

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1240**

(SENATE AUTHORS: THOMPSON, Harrington, Latz, Ortman and Limmer)

DATE	D-PG	OFFICIAL STATUS
04/18/2011	1391	Introduction and first reading Referred to Judiciary and Public Safety
01/30/2012	3659a	Comm report: To pass as amended
	3666	Second reading
02/16/2012	3837	General Orders: To pass
02/20/2012	3862	Calendar: Third reading Passed
03/01/2012	3972	Returned from House with amendment
	3973	Laid on table
	4084	Taken from table
		Senate concurred and repassed bill
	4085	Third reading
		Presentment date 03/05/12
03/12/2012	4272	Governor's action Approval 03/08/12
	4272	Secretary of State Chapter 128 03/08/12
		Effective date Sec. 17 07/01/12; Sec. 1-16, 18-26 08/01/12

A bill for an act

1.1 relating to public safety; making changes to the DWI, off-highway vehicle,
1.2 drive-by shooting, designated offense, and controlled substance forfeiture laws
1.3 to provide more uniformity; raising the monetary cap on the value of certain
1.4 property forfeitures that may be adjudicated in conciliation court; prohibiting
1.5 forfeited property from being sold to prosecuting authorities or persons related
1.6 to prosecuting authorities; clarifying the general criminal code forfeiture law,
1.7 necessity of conviction, and burden of proof; amending Minnesota Statutes 2010,
1.8 sections 84.7741, subdivisions 2, 3, 4, 8, 9, 10, by adding a subdivision; 169A.63,
1.9 subdivisions 2, 3, 4, 8, 9, 10, by adding a subdivision; 491A.01, subdivision 3;
1.10 609.531, subdivisions 1, 6a; 609.5314, subdivision 2; 609.5315, subdivisions
1.11 1, 5, 5a, 5b; 609.5318, subdivisions 2, 3; Minnesota Statutes 2011 Supplement,
1.12 section 609.5314, subdivision 3.
1.13

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

1.15 Section 1. Minnesota Statutes 2010, section 84.7741, subdivision 2, is amended to read:

1.16 Subd. 2. **Seizure.** (a) An off-highway vehicle subject to forfeiture under this
1.17 section may be seized by the appropriate agency upon process issued by any court having
1.18 jurisdiction over the vehicle.

1.19 (b) Property may be seized without process if:

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

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

1.23 (3) the appropriate agency has probable cause to believe that the delay occasioned by
1.24 the necessity to obtain process would result in the removal or destruction of the vehicle.

1.25 If property is seized without process under this clause, the prosecuting authority must
1.26 institute a forfeiture action under this section as soon as is reasonably possible by serving
1.27 a notice of seizure and intent to forfeit at the address of the owner as listed in the records
1.28 of the Department of Public Safety or Department of Natural Resources.

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

2.4 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
2.5 seizures conducted on or after that date.

2.6 Sec. 2. Minnesota Statutes 2010, section 84.7741, subdivision 3, is amended to read:

2.7 Subd. 3. **Right to possession vests immediately; custody.** All right, title, and
2.8 interest in an off-highway vehicle subject to forfeiture under this section vests in the
2.9 appropriate agency upon commission of the conduct resulting in the designated offense
2.10 giving rise to the forfeiture. Any vehicle seized under this section is not subject to
2.11 replevin, but is deemed to be in the custody of the appropriate agency subject to the
2.12 orders and decrees of the court having jurisdiction over the forfeiture proceedings. When
2.13 an off-highway vehicle is seized under this section, the appropriate agency ~~may~~ shall
2.14 use reasonable diligence to secure the property and prevent waste and may do any of
2.15 the following:

- 2.16 (1) place the vehicle under seal;
2.17 (2) remove the vehicle to a place designated by the agency; and
2.18 (3) place a disabling device on the vehicle; ~~and~~
2.19 ~~(4) take other steps reasonable and necessary to secure the vehicle and prevent waste.~~

2.20 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to seized
2.21 property in possession on or after that date.

2.22 Sec. 3. Minnesota Statutes 2010, section 84.7741, subdivision 4, is amended to read:

2.23 Subd. 4. **Bond by owner for possession.** If the owner of an off-highway vehicle
2.24 that has been seized under this section seeks possession of the vehicle before the forfeiture
2.25 action is determined, the owner may, ~~subject to the approval of the appropriate agency,~~
2.26 give security or post bond payable to the appropriate agency in an amount equal to the
2.27 retail value of the seized vehicle. On posting the security or bond, the seized vehicle
2.28 may be returned to the owner. The forfeiture action must proceed against the security as
2.29 if it were the seized vehicle. This subdivision does not apply to a vehicle being held for
2.30 investigatory purposes.

2.31 Sec. 4. Minnesota Statutes 2010, section 84.7741, is amended by adding a subdivision
2.32 to read:

3.1 Subd. 5a. **Petition for remission or mitigation.** Prior to the entry of a court order
3.2 disposing with the forfeiture action, any person who has an interest in forfeited property
3.3 may file with the prosecuting authority a petition for remission or mitigation of the
3.4 forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and
3.5 conditions the prosecuting authority deems reasonable if the prosecuting authority finds
3.6 that (1) the forfeiture was incurred without willful negligence or without any intention on
3.7 the part of the petitioner to violate the law, or (2) extenuating circumstances justify the
3.8 remission or mitigation of the forfeiture.

3.9 Sec. 5. Minnesota Statutes 2010, section 84.7741, subdivision 8, is amended to read:

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

3.12 (b) Within 60 days from when an off-highway vehicle is seized under subdivision
3.13 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver
3.14 or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle.
3.15 Additionally, when an off-highway vehicle is seized under subdivision 2, or within
3.16 a reasonable time after that, all persons known to have an ownership, possessory, or
3.17 security interest in the vehicle must be notified of the seizure and the intent to forfeit the
3.18 vehicle. For those vehicles required to be registered under chapter 168, the notification to
3.19 a person known to have a security interest in the vehicle is required only if the vehicle is
3.20 registered under chapter 168 and the interest is listed on the vehicle's title. Upon motion
3.21 by the appropriate agency or prosecuting authority, a court may extend the time period for
3.22 sending notice for a period not to exceed 90 days for good cause shown. Notice mailed by
3.23 certified mail to the address shown in Department of Public Safety records is sufficient
3.24 notice to the registered owner of the vehicle. For off-highway vehicles not required to be
3.25 registered under chapter 168, notice mailed by certified mail to the address shown in the
3.26 applicable filing or registration for the vehicle is sufficient notice to a person known to
3.27 have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may
3.28 be given in the manner provided by law for service of a summons in a civil action.

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

3.30 (1) a description of the vehicle seized;

3.31 (2) the date of the seizure; and

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

4.1 Substantially, the following language must appear conspicuously in the notice:

4.2 ~~"IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED~~
4.3 ~~IN MINNESOTA STATUTES, SECTION 84.7741, SUBDIVISION 8, YOU LOSE~~
4.4 ~~THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND~~
4.5 ~~YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED~~
4.6 ~~PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND~~
4.7 ~~IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY~~
4.8 ~~IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION~~
4.9 ~~COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF~~
4.10 ~~THE PROPERTY IS WORTH LESS THAN \$500."~~ "WARNING: You will automatically
4.11 lose the above-described property and the right to be heard in court if you do not file a
4.12 lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in
4.13 conciliation court if the property is worth \$15,000 or less; otherwise, you must file in
4.14 district court. You may not have to pay a filing fee for your lawsuit if you are unable to
4.15 afford the fee. You do not have to pay a conciliation court fee if your property is worth
4.16 less than \$500."

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

4.24 (e) Within ~~30~~ 60 days following service of a notice of seizure and forfeiture
4.25 under this subdivision, a claimant may file a demand for a judicial determination of the
4.26 forfeiture. The demand must be in the form of a civil complaint and must be filed with the
4.27 court administrator in the county in which the seizure occurred, together with proof of
4.28 service of a copy of the complaint on the prosecuting authority having jurisdiction over
4.29 the forfeiture and the standard filing fee for civil actions unless the petitioner has the right
4.30 to sue in forma pauperis under section 563.01. The claimant may serve the complaint on
4.31 the prosecuting authority by any means permitted by court rules. If the value of the seized
4.32 property is ~~\$7,500~~ \$15,000 or less, the claimant may file an action in conciliation court for
4.33 recovery of the seized vehicle. A copy of the conciliation court statement of claim must
4.34 be served personally or by mail on the prosecuting authority having jurisdiction over the
4.35 forfeiture within ~~30~~ 60 days following service of the notice of seizure and forfeiture under
4.36 this subdivision. If the value of the seized property is less than \$500, the claimant does not

5.1 have to pay the conciliation court filing fee. No responsive pleading is required of the
5.2 prosecuting authority and no court fees may be charged for the prosecuting authority's
5.3 appearance in the matter. Pleadings, filings, and methods of service are governed by the
5.4 Rules of Civil Procedure.

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

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

5.14 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
5.15 forfeitures initiated on or after that date.

5.16 Sec. 6. Minnesota Statutes 2010, section 84.7741, subdivision 9, is amended to read:

5.17 Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial
5.18 determinations of the forfeiture of an off-highway vehicle used to commit a designated
5.19 offense. An action for forfeiture is a civil in rem action and is independent of any criminal
5.20 prosecution. All proceedings are governed by the Rules of Civil Procedure.

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

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

5.28 (d) A judicial determination under this subdivision must ~~not precede adjudication in~~
5.29 ~~the criminal prosecution of the designated offense without the consent of the prosecuting~~
5.30 ~~authority. The district court administrator shall schedule the hearing as soon as practicable~~
5.31 ~~after adjudication in the criminal prosecution~~ be held at the earliest practicable date, and in
5.32 any event no later than 180 days following the filing of the demand by the claimant. If a
5.33 related criminal proceeding is pending, the hearing shall not be held until the conclusion
5.34 of the criminal proceedings. The district court administrator shall schedule the hearing
5.35 as soon as practicable after the conclusion of the criminal prosecution. The district

6.1 court administrator shall establish procedures to ensure efficient compliance with this
6.2 subdivision. The hearing is to the court without a jury.

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

6.7 (f) If the forfeiture is based on the commission of a designated offense and the person
6.8 charged with the designated offense appears in court as required and is not convicted of
6.9 the offense, the court shall order the property returned to the person legally entitled to it
6.10 upon that person's compliance with the redemption requirements of subdivision 12.

6.11 (g) If the lawful ownership of the vehicle used in the commission of a designated
6.12 offense can be determined and the owner makes the demonstration required under
6.13 subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's
6.14 compliance with the redemption requirements of subdivision 12.

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

6.21 Sec. 7. Minnesota Statutes 2010, section 84.7741, subdivision 10, is amended to read:

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

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

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

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

6.33 (1) 70 percent of the proceeds must be forwarded to the appropriate agency for
6.34 deposit as a supplement to the state or local agency's operating fund or similar fund for use
6.35 in purchasing equipment for off-highway vehicle enforcement, training, and education; and

7.1 (2) 30 percent of the money or proceeds must be forwarded to the prosecuting
7.2 authority that handled the forfeiture for deposit as a supplement to its operating fund or
7.3 similar fund for prosecutorial purposes.

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

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

7.11 (e) If a vehicle is forfeited administratively under this section and no demand for
7.12 judicial determination is made, the appropriate agency shall provide the prosecuting
7.13 authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent
7.14 to forfeit, a statement of probable cause for forfeiture of the property, and a description of
7.15 the property and its estimated value. Upon review and certification by the prosecuting
7.16 authority that (1) the appropriate agency provided a receipt in accordance with subdivision
7.17 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8,
7.18 and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate
7.19 agency may dispose of the property in any of the ways listed in this subdivision.

7.20 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
7.21 forfeitures initiated on or after that date.

7.22 Sec. 8. Minnesota Statutes 2010, section 169A.63, subdivision 2, is amended to read:

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

7.26 (b) Property may be seized without process if:

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

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

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

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

8.4 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
8.5 seizures conducted on or after that date.

8.6 Sec. 9. Minnesota Statutes 2010, section 169A.63, subdivision 3, is amended to read:

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

- 8.15 (1) place the vehicle under seal;
8.16 (2) remove the vehicle to a place designated by it; and
8.17 (3) place a disabling device on the vehicle; ~~and,~~
8.18 ~~(4) take other steps reasonable and necessary to secure the vehicle and prevent waste.~~

8.19 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to seized
8.20 property in possession on or after that date.

8.21 Sec. 10. Minnesota Statutes 2010, section 169A.63, subdivision 4, is amended to read:

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

8.30 Sec. 11. Minnesota Statutes 2010, section 169A.63, is amended by adding a
8.31 subdivision to read:

9.1 Subd. 5a. **Petition for remission or mitigation.** Prior to the entry of a court order
9.2 disposing with the forfeiture action, any person who has an interest in forfeited property
9.3 may file with the prosecuting authority a petition for remission or mitigation of the
9.4 forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and
9.5 conditions the prosecuting authority deems reasonable if the prosecuting authority finds
9.6 that (1) the forfeiture was incurred without willful negligence or without any intention on
9.7 the part of the petitioner to violate the law, or (2) extenuating circumstances justify the
9.8 remission or mitigation of the forfeiture.

9.9 Sec. 12. Minnesota Statutes 2010, section 169A.63, subdivision 8, is amended to read:

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

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

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

9.31 (1) a description of the vehicle seized;

9.32 (2) the date of seizure; and

9.33 (3) notice of the right to obtain judicial review of the forfeiture and of the procedure
9.34 for obtaining that judicial review, printed in English, ~~Hmong,~~ and Spanish. This

10.1 requirement does not preclude the appropriate agency from printing the notice in other
10.2 languages in addition to English.

10.3 Substantially the following language must appear conspicuously in the notice:

10.4 ~~"IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED~~
10.5 ~~IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE~~
10.6 ~~THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND~~
10.7 ~~YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED~~
10.8 ~~PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND~~
10.9 ~~IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY~~
10.10 ~~IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION~~
10.11 ~~COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF~~
10.12 ~~THE PROPERTY IS WORTH LESS THAN \$500."~~ "WARNING: You will automatically
10.13 lose the above-described property and the right to be heard in court if you do not file a
10.14 lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in
10.15 conciliation court if the property is worth \$15,000 or less; otherwise, you must file in
10.16 district court. You may not have to pay a filing fee for your lawsuit if you are unable to
10.17 afford the fee. You do not have to pay a conciliation court fee if your property is worth
10.18 less than \$500."

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

10.26 (e) Within ~~30~~ 60 days following service of a notice of seizure and forfeiture
10.27 under this subdivision, a claimant may file a demand for a judicial determination of the
10.28 forfeiture. The demand must be in the form of a civil complaint and must be filed with the
10.29 court administrator in the county in which the seizure occurred, together with proof of
10.30 service of a copy of the complaint on the prosecuting authority having jurisdiction over the
10.31 forfeiture and the appropriate agency that initiated the forfeiture, including the standard
10.32 filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under
10.33 section 563.01. The claimant may serve the complaint by any means permitted by court
10.34 rules. If the value of the seized property is ~~\$7,500~~ \$15,000 or less, the claimant may file an
10.35 action in conciliation court for recovery of the seized vehicle. A copy of the conciliation
10.36 court statement of claim must be served personally or by mail on the prosecuting authority

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11.1 having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated
11.2 the forfeiture, within ~~30~~ 60 days following service of the notice of seizure and forfeiture
11.3 under this subdivision. If the value of the seized property is less than \$500, the claimant
11.4 does not have to pay the conciliation court filing fee.

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

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

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

11.18 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
11.19 forfeitures initiated on or after that date.

11.20 Sec. 13. Minnesota Statutes 2010, section 169A.63, subdivision 9, is amended to read:

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

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

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

11.34 (d) A judicial determination under this subdivision must ~~not precede adjudication in~~
11.35 ~~the criminal prosecution of the designated offense without the consent of the prosecuting~~

12.1 ~~authority. The district court administrator shall schedule the hearing as soon as practicable~~
12.2 ~~after adjudication in the criminal prosecution~~ be held at the earliest practicable date, and in
12.3 any event no later than 180 days following the filing of the demand by the claimant. If a
12.4 related criminal proceeding is pending, the hearing shall not be held until the conclusion
12.5 of the criminal proceedings. The district court administrator shall schedule the hearing
12.6 as soon as practicable after the conclusion of the criminal prosecution. The district
12.7 court administrator shall establish procedures to ensure efficient compliance with this
12.8 subdivision. The hearing is to the court without a jury.

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

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

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

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

12.32 Sec. 14. Minnesota Statutes 2010, section 169A.63, subdivision 10, is amended to read:

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

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13.1 (1) sell the vehicle and distribute the proceeds under paragraph (b); or
13.2 (2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for
13.3 official use, it shall make reasonable efforts to ensure that the motor vehicle is available
13.4 for use by the agency's officers who participate in the drug abuse resistance education
13.5 program.

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

13.9 (1) 70 percent of the proceeds must be forwarded to the appropriate agency for
13.10 deposit as a supplement to the state or local agency's operating fund or similar fund for use
13.11 in DWI-related enforcement, training, and education; and

13.12 (2) 30 percent of the money or proceeds must be forwarded to the prosecuting
13.13 authority that handled the forfeiture for deposit as a supplement to its operating fund or
13.14 similar fund for prosecutorial purposes.

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

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

13.22 (e) If a vehicle is forfeited administratively under this section and no demand for
13.23 judicial determination is made, the appropriate agency shall provide the prosecuting
13.24 authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent
13.25 to forfeit, a statement of probable cause for forfeiture of the property, and a description of
13.26 the property and its estimated value. Upon review and certification by the prosecuting
13.27 authority that (1) the appropriate agency provided a receipt in accordance with subdivision
13.28 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8,
13.29 and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate
13.30 agency may dispose of the property in any of the ways listed in this subdivision.

13.31 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
13.32 forfeitures initiated on or after that date.

13.33 Sec. 15. Minnesota Statutes 2010, section 491A.01, subdivision 3, is amended to read:

13.34 Subd. 3. **Jurisdiction; general.** (a) Except as provided in subdivisions 4 and 5,
13.35 the conciliation court has jurisdiction to hear, conciliate, try, and determine civil claims

14.1 if the amount of money or property that is the subject matter of the claim does not
14.2 exceed: (1) \$7,500; (2) \$4,000, if the claim involves a consumer credit transaction; or
14.3 (3) \$15,000, if the claim involves money or personal property subject to forfeiture under
14.4 section 84.7741, 169A.63, 609.5311, 609.5312, 609.5314, or 609.5318. "Consumer credit
14.5 transaction" means a sale of personal property, or a loan arranged to facilitate the purchase
14.6 of personal property, in which:

14.7 (1) credit is granted by a seller or a lender who regularly engages as a seller or
14.8 lender in credit transactions of the same kind;

14.9 (2) the buyer is a natural person;

14.10 (3) the claimant is the seller or lender in the transaction; and

14.11 (4) the personal property is purchased primarily for a personal, family, or household
14.12 purpose and not for a commercial, agricultural, or business purpose.

14.13 (b) Except as otherwise provided in this subdivision and subdivisions 5 to 10, the
14.14 territorial jurisdiction of conciliation court is coextensive with the county in which the
14.15 court is established. The summons in a conciliation court action under subdivisions 6 to
14.16 10 may be served anywhere in the state, and the summons in a conciliation court action
14.17 under subdivision 7, paragraph (b), may be served outside the state in the manner provided
14.18 by law. The court administrator shall serve the summons in a conciliation court action
14.19 by first class mail, except that if the amount of money or property that is the subject of
14.20 the claim exceeds \$2,500, the summons must be served by the plaintiff by certified mail,
14.21 and service on nonresident defendants must be made in accordance with applicable law
14.22 or rule. Subpoenas to secure the attendance of nonparty witnesses and the production of
14.23 documents at trial may be served anywhere within the state in the manner provided by law.

14.24 When a court administrator is required to summon the defendant by certified mail
14.25 under this paragraph, the summons may be made by personal service in the manner
14.26 provided in the Rules of Civil Procedure for personal service of a summons of the district
14.27 court as an alternative to service by certified mail.

14.28 Sec. 16. Minnesota Statutes 2010, section 609.531, subdivision 1, is amended to read:

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

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

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

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

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

15.5 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the
15.6 Department of Commerce Division of Insurance Fraud Prevention, the Minnesota
15.7 Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's
15.8 department, the Three Rivers Park District park rangers, the Department of Natural
15.9 Resources Division of Enforcement, the University of Minnesota Police Department,
15.10 the Department of Corrections Fugitive Apprehension Unit, a city, metropolitan transit,
15.11 or airport police department; or a multijurisdictional entity established under section
15.12 299A.642 or 299A.681.

15.13 (f) "Designated offense" includes:

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

15.15 (2) for driver's license or identification card transactions: any violation of section
15.16 171.22; and

15.17 (3) for all other purposes: a felony violation of, or a felony-level attempt or
15.18 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;
15.19 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;
15.20 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,
15.21 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,
15.22 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
15.23 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
15.24 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
15.25 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;
15.26 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation
15.27 of section 609.891 or 624.7181; or any violation of section 609.324.

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

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

15.31 Sec. 17. Minnesota Statutes 2010, section 609.531, subdivision 6a, is amended to read:

15.32 Subd. 6a. **Forfeiture a civil procedure; conviction results in presumption.** (a) An
15.33 action for forfeiture is a civil in rem action and is independent of any criminal prosecution,
15.34 except as provided in this subdivision and section 609.5318.

16.1 (b) An asset is subject to a designated offense forfeiture under section 609.5312 only
16.2 if the underlying designated offense is established by proof of a criminal conviction.

16.3 (c) The appropriate agency handling the forfeiture has the benefit of the evidentiary
16.4 presumption of section 609.5314, subdivision 1, but otherwise bears the burden of
16.5 proving the act or omission giving rise to the forfeiture by clear and convincing evidence,
16.6 except that in cases arising under section 609.5312, the designated offense may only be
16.7 established by a criminal conviction for forfeitures related to controlled substances.

16.8 (d) For all other forfeitures, the appropriate agency handling the forfeiture bears the
16.9 burden of proving the act or omission by clear and convincing evidence.

16.10 ~~(b)~~ (e) A court may not issue an order of forfeiture under section 609.5311 while the
16.11 alleged owner of the property is in custody and related criminal proceedings are pending
16.12 against the alleged owner. As used in this paragraph, the alleged owner is:

16.13 (1) for forfeiture of a motor vehicle, the alleged owner is the registered owner
16.14 according to records of the Department of Public Safety;

16.15 (2) for real property, the alleged owner is the owner of record; and

16.16 (3) for other property, the alleged owner is the person notified by the prosecuting
16.17 authority in filing the forfeiture action.

16.18 **EFFECTIVE DATE.** This section is effective July 1, 2012, and applies to
16.19 forfeitures initiated on or after that date.

16.20 Sec. 18. Minnesota Statutes 2010, section 609.5314, subdivision 2, is amended to read:

16.21 Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described
16.22 in subdivision 1 that does not exceed \$50,000 in value is governed by this subdivision.

16.23 Within 60 days from when seizure occurs, all persons known to have an ownership,
16.24 possessory, or security interest in seized property must be notified of the seizure and the
16.25 intent to forfeit the property. In the case of a motor vehicle required to be registered under
16.26 chapter 168, notice mailed by certified mail to the address shown in Department of Public
16.27 Safety records is deemed sufficient notice to the registered owner. The notification to a
16.28 person known to have a security interest in seized property required under this paragraph
16.29 applies only to motor vehicles required to be registered under chapter 168 and only if the
16.30 security interest is listed on the vehicle's title. Upon motion by the appropriate agency or
16.31 ~~county attorney~~ the prosecuting authority, a court may extend the time period for sending
16.32 notice for a period not to exceed 90 days for good cause shown.

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

16.35 (1) a description of the property seized;

17.1 (2) the date of seizure; and
17.2 (3) notice of the right to obtain judicial review of the forfeiture and of the procedure
17.3 for obtaining that judicial review, printed in English, ~~Hmong, Somali, and Spanish~~. This
17.4 requirement does not preclude the appropriate agency from printing the notice in other
17.5 languages in addition to English.

17.6 Substantially the following language must appear conspicuously in the notice:

17.7 ~~"If you do not demand judicial review exactly as prescribed in Minnesota Statutes,~~
17.8 ~~section 609.5314, subdivision 3, you lose the right to a judicial determination of this~~
17.9 ~~forfeiture and you lose any right you may have to the above described property. You may~~
17.10 ~~not have to pay the filing fee for the demand if determined you are unable to afford the~~
17.11 ~~fee. If the property is worth \$15,000 or less, you may file your claim in conciliation court.~~
17.12 ~~You do not have to pay the conciliation court filing fee if the property is worth less than~~
17.13 ~~\$500."~~ "WARNING: You will automatically lose the above-described property and the
17.14 right to be heard in court if you do not file a lawsuit and serve the prosecuting authority
17.15 within 60 days. You may file your lawsuit in conciliation court if the property is worth
17.16 \$15,000 or less; otherwise, you must file in district court. You may not have to pay a
17.17 filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a
17.18 conciliation court fee if your property is worth less than \$500."

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

17.26 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
17.27 forfeitures initiated on or after that date.

17.28 Sec. 19. Minnesota Statutes 2011 Supplement, section 609.5314, subdivision 3,
17.29 is amended to read:

17.30 Subd. 3. **Judicial determination.** (a) Within 60 days following service of a
17.31 notice of seizure and forfeiture under this section, a claimant may file a demand for
17.32 a judicial determination of the forfeiture. The demand must be in the form of a civil
17.33 complaint and must be filed with the court administrator in the county in which the seizure
17.34 occurred, together with proof of service of a copy of the complaint on the ~~county attorney~~
17.35 prosecuting authority for that county, and the standard filing fee for civil actions unless

18.1 the petitioner has the right to sue in forma pauperis under section 563.01. The claimant
18.2 may serve the complaint on the prosecuting authority by any means permitted by court
18.3 rules. If the value of the seized property is \$15,000 or less, the claimant may file an
18.4 action in conciliation court for recovery of the seized property. If the value of the seized
18.5 property is less than \$500, the claimant does not have to pay the conciliation court filing
18.6 fee. No responsive pleading is required of the ~~county attorney~~ prosecuting authority and
18.7 no court fees may be charged for the ~~county attorney's~~ prosecuting authority's appearance
18.8 in the matter. The hearing must be held at the earliest practicable date, and in any event
18.9 no later than 180 days following the filing of the demand by the claimant. If a related
18.10 criminal proceeding is pending, the hearing shall not be held until the conclusion of the
18.11 criminal proceedings. The district court administrator shall schedule the hearing as soon
18.12 as practicable after ~~adjudication in~~ the conclusion of the criminal prosecution. The
18.13 proceedings are governed by the Rules of Civil Procedure.

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

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

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

18.32 Sec. 20. Minnesota Statutes 2010, section 609.5315, subdivision 1, is amended to read:

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

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19.1 (1) unless a different disposition is provided under clause (3) or (4), either destroy
19.2 firearms, ammunition, and firearm accessories that the agency decides not to use for
19.3 law enforcement purposes under clause (8), or sell them to federally licensed firearms
19.4 dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under
19.5 subdivision 5 or 5b;

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

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

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

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

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

19.14 (7) disburse money as provided under subdivision 5 or 5b; or

19.15 (8) keep property other than money for official use by the agency and the prosecuting
19.16 agency.

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

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

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

19.27 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
19.28 forfeitures initiated on or after that date.

19.29 Sec. 21. Minnesota Statutes 2010, section 609.5315, subdivision 5, is amended to read:

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

19.33 (1) 70 percent of the money or proceeds must be forwarded to the appropriate
19.34 agency for deposit as a supplement to the agency's operating fund or similar fund for
19.35 use in law enforcement;

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20.1 (2) 20 percent of the money or proceeds must be forwarded to the ~~county attorney or~~
20.2 ~~other~~ prosecuting ~~agency~~ authority that handled the forfeiture for deposit as a supplement
20.3 to its operating fund or similar fund for prosecutorial purposes; and

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

20.10 Sec. 22. Minnesota Statutes 2010, section 609.5315, subdivision 5a, is amended to
20.11 read:

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

20.16 (1) 40 percent of the proceeds must be forwarded to the appropriate agency for
20.17 deposit as a supplement to the agency's operating fund or similar fund for use in law
20.18 enforcement;

20.19 (2) 20 percent of the proceeds must be forwarded to the ~~city attorney or other~~
20.20 prosecuting ~~agency~~ authority that handled the forfeiture for deposit as a supplement to its
20.21 operating fund or similar fund for prosecutorial purposes; and

20.22 (3) the remaining 40 percent of the proceeds must be forwarded to the city treasury
20.23 for distribution to neighborhood crime prevention programs.

20.24 Sec. 23. Minnesota Statutes 2010, section 609.5315, subdivision 5b, is amended to
20.25 read:

20.26 Subd. 5b. **Disposition of certain forfeited proceeds; trafficking of persons;**
20.27 **report required.** (a) For forfeitures resulting from violations of section 609.282, 609.283,
20.28 or 609.322, the money or proceeds from the sale of forfeited property, after payment of
20.29 seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the
20.30 property, must be distributed as follows:

20.31 (1) 40 percent of the proceeds must be forwarded to the appropriate agency for
20.32 deposit as a supplement to the agency's operating fund or similar fund for use in law
20.33 enforcement;

S.F. No. 1240, 2nd Engrossment - 87th Legislative Session (2011-2012) [S1240-2]

21.1 (2) 20 percent of the proceeds must be forwarded to the ~~county attorney or other~~
21.2 prosecuting ~~agency~~ authority that handled the forfeiture for deposit as a supplement to its
21.3 operating fund or similar fund for prosecutorial purposes; and

21.4 (3) the remaining 40 percent of the proceeds must be forwarded to the commissioner
21.5 of public safety and are appropriated to the commissioner for distribution to crime victims
21.6 services organizations that provide services to victims of trafficking offenses.

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

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

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

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

21.15 Sec. 24. Minnesota Statutes 2010, section 609.5318, subdivision 2, is amended to read:

21.16 Subd. 2. **Notice.** (a) The registered owner of the vehicle must be notified of the
21.17 seizure and intent to forfeit the vehicle within seven days after the seizure. Notice by
21.18 certified mail to the address shown in Department of Public Safety records is deemed to
21.19 be sufficient notice to the registered owner. ~~Notice must be given in the manner required~~
21.20 ~~by section 609.5314, subdivision 2, paragraph (b), and must specify that a request for~~
21.21 ~~a judicial determination of the forfeiture must be made within 60 days following the~~
21.22 ~~service of the notice. If related criminal proceedings are pending, the notice must also~~
21.23 ~~state that a request for a judicial determination of the forfeiture must be made within 60~~
21.24 ~~days following the conclusion of those proceedings.~~

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

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

21.27 (2) contain the date of seizure; and

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

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

21.31 "WARNING: You will automatically lose the above-described property and the right
21.32 to be heard in court if you do not file a lawsuit and serve the prosecuting authority within
21.33 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000
21.34 or less; otherwise, you must file in district court. You may not have to pay a filing fee for

22.1 your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court
22.2 fee if your property is worth less than \$500."

22.3 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
22.4 forfeitures initiated on or after that date.

22.5 Sec. 25. Minnesota Statutes 2010, section 609.5318, subdivision 3, is amended to read:

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

22.10 (b) The demand must be in the form of a civil complaint as provided in section
22.11 609.5314, subdivision 3, except as otherwise provided in this section.

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

22.14 Sec. 26. **REVISOR'S INSTRUCTION.**

22.15 (a) The revisor of statutes shall change the terms "county attorney" and "prosecutor"
22.16 to "prosecuting authority" wherever they appear in Minnesota Statutes, sections 609.531
22.17 to 609.5318. The revisor shall also make grammatical changes related to the changes
22.18 in terms.

22.19 (b) Paragraph (a) does not apply to references to "Minnesota County Attorneys
22.20 Association" in Minnesota Statutes, section 609.531, subdivision 8.