not apply to a business with respect to a specific contract if the commissioner of administration determines that application of this section would cause

undue hardship to the contracting entity. This section does not apply to a contract to provide goods and services to individuals under chapters 43A, 62A, 62C, 62D, 62E, 256B, 256I, 256L, and 268A, with a business that has a license, certification, registration, provider agreement, or provider enrollment contract that is prerequisite to providing those goods and services. This section does not apply to contracts entered into by the State Board of Investment for investment options under section 352.965, subdivision 4.

Sec. 10. Minnesota Statutes 2018, section 517.02, is amended to read:

**517.02 PERSONS CAPABLE OF CONTRACTING.**

~~Every~~ A person who has attained the full age of 18 years is capable in law of contracting into a civil marriage, if otherwise competent. ~~A person of the full age of 16 years may, with the consent of the person's legal custodial parents, guardian, or the court, as provided in section 517.08, receive a license to marry, when, after a careful inquiry into the facts and the surrounding circumstances, the person's application for a license and consent for civil marriage of a minor form is approved by the judge of the district court of the county in which the person resides. If the judge of the district court of the county in which the person resides is absent from the county and has not by order assigned another judge or a retired judge to act in the judge's stead, then the court commissioner or any judge of district court of the county may approve the application for a license.~~

~~The consent for civil marriage of a minor must be in the following form:~~

~~STATE OF MINNESOTA, COUNTY OF ..... (insert county name)~~

~~I/We ..... (insert legal custodial parent or guardian names) under oath or affirmation say:~~

~~That I/we are the legal custodial parent(s) or guardian of ..... (insert name of minor), who was born at ..... (insert place of birth) on ..... (insert date of birth) who is presently the age of ..... (insert age).~~

~~That the minor has not been previously married.~~

~~That I/we consent to the civil marriage of this minor to ..... (insert name of the person minor intends to marry) who is of the age of ..... (insert age).~~

~~That affidavit is being made for the purpose of requesting the judge's consent to allow this minor to marry and make this civil marriage legal.~~

~~Date: .....~~

~~.....~~

46.1 \_\_\_\_\_

46.2 ~~(Signature of legal custodial parents or guardian)~~

46.3 ~~Sworn to or affirmed and acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_.~~

46.4 \_\_\_\_\_

46.5 NOTARY PUBLIC

46.6 ~~STATE OF MINNESOTA, COUNTY OF \_\_\_\_\_ (insert county name).~~

46.7 ~~The undersigned is the judge of the district court where the minor resides and grants the~~

46.8 ~~request for the minor to marry.~~

46.9 \_\_\_\_\_ (judge of district court)

46.10 \_\_\_\_\_ (date).

46.11 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2019, and

46.12 applies to marriages entered into on or after that date.

46.13 Sec. 11. Minnesota Statutes 2018, section 517.03, subdivision 1, is amended to read:

46.14 Subdivision 1. **General.** (a) The following civil marriages are prohibited:

46.15 (1) a civil marriage entered into before the dissolution of an earlier civil marriage of one  
46.16 of the parties becomes final, as provided in section 518.145 or by the law of the jurisdiction  
46.17 where the dissolution was granted;

46.18 (2) a civil marriage between an ancestor and a descendant, or between siblings, whether  
46.19 the relationship is by the half or the whole blood or by adoption; ~~and~~

46.20 (3) a civil marriage between an uncle or aunt and a niece or nephew, or between first  
46.21 cousins, whether the relationship is by the half or the whole blood, except as to civil marriages  
46.22 permitted by the established customs of aboriginal cultures; and

46.23 (4) a civil marriage entered into between persons when both have not attained the full  
46.24 age of 18 years.

46.25 (b) A civil marriage prohibited under paragraph (a), clause (4), that is recognized by  
46.26 another state or foreign jurisdiction under common law or statute is void and against the  
46.27 public policy of this state unless neither party was a resident of this state at the time the  
46.28 marriage was entered into.

46.29 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2019, and  
46.30 applies to marriages entered into on or after that date.

Sec. 12. Minnesota Statutes 2018, section 517.08, subdivision 1a, is amended to read:

Subd. 1a. **Form.** Application for a civil marriage license shall be made by both of the parties upon a form provided for the purpose and shall contain the following information:

(1) the full names of the parties and the sex of each party;

(2) their post office addresses and county and state of residence;

(3) their full ages;

(4) if either party has previously been married, the party's married name, and the date, place and court in which the civil marriage was dissolved or annulled or the date and place of death of the former spouse;

~~(5) if either party is a minor, the name and address of the minor's parents or guardian;~~

~~(6)~~ (5) whether the parties are related to each other, and, if so, their relationship;

~~(7)~~ (6) the address of the parties after the civil marriage is entered into to which the local registrar shall send a certified copy of the civil marriage certificate;

~~(8)~~ (7) the full names the parties will have after the civil marriage is entered into and the parties' Social Security numbers. The Social Security numbers must be collected for the application but must not appear on the civil marriage license. If a party listed on a civil marriage application does not have a Social Security number, the party must certify on the application, or a supplement to the application, that the party does not have a Social Security number;

~~(9)~~ (8) if one or both of the parties to the civil marriage license has a felony conviction under Minnesota law or the law of another state or federal jurisdiction, the parties shall provide to the county proof of service upon the prosecuting authority and, if applicable, the attorney general, as required by section 259.13; and

~~(10)~~ (9) notice that a party who has a felony conviction under Minnesota law or the law of another state or federal jurisdiction may not use a different name after a civil marriage except as authorized by section 259.13, and that doing so is a gross misdemeanor.

**EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2019, and applies to applications submitted to the local registrar on or after that date.

Sec. 13. Minnesota Statutes 2018, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. **Term of license; fee; premarital education.** (a) The local registrar shall examine upon oath the parties applying for a license relative to the legality of the

contemplated civil marriage. Both parties must present proof of age to the local registrar.  
If one party is unable to appear in person, the party appearing may complete the absent  
applicant's information. The local registrar shall provide a copy of the civil marriage  
application to the party who is unable to appear, who must verify the accuracy of the  
appearing party's information in a notarized statement. The verification statement must be  
accompanied by a copy of proof of age of the party. The civil marriage license must not be  
released until the verification statement and proof of age has been received by the local  
registrar. If the local registrar is satisfied that there is no legal impediment to it, including  
the restriction contained in section 259.13, the local registrar shall issue the license,  
containing the full names of the parties before and after the civil marriage, and county and  
state of residence, with the county seal attached, and make a record of the date of issuance.  
The license shall be valid for a period of six months. Except as provided in paragraph (b),  
the local registrar shall collect from the applicant a fee of \$115 for administering the oath,  
issuing, recording, and filing all papers required, and preparing and transmitting to the state  
registrar of vital records the reports of civil marriage required by this section. If the license  
should not be used within the period of six months due to illness or other extenuating  
circumstances, it may be surrendered to the local registrar for cancellation, and in that case  
a new license shall issue upon request of the parties of the original license without fee. A  
local registrar who knowingly issues or signs a civil marriage license in any manner other  
than as provided in this section shall pay to the parties aggrieved an amount not to exceed  
\$1,000.

(b) The civil marriage license fee for parties who have completed at least 12 hours of  
premarital education is \$40. In order to qualify for the reduced license fee, the parties must  
submit at the time of applying for the civil marriage license a statement that is signed, dated,  
and notarized or marked with a church seal from the person who provided the premarital  
education on their letterhead confirming that it was received. The premarital education must  
be provided by a licensed or ordained minister or the minister's designee, a person authorized  
to solemnize civil marriages under section 517.18, or a person authorized to practice marriage  
and family therapy under section 148B.33. The education must include the use of a premarital  
inventory and the teaching of communication and conflict management skills.

(c) The statement from the person who provided the premarital education under paragraph  
(b) must be in the following form:

"I, ..... (name of educator), confirm that ..... (names of both  
parties) received at least 12 hours of premarital education that included the use of a premarital  
inventory and the teaching of communication and conflict management skills. I am a licensed



or ordained minister, a person authorized to solemnize civil marriages under Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the civil marriage license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(d) If section 259.13 applies to the request for a civil marriage license, the local registrar shall grant the civil marriage license without the requested name change. Alternatively, the local registrar may delay the granting of the civil marriage license until the party with the conviction:

(1) certifies under oath that 30 days have passed since service of the notice for a name change upon the prosecuting authority and, if applicable, the attorney general and no objection has been filed under section 259.13; or

(2) provides a certified copy of the court order granting it. The parties seeking the civil marriage license shall have the right to choose to have the license granted without the name change or to delay its granting pending further action on the name change request.

**EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2019, and applies to applications submitted to the local registrar on or after that date.

Sec. 14. Minnesota Statutes 2018, section 517.08, is amended by adding a subdivision to read:

**Subd. 1d. Proof of age.** For purposes of this section, proof of age of a party may be established in the form of:

(1) an original or certified copy of a birth certificate or birth record;

(2) a driver's license or other identification card issued by a government entity or school;  
or

(3) a school record, immigration record, naturalization record, court record, or other document or record issued by a government entity that contains the date of birth of a party.

ARTICLE 5

COOPERATIVE PRIVATE DIVORCE PROGRAM

Section 1. Minnesota Statutes 2018, section 62A.21, subdivision 2a, is amended to read:

Subd. 2a. **Continuation privilege.** Every policy described in subdivision 1 shall contain a provision which permits continuation of coverage under the policy for the insured's dependent children, which is defined as required by section 62A.302, and former spouse, who was covered on the day before the entry of a valid decree of dissolution of marriage or a certificate of marital dissolution. The coverage shall be continued until the earlier of the following dates:

~~(a)~~ (1) the date the insured's former spouse becomes covered under any other group health plan; or

~~(b)~~ (2) the date coverage would otherwise terminate under the policy.

If the coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured on a monthly basis to the group policyholder for remittance to the insurer. The policy must require the group policyholder to, upon request, provide the insured with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee.

Upon request by the insured's former spouse, who was covered on the day before the entry of a valid decree of dissolution, or dependent child, a health carrier must provide the instructions necessary to enable the child or former spouse to elect continuation of coverage.

Sec. 2. Minnesota Statutes 2018, section 518.191, is amended by adding a subdivision to read:

Subd. 6. **Summary real estate disposition judgment following certificate of marital dissolution.** A summary real estate disposition judgment may also be obtained after a certificate of marital dissolution is issued in accordance with section 518.80, subdivision 5. Upon the filing of the certificate the district court administrator may provide to a participant upon request certified copies of a summary real estate disposition judgment submitted by the participants that contains the following information:

51.1 (1) the dates of the participants' marriage and of the issuance of the certificate of marital  
51.2 dissolution;

51.3 (2) the legal description of each parcel of real estate;

51.4 (3) the name or names of the persons awarded an interest in each parcel of real estate  
51.5 and a description of the interest awarded;

51.6 (4) liens, mortgages, encumbrances, or other interests in the real estate described in the  
51.7 declaration of divorce; and

51.8 (5) triggering or contingent events set forth in the declaration of divorce affecting the  
51.9 disposition of each parcel of real estate.

51.10 Sec. 3. Minnesota Statutes 2018, section 518.195, is amended by adding a subdivision to  
51.11 read:

51.12 Subd. 5. **Issuance of qualified domestic relations order following certificate of marital**  
51.13 **dissolution.** A certificate of marital dissolution issued in accordance with section 518.80,  
51.14 subdivision 5, may be filed with the district court administrator. Upon the filing of the  
51.15 certificate, the district court administrator may enter a decree of dissolution and may issue  
51.16 a qualified domestic relations order submitted by the participants and approved by the  
51.17 retirement plan administrator for the assignment of an interest in a retirement plan as provided  
51.18 in the declaration of divorce.

51.19 Sec. 4. **[518.80] COOPERATIVE PRIVATE DIVORCE PROGRAM.**

51.20 Subdivision 1. **Commissioner.** For purposes of this section, "commissioner" means the  
51.21 commissioner of the Bureau of Mediation Services.

51.22 Subd. 2. **Establishment.** The commissioner shall establish a cooperative private divorce  
51.23 program as provided in this section.

51.24 Subd. 3. **Requirements.** The cooperative private divorce program must, at a minimum:

51.25 (1) be made available on the Bureau of Mediation Services website;

51.26 (2) make available to the participants of the program the notices and instructions provided  
51.27 under subdivisions 9 and 10 and section 518.82;

51.28 (3) allow participants of the program to electronically complete and submit to the  
51.29 commissioner an intent to divorce and a declaration of divorce as provided under subdivision  
51.30 11;

52.1 (4) require a separate unique login and password for each participant to access the  
52.2 program;

52.3 (5) provide a notification system that automatically contacts one participant when the  
52.4 other participant accesses the program;

52.5 (6) provide a list of supportive services and service providers that may be helpful to  
52.6 participants;

52.7 (7) provide a method to authenticate the identities of the signatories of the forms required  
52.8 under subdivision 11;

52.9 (8) employ security measures to protect the confidentiality and personal information of  
52.10 the participants submitting information through the program; and

52.11 (9) encrypt all data sent and received through the program website.

52.12 Subd. 4. **Residency requirement.** Married participants seeking dissolution under this  
52.13 section qualify for the cooperative private divorce program if the residency requirements  
52.14 under section 518.07 have been met by the participants.

52.15 Subd. 5. **Procedure.** (a) Notwithstanding any law to the contrary, married participants  
52.16 who meet the criteria under subdivision 4 may dissolve their marital status through the  
52.17 cooperative private divorce program made available on the Bureau of Mediation Services  
52.18 website by:

52.19 (1) signing and submitting the intent to divorce under subdivision 11; and

52.20 (2) completing, signing, and submitting the declaration of divorce under subdivision 11  
52.21 at least 90 days after but not more than two years after the intent to divorce was submitted  
52.22 by both participants.

52.23 (b) Upon receipt of the completed declaration of divorce, the commissioner shall issue  
52.24 a certificate of marital dissolution that includes the following information:

52.25 (1) the name and any prior names of the two participants to the cooperative private  
52.26 divorce dissolution;

52.27 (2) the name of any living minor or dependent children of the participants;

52.28 (3) that the marriage of the participants is dissolved and the date of the dissolution; and

52.29 (4) the Social Security numbers of the participants and any living minor or dependent  
52.30 children of the participants.

53.1 (c) A certificate of marital dissolution issued under this section completely dissolves  
53.2 the marital status of the participants.

53.3 (d) Upon receipt of a declaration of divorce, the commissioner shall issue a certificate  
53.4 of marital dissolution that is accessible to each participant through the online cooperative  
53.5 private divorce program. The certificate of marital dissolution is conclusive evidence of the  
53.6 divorce.

53.7 (e) The commissioner shall maintain a public registry containing the following:

53.8 (1) the name and any prior names of any participant of the cooperative private divorce  
53.9 program;

53.10 (2) the name of any living minor or dependent children of a participant; and

53.11 (3) that the marriage of the participants is dissolved and the date of the dissolution.

53.12 (f) Before the commissioner issues a certificate of marital dissolution to married  
53.13 participants who are parents of minor children, the married participants must attend a  
53.14 four-hour parent education program as required under section 518.81.

53.15 Subd. 6. **Certain agreements.** (a) Any agreement made by the participants as part of  
53.16 the declaration of divorce that allocates expenses for their child or children is an enforceable  
53.17 contract between the participants under section 518.1705.

53.18 (b) It is the intent of this paragraph that agreements recorded in a declaration of divorce  
53.19 shall be deemed to be a decree of divorce wherever a decree of divorce is referred to in the  
53.20 Internal Revenue Code, and agreements between the participants in a declaration of divorce  
53.21 regarding alimony or maintenance shall be deemed to be a divorce or separation agreement  
53.22 for purposes of deductibility under the Internal Revenue Code.

53.23 (c) Any issue that is not specifically addressed by the participants in the declaration of  
53.24 divorce agreement is considered to be reserved for future agreement by the participants or  
53.25 de novo review by the court.

53.26 Subd. 7. **Modification.** Any agreement made by the participants in their declaration of  
53.27 divorce may be modified at any time after a declaration of divorce agreement is submitted  
53.28 to the commissioner through the cooperative private divorce program, but prior to the parties  
53.29 modifying or vacating an agreement under subdivision 8, if both participants agree to the  
53.30 amendment and submit an amended declaration of divorce.

53.31 Subd. 8. **Court involvement.** (a) At any time prior to the submission of a declaration  
53.32 of divorce, participants in a cooperative private divorce may initiate an action for marriage

54.1 dissolution under this chapter in district court. Any action under this chapter pending in  
54.2 district court must be resolved or dismissed before participants may submit a declaration  
54.3 of divorce.

54.4 (b) Cooperative private divorce agreements contained in a declaration of divorce may  
54.5 be enforced, modified, or vacated by the district court, or the court may address issues that  
54.6 were reserved by the participants according to the provisions of this chapter. Review of a  
54.7 cooperative private divorce agreement under paragraph (e) in district court are de novo and  
54.8 determined by existing statute.

54.9 (c) Upon the filing of a certificate of marital dissolution by the participants, the court  
54.10 administrator shall enter a decree of dissolution as provided in section 518.195 without  
54.11 necessity of court approval or a judgment and decree and without regard to the criteria or  
54.12 procedures in section 518.195, subdivisions 1 and 2.

54.13 (d) By executing a declaration of divorce with the Bureau of Mediation Services that  
54.14 may be filed with the court, each participant consents to the continuing personal jurisdiction  
54.15 of the Minnesota courts as to all matters related to the declaration of divorce.

54.16 (e) A participant in a cooperative private divorce may by petition initiate an action in  
54.17 district court to:

54.18 (1) enforce, modify, or vacate the declaration of divorce;

54.19 (2) petition the court to address any issue reserved by the participants;

54.20 (3) obtain a summary real estate disposition judgment;

54.21 (4) obtain a qualified domestic relations order; or

54.22 (5) obtain a court decree of dissolution when necessary to comply with state or federal  
54.23 law involving interstate enforcement of the participants' divorce.

54.24 A participant initiating an action under this paragraph must, by personal service, provide  
54.25 to the other participant notice of filing the certificate of marital dissolution with the district  
54.26 court together with any motion for relief. Any subsequent court action related to the certificate  
54.27 of marital dissolution may be initiated by notice of motion and motion. An action initiated  
54.28 under this paragraph shall be venued in a county located in this state where either participant  
54.29 was residing at the time the certificate of marital dissolution was issued by the Bureau of  
54.30 Mediation Services. Matters reviewed by the court under this section are reviewed by the  
54.31 court de novo and governed by this chapter, chapter 518A, and other applicable laws. The  
54.32 filing fee for any action under this paragraph is \$315. For a motion to vacate the declaration  
54.33 of divorce under section 518.145, the one-year period of limitation begins on the date of

55.1 the participants' dissolution, which is the date of the certificate of marital dissolution in  
55.2 subdivision 5, paragraph (d).

55.3 Subd. 9. **Notices; introduction to private divorce; form.** The commissioner shall make  
55.4 available the following form for use in the cooperative private divorce program:

55.5 **NOTICE: Introduction to Cooperative Private Divorce**

55.6 You are considering obtaining a Cooperative Private Divorce rather than going to court  
55.7 to get divorced. Cooperative Private Divorce is a simplified procedure for couples who want  
55.8 to avoid the expense, emotional strain, and arbitrary time frames that often accompany  
55.9 adversarial court proceedings. To obtain a Cooperative Private Divorce you will need to  
55.10 reach an agreement with your spouse about the issues in your divorce. Many public and  
55.11 private services are available to help you.

55.12 The Cooperative Private Divorce process is based on the assumption that most people  
55.13 have the capacity to divorce with respect and fairness if they are supported in that direction.  
55.14 To that end, a Cooperative Private Divorce differs in two important ways from a court  
55.15 divorce. First, the two of you have total control over your divorce and no one will oversee  
55.16 or scrutinize the decisions you make. Second, it is a completely private process.

55.17 This leaves you with a great deal of flexibility. After you have educated yourself, you  
55.18 can choose how detailed or simple to make your divorce decisions, and whether to postpone  
55.19 some decisions to a later time. You can also create your own understanding of fairness  
55.20 unique to your own situation.

55.21 These special features of a Cooperative Private Divorce, eliminating the anxiety of  
55.22 someone else having control over your family, and lessening the pressure to resolve  
55.23 everything all at once during a very stressful time are intended to replace conflict with your  
55.24 spouse by creating a healthy transition for you and your family. You are encouraged to view  
55.25 each other as partners in creating the best solution for you and your family in parenting and  
55.26 financial matters.

55.27 **Basic Principles**

55.28 Cooperative Private Divorce is not for everyone. Because of the need to create a fair  
55.29 and healthy plan without coercion or oversight, it is intended for couples who can work  
55.30 together in good faith for the best interests of everyone in the family.

55.31 Here are the six principles underlying Cooperative Private Divorce. If you and your  
55.32 spouse believe you can fashion your divorce according to these principles, then a Cooperative  
55.33 Private Divorce may be the best procedure for you.

1. The preventing unnecessary divorce principle: You have reached a decision to initiate a divorce only after exhausting other options to solve your problems within your marriage, particularly if you have children.

2. The healthy relationships principle: If you have children, your parenting plan promotes safe, nurturing, and stable relationships among the children and with both of their parents.

3. The maximum parent involvement principle: Your parenting plan promotes high levels of involvement of both parents with the children when that is feasible and consistent with the needs of the children.

4. The equity principle: Your financial plan promotes equitable and sustainable lifestyles for all family members in light of the unique circumstances of your marriage and family.

5. The flexibility principle: Your divorce agreements take into account both the value of having stable arrangements and the likelihood that the needs and circumstances of your family will change over time.

6. The optimal timing principle: You create partial or comprehensive agreements with the timing and sequence that work best for you and your family.

### **Two Cautions**

First, if you feel pressured or intimidated by your spouse to use this process or to agree to specific matters in your divorce, or if you have doubts generally about your spouse's willingness to reach agreements that are best for everyone in your family, consider getting professional assistance before going further.

Second, the flexibility of a Cooperative Private Divorce also leaves you with an important responsibility. Some couples have relatively simple issues to address in their divorce. But some couples have more complex financial and parenting matters to resolve. Financial matters are often more complex if you are self-employed or a business owner. If you do not consider such matters carefully, you may face problems such as having agreements that do not work over time or that are not enforceable. You are responsible to educate yourself about the issues in your divorce and to obtain professional assistance if you need it.

### **Professional and Community Resources**

To begin with, recognize that going ahead with a divorce is a significant decision, especially if you have children. Many research studies have shown that divorce can have an adverse effect on children. If you want help to make sure you are making the right decision for you and your family, you can make use of services available in local communities.



If you have made the decision to go ahead with the divorce, you may choose to work with an advocate or with a facilitator who can guide you and your spouse in cooperative processes that focus on your interests and needs and what will work for your family. You may want to consult with an adviser on parenting or financial issues. From private sources you can obtain sample agreements that may help you frame all of the issues you will likely encounter. Although divorce can seem complex and difficult, these resources and professional services can help make it easier for you and your spouse to reach an agreement.

The Bureau of Mediation Services serves as a clearinghouse for information about the types of resources available. It can also provide information about services that are offered for free or on a sliding fee.

Subd. 10. **Instructions; form.** The commissioner shall make available the following form for use in the cooperative private divorce program:

**Instructions for Cooperative Private Divorce**

1. Both spouses obtain unique identifiers from the Bureau of Mediation Services.

2. Both spouses sign and submit the INTENT TO DIVORCE form with their unique identifiers to register with the Bureau of Mediation Services.

3. At any time at least 90 days after but not more than two years after submitting the INTENT TO DIVORCE form, submit the Declaration of Divorce form signed by both spouses.

4. Upon submitting the Declaration of Divorce form, both spouses will receive a certification that your marriage is dissolved.

5. Most complete divorce agreements address the issues set forth in the Declaration of Divorce form. It is up to you whether you want to record agreements in all or any of these areas. But recognize that if your agreements are vague or incomplete or if you do not record your agreements, it may be difficult for you to recall them, live up to your obligations, or later ask a court to enforce an agreement. Use attachments if you want to record agreements that are longer than space here permits. No one will review or approve the agreements you set forth here before your divorce is certified. They are for your use only.

6. At any time, either spouse can retrieve the Declaration of Divorce form containing your agreements by providing your unique identifier. No one except you and your spouse will have access to this form.

7. At any time, you and your former spouse can retrieve the Declaration of Divorce form, make additions or modifications that you both agree to, and resubmit it.

8. If you want to modify your previous agreements but you and your former spouse cannot agree on the modifications, or if you want to seek enforcement of a previous agreement, you are encouraged to seek assistance from professionals in the community who specialize in helping former spouses reach fair agreements. You also have the option of going to court to submit your Declaration of Divorce form.

9. Remember that by creating a smooth family transition now and working on issues that may arise in the future, developing a trustworthy working relationship with your spouse will be just as helpful as written agreements.

Subd. 11. **Intent to divorce; declaration of divorce; form.** The commissioner shall make available the following form for use in the cooperative private divorce program:

**Intent to Divorce**

We hereby declare that we are legally married, have both been residents of Minnesota for at least 180 days, and intend to divorce. We understand that our divorce will be certified if we submit the Declaration of Divorce form signed by both spouses at least 90 days after but not more than two years after the date this INTENT TO DIVORCE form is submitted.

Date and place of marriage: .....

Signature, date: .....

E-mail address: .....

Social Security number: .....

Signature, date: .....

E-mail address: .....

Social Security number: .....

**Declaration of Divorce**

**Facts**

1. We agree that the following is a list of all our assets and their approximate value:

2. We agree that the following is a list of all our debts:

3. Spouse A name, previous name(s) if any, and yearly income, including any bonuses:

4. Spouse B name, previous name(s) if any, and yearly income, including any bonuses:

5. The names, dates of birth, and Social Security numbers of our minor or dependent children covered by this agreement are:

**Agreements**

1. We agree to the following plan for parenting our child or children together after the divorce. If our plan is temporary, we agree to the following process for updating it. (A comprehensive plan would include: (a) how you will make important decisions like those about school, health care, and religion; (b) how you will allocate your time with the children during the school year, summer, holidays, and vacations to provide a nurturing environment

59.1 and rich relationships with both of you; and (c) how you will communicate with each other  
59.2 and work out differences of opinion.)

59.3 2. We agree to the following plan for sharing the expenses of raising our child or children.

59.4 **Guideline Child Support**

59.5 The guideline child support for our child(ren) is \$...... We agree that ..... will pay  
59.6 the guideline child support amount.

59.7 (The Minnesota Child Support guidelines calculator can be accessed at .....)

59.8 Attach the guidelines printout.

59.9 **Non-Guideline Child Support**

59.10 We agree to deviate from the guideline child support amount after considering the  
59.11 following factors that support deviation (Make a check or "X" on all that apply):

59.12 .... each of our earnings, income, circumstances, and resources, including our  
59.13 real and personal property, but excluding income from excess employment  
59.14 of the obligor or obligee that meets the criteria of Minnesota Statutes,  
59.15 section 518A.29, paragraph (b);

59.16 .... the extraordinary financial needs and resources, physical and emotional  
59.17 condition, and educational needs of our child(ren) to be supported;

59.18 .... the standard of living our child would enjoy if we were currently living  
59.19 together, but recognizing that we now have separate households;

59.20 .... whether our child resides for more than one year in a foreign country that  
59.21 has a substantially higher or lower cost of living than this country;

59.22 .... the income taxation dependency exemption and the financial benefit that  
59.23 one of us receives from it;

59.24 .... our agreed-upon plan for paying off our debts under paragraph 4;

59.25 .... the obligor's total payments for court-ordered child support exceed the  
59.26 limitations set forth in Minnesota Statutes, section 571.922;

59.27 .... an allocation of the expenses of our children that enables us to maintain a  
59.28 suitable place for our children, taking into account our current standard of  
59.29 living;

59.30 .... the following factor: .....

59.31 Make a check or "X" on one of the following:

59.32 .... Because of the factor(s) we have checked above, we agree that .....  
59.33 will pay \$...... in child support on the ..... of each month;

59.34 .... We will be sharing the following children's expenses: (list items) with  
59.35 ..... paying ... percent and ..... paying ... percent; or

59.36 .... We agree that no child support will be exchanged between us, as we are  
59.37 each paying the children's expenses directly.

59.38 Make a check or "X" on all that apply:



6. We agree to the following schedule of payments for spousal support (alimony) which ends upon the death of either of us or the remarriage of the payee spouse. (If there is a large difference in your incomes and you agree to a minimal amount or no amount of spousal support, provide the reasons for the spousal support agreement. For purposes of federal tax deductibility, this agreement is deemed to be a divorce or separation instrument. Be aware that, upon motion, a court has the authority to modify the amount of spousal support you agree on here at any time during the time period in which spousal support is being paid.)

7. We agree to the following plan to maintain health insurance coverage for both spouses. (If one spouse is interested in continuing health insurance coverage under the other spouse's employer-provided policy, certain laws apply, including a requirement that an election must be made and submitted to the other spouse's employer and health insurance carrier within 60 days of your divorce.)

8. We agree to the following plan for paying any past joint tax liability or future tax liability, or both, and we agree to the following plan for who will claim the child or dependency exemptions or credits for our child or children.

9. We have reached the following additional agreements which we wish to record. (You may not use the cooperative private divorce program to legally change a name. A name can be changed only by a court.)

### **Dissolution**

We hereby agree to the dissolution of our marriage according to the preceding terms. We hereby warrant that we have made complete disclosure to each other of all information and documents that are important to these agreements, and that the list of assets and debts contained in paragraph (1) are complete and accurate and there are no open court cases involving these issues.

Signature, date: .....

Signature, date: .....

Subd. 12. **Fee.** The commissioner shall charge the participants of the cooperative private divorce program a fee of \$1,062. Collected fees must be deposited in the cooperative divorce account established under subdivision 13. The commissioner may reduce the fee to ensure that revenue more closely matches the expenses of the program.

Subd. 13. **Cooperative divorce account.** The cooperative divorce account is established as a separate account in the special revenue fund in the state treasury. Money in the account

62.1 is appropriated to the commissioner to administer and manage the online program under  
62.2 this section.

62.3 Subd. 14. **Data.** Data collected under this section is classified as private data on  
62.4 individuals as defined in section 13.02, subdivision 12.

62.5 Subd. 15. **Notice; translations.** Notices provided in this section and section 518.82 must  
62.6 be provided in languages that participants can understand and versions of the notices must  
62.7 be available online in languages commonly spoken in Minnesota.

62.8 Sec. 5. **[518.81] PARENT EDUCATION; COOPERATIVE PRIVATE DIVORCE.**

62.9 Subdivision 1. **Parent education requirements.** Married participants who are parents  
62.10 of minor children shall attend a four-hour parent education program prior to receiving a  
62.11 certificate of marital dissolution under section 518.80, subdivision 5. The parent education  
62.12 program must provide information on:

62.13 (1) constructive parenting in the dissolution process, including risk factors for families,  
62.14 how marriage dissolution affects children of different ages, and skills that parents can learn  
62.15 to increase cooperation and minimize conflict, particularly conflict arising when parents  
62.16 place children in the middle, creating conflicting loyalty. This component of the program  
62.17 must be aimed at increasing a parent's sensitivity to a child's needs and at giving a parent  
62.18 skills to improve the parent's and the child's adjustment to the dissolution of the marriage.  
62.19 The primary emphasis of the program must be on constructive parenting information, and  
62.20 its content must be consistent with and promote the principles of cooperative private divorce  
62.21 as described in section 518.80, subdivision 9;

62.22 (2) assessing if a parent is perpetrating domestic violence against the other parent and  
62.23 when cooperation in co-parenting may not be desirable because of safety risks, and providing  
62.24 information on local domestic violence resources;

62.25 (3) information on the option of reconciliation, including research on reconciliation  
62.26 interests among couples considering marriage dissolution, the potential benefits of avoiding  
62.27 marriage dissolution, resources to assist with reconciliation for interested couples, and  
62.28 information on when the risk of domestic violence should exclude consideration of  
62.29 reconciliation; and

62.30 (4) an overview of the legal process of marital dissolution and the advantages and  
62.31 disadvantages of litigation and alternative processes, including but not limited to mediation,  
62.32 collaborative and cooperative law, and restorative circles.

Subd. 2. **Program requirements.** A parent education program under this section may be conducted in person or online.

Subd. 3. **Confidentiality.** Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of completion of the program as required under this section. Instructors shall not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

Subd. 4. **Costs and program providers.** Each parent education program must enable persons to have timely and reasonable access to education sessions. A party who qualifies for a waiver of filing fees under section 563.01 is exempt from paying the parent education program fee. Program providers shall implement a sliding fee scale.

Sec. 6. **[518.82] COOPERATIVE PRIVATE DIVORCE SCREENING; NOTICE; FORM.**

The commissioner of the Bureau of Mediation Services shall make available the following notice for use in the cooperative private divorce program under section 518.80 before full access to the program is granted to a user. The data maintained by the coercion screening tool are private data on individuals, as defined in section 13.02, subdivision 12, and shall not be tracked or recorded by any means at any time.

COERCION SCREENING TOOL

WHEN NOT TO USE COOPERATIVE PRIVATE DIVORCE

Cooperative private divorce is not for everyone. It is probably not appropriate for you if any of the following statements are true. Choices you make in this section are private. No record of any choice you make in this section will be recorded or tracked.

... You are feeling undue pressure or intimidation from your spouse to use cooperative private divorce.

... You have serious doubts about your spouse's willingness to reach agreements that are best for everyone in the family.

... Your spouse has made threats of physical or emotional harm during discussions of divorce.

... Your spouse has unilaterally ruled out involving any professionals in your divorce process even though you want this kind of support.

... Your spouse is telling you not to discuss your divorce options with anyone.

Information on resources can be provided upon request if any of the above risks are occurring.

64.1 Sec. 7. Minnesota Statutes 2018, section 518A.43, subdivision 1, is amended to read:

64.2 Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive  
64.3 child support obligation computed under section 518A.34 is intended to encourage prompt  
64.4 and regular payments of child support and to prevent either parent or the joint children from  
64.5 living in poverty. In addition to the child support guidelines and other factors used to calculate  
64.6 the child support obligation under section 518A.34, the court must take into consideration  
64.7 the following factors in setting or modifying child support or in determining whether to  
64.8 deviate upward or downward from the presumptive child support obligation:

64.9 (1) all earnings, income, circumstances, and resources of each parent, including real and  
64.10 personal property, but excluding income from excess employment of the obligor or obligee  
64.11 that meets the criteria of section 518A.29, paragraph (b);

64.12 (2) the extraordinary financial needs and resources, physical and emotional condition,  
64.13 and educational needs of the child to be supported;

64.14 (3) the standard of living the child would enjoy if the parents were currently living  
64.15 together, but recognizing that the parents now have separate households;

64.16 (4) whether the child resides in a foreign country for more than one year that has a  
64.17 substantially higher or lower cost of living than this country;

64.18 (5) which parent receives the income taxation dependency exemption and the financial  
64.19 benefit the parent receives from it;

64.20 (6) the parents' debts as provided in subdivision 2; ~~and~~

64.21 (7) the obligor's total payments for court-ordered child support exceed the limitations  
64.22 set forth in section 571.922-; and

64.23 (8) an allocation of expenses of the children in a parenting plan under section 518.1705,  
64.24 subdivision 8, or in a declaration of dissolution under section 518.80, subdivision 6, paragraph  
64.25 (a), that enables both parents to maintain a suitable place for their children, taking into  
64.26 account their current standard of living.

64.27 Sec. 8. **REPORT.**

64.28 The commissioner of the Bureau of Mediation Services shall conduct an evaluation of  
64.29 the cooperative private divorce program after the first and second years of operation. The  
64.30 areas of evaluation shall include but not be limited to:

64.31 (1) number of users of the cooperative private divorce program, both initially and  
64.32 transferring to and from a court divorce;



- 65.1        (2) costs of the cooperative private divorce program to government and families in  
65.2        comparison to court divorces;
- 65.3        (3) user satisfaction with the cooperative private divorce program process and with their  
65.4        agreements; and
- 65.5        (4) any correlation between use of the cooperative private divorce program system and  
65.6        subsequent use of court services for the same case or related cases.

**169A.63 VEHICLE FORFEITURE.**

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

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

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

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

(e) "Designated offense" includes:

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

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

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

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

(f) "Family or household member" means:

(1) a parent, stepparent, or guardian;

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

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

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

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

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

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

Subd. 2. **Seizure.** (a) A motor vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

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

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

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety.

(c) When a motor vehicle is seized, the officer must provide a receipt to the person found in possession of the motor vehicle; or in the absence of any person, the officer must leave a receipt in the place where the motor vehicle was found, if reasonably possible.

**Subd. 3. Right to possession vests immediately; custody.** All right, title, and interest in a vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense or designated license revocation giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When a vehicle is seized under this section, the appropriate agency shall use reasonable diligence to secure the property and prevent waste and may do any of the following:

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

**Subd. 4. Bond by owner for possession.** If the owner of a vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner only if a disabling device is attached to the vehicle. The forfeiture action must proceed against the security as if it were the seized vehicle. This subdivision does not apply to a vehicle being held for investigatory purposes.

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

**Subd. 5a. 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.

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

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

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

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

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

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

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

- (1) section 171.24 (violations; driving without valid license);
- (2) section 169.791 (criminal penalty for failure to produce proof of insurance);
- (3) section 171.09 (driving restrictions; authority, violations);
- (4) section 169A.20 (driving while impaired);
- (5) section 169A.33 (underage drinking and driving); and
- (6) section 169A.35 (open bottle law).

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:

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"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 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.

**Subd. 9. Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

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

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

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

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

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

(g) If the lawful ownership of the vehicle used in the commission of a designated offense or used in conduct resulting in a designated license revocation can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of section 169A.42.

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

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

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

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

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

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

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

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

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

(e) If a vehicle is forfeited administratively under this section 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 subdivision 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8, 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 this subdivision.

**Subd. 11. Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid security interest in or a valid lease covering a forfeited vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision

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9. A financial institution wishing to dispose of a vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a member of the violator's household, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

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

Subd. 12. **Reporting.** The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

**609.531 FORFEITURES.**

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

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

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

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

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

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

(f) "Designated offense" includes:

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

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

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

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

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

Subd. 1a. **Construction.** Sections 609.531 to 609.5318 must be liberally construed to carry out the following remedial purposes:

(1) to enforce the law;

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(2) to deter crime;

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

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

(5) to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

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

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

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

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

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

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

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

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

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

(1) place the property under seal;

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

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

Subd. 5a. **Bond by owner for possession.** (a) If the owner of property that has been seized under sections 609.531 to 609.5318 seeks possession of the property before the forfeiture action is determined, the owner may give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property. On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property or property being held for investigatory purposes.

(b) If the owner of a motor vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may surrender the vehicle's certificate of title in exchange for the vehicle. The motor vehicle must be returned to the owner within 24 hours if the owner surrenders the motor vehicle's certificate of title to the appropriate agency, pending resolution of the forfeiture action. If the certificate is surrendered, the owner may not be ordered to post security or bond as a condition of release of the vehicle. When a certificate of title is surrendered under this provision, the agency shall notify the Department of Public Safety and any secured party noted on the certificate. The agency shall also notify the department and the secured party when it returns a surrendered title to the motor vehicle owner.

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

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



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

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

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

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

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

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.

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

- (1) best practices in pursuing, seizing, and tracking forfeitures;
- (2) type and frequency of training for law enforcement on forfeiture laws; and
- (3) situations in which forfeitures should not be pursued.

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

- (1) statutory role of prosecuting authorities in forfeiture procedures;
- (2) best practices for timely and fair resolution of forfeiture cases;
- (3) type and frequency of training for prosecuting authorities on forfeiture laws; and
- (4) situations in which forfeitures should not be pursued.

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

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

**609.5311 FORFEITURE OF PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.**

Subdivision 1. **Controlled substances.** All controlled substances that were manufactured, distributed, dispensed, or acquired in violation of chapter 152 are subject to forfeiture under this section, except as provided in subdivision 3 and section 609.5316.

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Subd. 2. **Associated property.** (a) All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

Subd. 3. **Limitations on forfeiture of certain property associated with controlled substances.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$75 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$2,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

(h) The Department of Corrections Fugitive Apprehension Unit shall not seize a conveyance device or real property, for the purposes of forfeiture under paragraphs (a) to (g).

Subd. 4. **Records; proceeds.** (a) All books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used, or intended for use in the manner described in subdivision 2 are subject to forfeiture.

(b) All property, real and personal, that represents proceeds derived from or traceable to a use described in subdivision 2 is subject to forfeiture.

**609.5312 FORFEITURE OF PROPERTY ASSOCIATED WITH DESIGNATED OFFENSES.**

Subdivision 1. **Property subject to forfeiture.** (a) All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

(b) All money used or intended to be used to facilitate the commission of a violation of section 609.322 or 609.324 or a violation of a local ordinance substantially similar to section 609.322 or 609.324 is subject to forfeiture.

(c) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

Subd. 1a. **Computers and related property subject to forfeiture.** (a) As used in this subdivision, "property" has the meaning given in section 609.87, subdivision 6.

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(b) When a computer or a component part of a computer is used or intended for use to commit or facilitate the commission of a designated offense, the computer and all software, data, and other property contained in the computer are subject to forfeiture unless prohibited by the Privacy Protection Act, United States Code, title 42, sections 2000aa to 2000aa-12, or other state or federal law.

(c) Regardless of whether a forfeiture action is initiated following the lawful seizure of a computer and related property, if the appropriate agency returns hardware, software, data, or other property to the owner, the agency may charge the owner for the cost of separating contraband from the computer or other property returned, including salary and contract costs. The agency may not charge these costs to an owner of a computer or related property who was not privy to the act or omission upon which the seizure was based, or who did not have knowledge of or consent to the act or omission, if the owner:

(1) requests from the agency copies of specified legitimate data files and provides sufficient storage media; or

(2) requests the return of a computer or other property less data storage devices on which contraband resides.

**Subd. 2. Limitations on forfeiture of property associated with designated offenses.** (a) Property used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the commission of a designated offense.

(b) Property is subject to forfeiture under this section only if the owner was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.

(c) Property encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the act or omission upon which the forfeiture is based if the owner or secured party took reasonable steps to terminate use of the property by the offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The forfeiture of property under sections 609.5311 and 609.5312 is governed by this section. A separate complaint must be filed against the property stating the act, omission, or occurrence giving rise to the forfeiture and the date and place of the act or occurrence. Within 60 days from when the seizure occurs, the prosecuting authority shall notify the owner or possessor of the property of the action, if known or readily ascertainable. The action must be captioned in the name of the prosecuting authority or the prosecuting authority's designee as plaintiff and the property as defendant. Upon motion by 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) 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 right of the agency 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.

**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 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.**

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

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

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

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

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

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

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

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

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

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

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

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

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.

Subd. 4. **Distribution of proceeds of the offense.** Property that consists of proceeds derived from or traced to the commission of a designated offense or a violation of section 609.66, subdivision 1e, must be applied first to payment of seizure, storage, forfeiture, and sale expenses, and to satisfy valid liens against the property; and second, to any court-ordered restitution before being disbursed as provided under subdivision 5.

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

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

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

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

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

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

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

(3) the remaining 40 percent of the proceeds must be forwarded to the city treasury for distribution to neighborhood crime prevention programs.

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

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

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

(3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of health and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of trafficking offenses.

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

- (1) the amount of money appropriated to the commissioner;
- (2) how the money was distributed by the commissioner; and
- (3) what the organizations that received the money did with it.

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

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

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

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

Subd. 6. **Reporting requirement.** (a) For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, a brief description of the circumstances involved, and whether the forfeiture was contested. For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecuting authority shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecuting authority is not required to report information required by this subdivision unless the prosecuting authority has been notified by the state auditor that the appropriate agency has not reported it.

Subd. 7. **Firearms.** The agency shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner.

**609.5316 SUMMARY FORFEITURES.**

Subdivision 1. **Contraband.** Except as otherwise provided in this subdivision, if the property is contraband, the property must be summarily forfeited and either destroyed or used by the appropriate agency for law enforcement purposes. Upon summary forfeiture, weapons used must be destroyed by the appropriate agency unless the agency decides to use the weapons for law enforcement purposes or sell the weapons in a commercially reasonable manner to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1. If a weapon is sold under this subdivision, the proceeds must be distributed under section 609.5315, subdivision 5 or 5b.



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Subd. 2. **Controlled substances.** (a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of chapter 152, are contraband and must be seized and summarily forfeited. Controlled substances listed in Schedule I that are seized or come into the possession of peace officers, the owners of which are unknown, are contraband and must be summarily forfeited.

(b) Species of plants from which controlled substances in Schedules I and II may be derived that have been planted or cultivated in violation of chapter 152 or of which the owners or cultivators are unknown, or that are wild growths, may be seized and summarily forfeited to the state. The appropriate agency or its authorized agent may seize the plants if the person in occupancy or in control of land or premises where the plants are growing or being stored fails to produce an appropriate registration or proof that the person is the holder of appropriate registration.

Subd. 3. **Weapons, telephone cloning paraphernalia, automated sales suppression devices, and bullet-resistant vests.** Weapons used are contraband and must be summarily forfeited to the appropriate agency upon conviction of the weapon's owner or possessor for a controlled substance crime; for any offense of this chapter or chapter 624, or for a violation of an order for protection under section 518B.01, subdivision 14. Bullet-resistant vests, as defined in section 609.486, worn or possessed during the commission or attempted commission of a crime are contraband and must be summarily forfeited to the appropriate agency upon conviction of the owner or possessor for a controlled substance crime or for any offense of this chapter. Telephone cloning paraphernalia used in a violation of section 609.894, and automated sales suppression devices, phantom-ware, and other devices containing an automated sales suppression or phantom-ware device or software used in violation of section 289A.63, subdivision 12, are contraband and must be summarily forfeited to the appropriate agency upon a conviction.

**609.5317 REAL PROPERTY; SEIZURES.**

Subdivision 1. **Rental property.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the prosecuting authority shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of recovery and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the prosecuting authority if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the prosecuting authority of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the prosecuting authority. Should the landlord choose to assign the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of recovery to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the prosecuting authority as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the prosecuting authority requests an assignment and the landlord makes an assignment, the prosecuting authority may bring an eviction action rather than an action for forfeiture.

(d) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture as described in paragraphs (a) to (c).

Subd. 2. **Additional remedies.** Nothing in subdivision 1 prevents the prosecuting authority from proceeding under section 609.5311 whenever that section applies.

Subd. 3. **Defenses.** It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the prosecuting authority the right to bring an eviction action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. **Limitations.** This section shall not apply if the retail value of the controlled substance is less than \$100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) \$1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

**609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.**

Subdivision 1. **Motor vehicles subject to forfeiture.** (a) If the prosecuting authority establishes by clear and convincing evidence that a motor vehicle was used in a violation of section 609.66, subdivision 1e, the vehicle is subject to forfeiture under this section upon a conviction for the same offense.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraph (a).

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

(b) The notice must be in writing and:

(1) contain a description of the property seized;

(2) contain the date of seizure; and

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

(c) 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."

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.

Subd. 4. **Procedure.** (a) If a judicial determination of the forfeiture is requested, a separate complaint must be filed against the vehicle, stating the specific act giving rise to the forfeiture and the date, time, and place of the act. The action must be captioned in the name of the prosecuting authority or the prosecuting authority's designee as plaintiff and the property as defendant.

(b) If a demand for judicial determination of an administrative forfeiture is filed 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 the payment of reasonable costs, expenses, attorney fees, and towing and storage fees. 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.

Subd. 5. **Limitations.** (a) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner is a consenting party to, or is privy to, the commission of the act giving rise to the forfeiture.

(b) A vehicle is subject to forfeiture under this section only if the registered owner was privy to the act upon which the forfeiture is based, the act occurred with the owner's knowledge or consent, or the act occurred due to the owner's gross negligence in allowing another to use the vehicle.

(c) A vehicle encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

**609.5319 FINANCIAL INSTITUTION SECURED INTEREST.**

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of this chapter or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

**609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND PROCEEDS.**

Subd. 3. **Not subject to replevin.** Property taken or detained under subdivision 2 is not subject to a replevin action, but is considered to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings.

Subd. 4. **Procedures.** Property must be forfeited after a conviction for a gambling violation according to the following procedure:

(1) a separate complaint must be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use;

(2) if the person charged with a gambling offense is acquitted, the court shall dismiss the complaint and order the property returned to the persons legally entitled to it; and

(3) if after conviction the court finds the property, or any part of it, was used in violation as specified in the complaint, it shall order that the property be sold or retained by the law enforcement agency for official use. Proceeds from the sale of forfeited property may be retained for official use and shared equally between the law enforcement agency investigating the offense involved in the forfeiture and the prosecuting agency that prosecuted the offense involved in the forfeiture and handled the forfeiture proceedings.

Subd. 5. **Exception.** Property may not be seized or forfeited under this section if the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in violation of this section.

Subd. 6. **Reporting.** The law enforcement and prosecuting agencies shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

**609.905 CRIMINAL FORFEITURE.**

Subd. 3. **Reporting.** The prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.