

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 725

(SENATE AUTHORS: NEWMAN)

DATE
02/08/2021

D-PG
278

OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to forfeiture; providing for a criminal forfeiture process; requiring a report;
1.3 amending Minnesota Statutes 2020, sections 145.4716, subdivision 2; 169A.60,
1.4 subdivision 1; 289A.14; 299A.681, subdivision 11; 609.66, subdivision 1d; 609.762,
1.5 subdivision 2; 609B.515; 611.32, subdivision 2; 629.715, subdivision 2; proposing
1.6 coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota
1.7 Statutes 2020, sections 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a, 6a, 7, 8;
1.8 609.5311; 609.5312; 609.5313; 609.5314; 609.5315; 609.5316; 609.5317;
1.9 609.5318; 609.5319; 609.762, subdivisions 3, 4, 5, 6.

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

1.11 **ARTICLE 1**
1.12 **CRIMINAL FORFEITURE PROCESS**

1.13 Section 1. **[609.112] CRIMINAL FORFEITURE PROCESS.**

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

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

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

1.20 (d) "Appropriate agency" means the Bureau of Criminal Apprehension; the Department
1.21 of Commerce Fraud Bureau; the Division of Driver and Vehicle Services; the Minnesota
1.22 State Patrol; a county sheriff's department; the Three Rivers Park District park rangers; the
1.23 University of Minnesota Police Department; the Department of Corrections Fugitive

2.1 Apprehension Unit; a city, metropolitan transit, or airport police department; or a
 2.2 multijurisdictional entity established under section 299A.642 or 299A.681.

2.3 (e) "Contraband" means goods that inherently are unlawful to possess, including:

2.4 (1) scheduled drugs without a valid prescription;

2.5 (2) bullet-resistant vests, as defined in section 609.486, worn or possessed during the
 2.6 commission or attempted commission of a crime; and

2.7 (3) weapons, upon conviction of the weapon's owner or possessor, for:

2.8 (i) a controlled substance crime under chapter 152;

2.9 (ii) any offense under this chapter or chapter 624; or

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

2.11 Contraband does not include proceeds derived from an alleged crime or an instrumentality
 2.12 used in an alleged crime.

2.13 (f) "Conveyance" means a device used for transportation. It includes a motor vehicle,
 2.14 trailer, snowmobile, airplane, vessel, or any equipment attached to one of these devices.

2.15 The term does not include property that is stolen in violation of the law.

2.16 (g) "Designated offense" means:

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

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

2.19 (3) a violation of section 169A.20 under the circumstances described in section 169A.24;

2.20 (4) a violation of section 169A.20 within ten years of the first of two or more qualified
 2.21 prior impaired driving incidents, as defined in section 169A.03; or

2.22 (5) for all other purposes, a felony violation of, or a felony-level attempt or conspiracy

2.23 to violate, chapter 152; section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112;

2.24 609.2113; 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245;

2.25 609.25; 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f);

2.26 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e) and (h)

2.27 to (j); 609.345, subdivision 1, clauses (a) to (e) and (h) to (j); 609.352; 609.42; 609.425;

2.28 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551;

2.29 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision

2.30 le; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;

3.1 609.89; 609.893; 609.895; 617.246; or 617.247; or a gross misdemeanor or felony violation
3.2 of section 609.891 or 624.7181; or any violation of section 609.324.

3.3 (h) "Innocent owner" means an owner, an owner in joint tenancy, or the defendant's heir
3.4 or assigns of property subject to forfeiture who does not have actual knowledge of the use
3.5 of the property in a crime that authorizes the forfeiture of property. Innocent owner does
3.6 not include the defendant or a secured interest holder.

3.7 (i) "Instrumentality" means property otherwise lawful to possess that is used in a crime
3.8 that authorizes the forfeiture of property. It includes land, buildings, containers, conveyances,
3.9 equipment, materials, products, tools, computers, computer software, telecommunications
3.10 devices, firearms, ammunition, and ammunition-and-firearm accessories.

3.11 (j) "Law enforcement agency" means any nonfederal police force, or other local, county,
3.12 or state agency that has the authority under state law to engage in seizure and forfeiture.

3.13 (k) "Proceeds" means money, securities, negotiable instruments, or other means of
3.14 exchange obtained from the sale of property or contraband.

3.15 (l) "Prosecuting authority" means a city attorney, county attorney, attorney general, or
3.16 other attorney acting under specific direction and authority, appointed or charged by law
3.17 with the responsibility for prosecuting crime.

3.18 (m) "Real property" means land and anything growing on, attached to, or erected on the
3.19 land including a building.

3.20 (n) "Secured interest holder" means a person who is a secured creditor, mortgagee,
3.21 lienholder, or other person who has a valid claim, security interest, mortgage, lien, leasehold,
3.22 or other interest in the property subject to forfeiture. Secured interest holder does not include
3.23 the defendant or an innocent owner.

3.24 Subd. 2. **Purpose.** Forfeiture is disfavored. This section's purpose is to:

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

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

3.28 (3) protect the due process rights of property owners.

3.29 Subd. 3. **Jurisdiction.** (a) No civil forfeiture is permitted under this section.

3.30 (b) The court that has jurisdiction in the related criminal matter shall have jurisdiction
3.31 over the forfeiture proceeding.

4.1 (c) The forfeiture proceeding shall be part of the trial of the related crime, and shall
4.2 follow a finding of the defendant's guilt or be conducted at the court's discretion.

4.3 Subd. 4. **Seizure of personal property with process.** At the request of the prosecuting
4.4 authority, a court may issue an ex parte order to attach, seize, or secure personal property
4.5 for which forfeiture is sought and to provide for its custody. Application, issuance, execution,
4.6 and return are subject to state law and court rules.

4.7 Subd. 5. **Seizure of personal property without process.** Personal property may be
4.8 seized, as part of a lawful search, without a court order if:

4.9 (1) the personal property subject to forfeiture is seized incident to a lawful arrest;

4.10 (2) the state has probable cause to believe the delay caused by the necessity of obtaining
4.11 process would result in the removal or destruction of the personal property that is forfeitable
4.12 under this section; or

4.13 (3) the personal property is the subject of a prior and valid judgment of forfeiture in
4.14 favor of the state.

4.15 Subd. 6. **Seizure or restraint of real property with process.** (a) Real property may
4.16 not be seized or restrained without a court order.

4.17 (b) A court may not issue an order unless the defendant and any other person with a
4.18 known interest in the property receive proper notice and are given an opportunity for a
4.19 contested hearing to determine the existence of probable cause for the seizure.

4.20 (c) Nothing in this subdivision prohibits the prosecuting authority from seeking a lis
4.21 pendens or restraining order to hinder the sale or destruction of real property. However, if
4.22 the prosecuting authority obtains a lis pendens or restraining order, the prosecuting authority
4.23 shall notify the defendant and any other person with known interest in the property within
4.24 30 days.

4.25 (d) Application, filing, issuance, execution, and return of any order are subject to state
4.26 law and court rules.

4.27 Subd. 7. **Rental property.** (a) When contraband or a controlled substance manufactured,
4.28 distributed, or acquired in violation of chapter 152 is seized on residential rental property
4.29 incident to a lawful search or arrest, the prosecuting authority shall give the notice required
4.30 by this subdivision to (1) the landlord of the property or the fee owner identified in the
4.31 records of the county assessor, and (2) the agent authorized by the owner to accept service
4.32 pursuant to section 504B.181. The notice is not required during an ongoing investigation.
4.33 The notice shall state what has been seized and specify the applicable duties and penalties

5.1 under this subdivision. The notice shall state that the landlord who chooses to assign the
5.2 right to bring an eviction action retains all rights and duties, including removal of a tenant's
5.3 personal property following issuance of the writ of recovery and delivery of the writ to the
5.4 sheriff for execution. The notice shall also state that the landlord may contact the prosecuting
5.5 authority if threatened by the tenant. Notice shall be sent by certified letter, return receipt
5.6 requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in
5.7 the manner provided by law for service of summons in a civil action.

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

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

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

5.24 (e) It is a defense against a proceeding under paragraph (b) that the tenant had no
5.25 knowledge or reason to know of the presence of the contraband or controlled substance or
5.26 could not prevent it being brought onto the property. It is a defense against a proceeding
5.27 under paragraph (c) that the landlord made every reasonable attempt to evict a tenant or to
5.28 assign the prosecuting authority the right to bring an eviction action against the tenant, or
5.29 that the landlord did not receive notice of the seizure.

5.30 (f) This subdivision shall not apply if the retail value of the controlled substance is less
5.31 than \$100, but this subdivision does not subject real property to forfeiture unless:

5.32 (1) the retail value of the controlled substance is \$1,000 or more; or

5.33 (2) there have been two previous controlled substance seizures involving the same tenant.

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

6.3 Subd. 9. **Receipt.** When property is seized, the law enforcement officer shall give an
6.4 itemized receipt to the person possessing the property at the time of the seizure. If the person
6.5 possessing the property is not present, the law enforcement officer shall leave a receipt in
6.6 the place where the property was found, if reasonably possible.

6.7 Subd. 10. **Property exempt from seizure and forfeiture.** (a) The following property
6.8 is exempt from seizure and forfeiture:

6.9 (1) homestead real property;

6.10 (2) United States currency totaling no more than \$50; and

6.11 (3) a motor vehicle of no more than \$1,000 in market value, except that this clause does
6.12 not apply to a motor vehicle used in a violation of section 609.66, subdivision 1e.

6.13 (b) The prosecuting authority shall advise law enforcement agencies on the publications
6.14 that they may use to establish the value of a motor vehicle in the prosecuting authority's
6.15 jurisdiction.

6.16 (c) A prosecuting authority may establish a minimum dollar amount larger than those
6.17 in paragraph (a), clauses (2) and (3), in the prosecuting authority's jurisdiction.

6.18 Subd. 11. **Waiver prohibition.** (a) A law enforcement officer, other than the prosecuting
6.19 authority, may not request, require, or induce a person to waive, for purpose of forfeiture,
6.20 the person's interest in property.

6.21 (b) A document purporting to waive interest or rights in seized property is void and
6.22 inadmissible in court.

6.23 Subd. 12. **Title.** (a) Title to the property subject to forfeiture vests with the state when
6.24 the court issues a forfeiture judgment and relates back to the time when the state seizes or
6.25 restrains the property.

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

6.28 Subd. 13. **Counsel.** (a) If the defendant in the criminal prosecution is represented by a
6.29 public defender, the public defender's office may authorize representation of the defendant
6.30 in the forfeiture portion of the proceeding and any other related proceeding.

6.31 (b) If the defendant and any other person with an interest in the property engages in pro
6.32 se representation in the forfeiture-related proceeding before a judge, the court is not bound

7.1 by common law, court rules of evidence, statutory rules of evidence, or technical or formal
7.2 rules of pleading or procedure in the litigation related to the forfeiture of property.

7.3 Subd. 14. **Notice to other known owners.** (a) The prosecuting authority shall perform
7.4 a reasonable search of public records to identify any person, other than the defendant, known
7.5 to have an interest in the property subject to forfeiture.

7.6 (b) The prosecuting authority shall give notice to any person identified to have an interest
7.7 in the property subject to forfeiture who is not charged or indicted. Notice must be given
7.8 as provided by the rules of the court.

7.9 (c) The following language substantially and conspicuously must appear in the notice:

7.10 "WARNING: You may lose the right to be heard in court if you do not promptly file a
7.11 statement of interest or ownership pursuant to Minnesota Statutes, section 609.112,
7.12 subdivision 21 or 22. You do not have to pay a filing fee to file your notice."

7.13 (d) If notice is not served on any persons appearing to have an interest in the property
7.14 and no time extension is granted or the extension period has expired, the prosecuting authority
7.15 or court shall order the return of the property to the person who makes a request. Contraband
7.16 shall not be returned.

7.17 Subd. 15. **Prompt postseizure hearing.** (a) Following seizure, a defendant or any other
7.18 person with an interest in the property has a right to a prompt postseizure hearing.

7.19 (b) At the court's discretion, the court may hold a prompt postseizure hearing:

7.20 (1) as a separate hearing; or

7.21 (2) at the same time as a probable cause determination, a postarrest omnibus
7.22 hearing, or other pretrial hearing.

7.23 (c) A person with an interest in the property may petition the court for a hearing. A party,
7.24 by agreement or for good cause, may move for one extension of no more than ten days.
7.25 Any motion may be supported by affidavits or other submissions.

7.26 (d) The court shall order the return of property if it finds:

7.27 (1) the seizure was invalid;

7.28 (2) a criminal charge has not been filed and no extension of the filing period is available;

7.29 (3) the property is not reasonably required to be held as evidence;

7.30 (4) the final judgment likely will be in favor of the defendant or any other person with
7.31 an interest in the property; or

8.1 (5) the property is the only reasonable means for the defendant to pay for legal
8.2 representation, unless the prosecuting authority shows by clear and convincing evidence
8.3 that the property is the instrumentality of or proceeds derived directly from the crime for
8.4 which the defendant is charged.

8.5 (e) At the court's discretion, it may order the return of enough funds and property, not
8.6 needed as evidence, for the defendant to obtain counsel of choice but less than the total
8.7 amount seized.

8.8 (f) The provisions of this subdivision do not apply to contraband.

8.9 Subd. 16. **Charging document.** (a) In any case in which the state seeks forfeiture of
8.10 property, except under subdivision 17, the prosecuting authority shall include the following
8.11 information in a charging document:

8.12 (1) a description of the property seized;

8.13 (2) the time, date, and place of the seizure; and

8.14 (3) a description of the property used in or derived from the alleged crime.

8.15 (b) The prosecuting authority may allege the forfeiture of property as a sanction related
8.16 to the crime for which the defendant is charged, as part of sentencing consideration, or
8.17 through other means to effectuate the criminal forfeiture of property.

8.18 (c) The state, with the consent of the court and a defendant with an interest in the property,
8.19 may amend the charging document alleging that property is subject to criminal forfeiture
8.20 at any time prior to trial.

8.21 (d) The court may grant an unlimited number of 90-day extensions for the filing of a
8.22 criminal charge if, for each extension, the court determines probable cause is shown and
8.23 additional time is warranted.

8.24 (e) The prosecuting authority shall serve the charging document or amendment as
8.25 provided by the rules of the court.

8.26 (f) The court shall order the return of the property to the owner if the prosecuting authority
8.27 does not file a charging document as provided by the court's rules, the period of an extension
8.28 expires, or the court does not grant an extension.

8.29 Subd. 17. **Indictment.** (a) In a case that the state seeks forfeiture of property, other than
8.30 subdivision 16, the prosecuting authority shall present evidence to a grand jury supporting
8.31 an indictment that includes:

8.32 (1) a proposed criminal charge; and

9.1 (2) an allegation for which forfeiture of property may be ordered.

9.2 (b) The property-related allegation may be presented as a sanction related to the crime
9.3 for which the defendant is charged, as part of sentencing consideration, or other means to
9.4 effectuate the criminal forfeiture of property.

9.5 (c) The property-related allegation shall identify the specific property to be forfeited, if
9.6 known, or the relevant forfeiture statutes, if specific property to be forfeited is not known
9.7 at the time the prosecuting authority requests the indictment.

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

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

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

9.15 (e) Any order entered pursuant to paragraph (d), clause (2), shall be effective for not
9.16 more than 90 days, unless extended by the court for good cause shown or an indictment
9.17 described in paragraph (d), clause (1), has been issued subsequently.

9.18 Subd. 18. **Discovery.** Discovery related to the forfeiture proceeding is subject to the
9.19 rules of criminal procedure.

9.20 Subd. 19. **Trial; conviction required; standard of proof.** (a) Property may be forfeited
9.21 if:

9.22 (1) the state secures a conviction of a crime that authorizes the forfeiture of property;
9.23 and

9.24 (2) the state establishes by clear and convincing evidence the property is an
9.25 instrumentality of or proceeds derived directly from the crime for which the state secured
9.26 a conviction.

9.27 (b) Except as required by subdivision 10, nothing in this section prevents property from
9.28 being forfeited as part of:

9.29 (1) a plea agreement; or

9.30 (2) a grant of immunity or reduced punishment, with or without the filing of a criminal
9.31 charge, in exchange for testifying or assisting a law enforcement investigation or prosecution.

10.1 (c) A forfeiture proceeding of property of less than \$10,000 in value may only be held
10.2 before a judge.

10.3 (d) The court may waive the conviction requirement and grant permanent title of the
10.4 property to the state if the prosecuting authority files a motion no fewer than 90 days after
10.5 seizure and shows by clear and convincing evidence that, before conviction, the defendant:

10.6 (1) died;

10.7 (2) was deported by the United States government;

10.8 (3) abandoned the property; or

10.9 (4) fled the jurisdiction.

10.10 (e) The court shall order the sale of property that is abandoned property or is seized from
10.11 a person who flees the jurisdiction according to subdivision 30.

10.12 (f) Notwithstanding any contrary provision in this section, all property remains subject
10.13 to:

10.14 (1) claims by any person, other than the defendant, with an interest in the property as
10.15 provided in this section; and

10.16 (2) reporting requirements.

10.17 Subd. 20. **Proportionality.** (a) The defendant may petition the court to determine, before
10.18 or at trial, whether the forfeiture is unconstitutionally excessive under the state or federal
10.19 constitution.

10.20 (b) The defendant has the burden of establishing the forfeiture is unconstitutionally
10.21 excessive by a preponderance of the evidence at a hearing conducted by the court without
10.22 a jury.

10.23 (c) In determining whether the forfeiture is unconstitutionally excessive, the court may
10.24 consider all relevant factors, including:

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

10.27 (2) the extent to which the defendant participated in the crime;

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

10.29 (4) the sentence to be imposed for committing the crime;

10.30 (5) whether the crime was completed or attempted;

11.1 (6) the hardship to the defendant if the forfeiture is realized and whether the forfeiture
11.2 would deprive the defendant of the defendant's livelihood; and

11.3 (7) the hardship from the loss of property to the defendant's family members or others
11.4 if the property is forfeited.

11.5 (d) In determining the value of the instrumentality subject to forfeiture, the court may
11.6 consider all relevant factors related to the fair market value of the property.

11.7 (e) The court may not consider the value of the property to the state in determining
11.8 whether the forfeiture is unconstitutionally excessive.

11.9 Subd. 21. **Secured interest holder.** (a) Property encumbered by a security interest shall
11.10 not be forfeited.

11.11 (b) The prosecuting authority summarily shall return property to a secured interest holder,
11.12 other than the defendant or an innocent owner, up to the value of the interest. Contraband
11.13 shall not be returned.

11.14 (c) If the property is not summarily returned, the secured interest holder may petition
11.15 the court at any time before the court enters judgment in the criminal prosecution or grants
11.16 the motion described in subdivision 19, paragraph (d).

11.17 (d) The court shall hear the petition within 30 days after its filing or at the court's
11.18 discretion. The hearing shall be held before the court alone, without a jury. The court may
11.19 consolidate the hearing on the petition with any other hearing before the court in the case.

11.20 (e) The secured interest holder must establish by clear and convincing evidence the
11.21 validity of the security interest, mortgage, lien, leasehold, lease, rental agreement, or other
11.22 agreement.

11.23 (f) If the secured interest holder alleges a valid interest but the prosecuting authority
11.24 seeks to proceed, the prosecuting authority shall prove by clear and convincing evidence
11.25 that:

11.26 (1) the interest is invalid; or

11.27 (2) the secured interest holder consented to the use of the property in the crime for which
11.28 the defendant is charged.

11.29 (g) If the state fails to meet its burden in paragraph (f), the court shall order the state to
11.30 relinquish claims to the property, up to the value of the interest, and return the interest to
11.31 the secured interest holder.

11.32 Subd. 22. **Innocent owner.** (a) Property of an innocent owner shall not be forfeited.

12.1 (b) The prosecuting authority summarily shall return property to an innocent owner.

12.2 Contraband shall not be returned.

12.3 (c) If the property is not summarily returned, an innocent owner claimant may petition
12.4 the court at any time before the court enters judgment in the criminal prosecution or grants
12.5 the motion in subdivision 19, paragraph (d).

12.6 (d) The innocent owner claimant shall file with the court a simple statement that sets
12.7 forth:

12.8 (1) the claimant's right, title, or interest in the property;

12.9 (2) the time and circumstances of the claimant's acquisition of the interest in the property;

12.10 (3) additional facts supporting the claimant's claim; and

12.11 (4) the relief sought by the claimant.

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

12.13 (f) The court shall hear the petition within 30 days after the petition is filed or at the
12.14 court's discretion. The hearing shall be held before the court alone without a jury. The court
12.15 may consolidate the hearing on the petition with any other hearing before the court in the
12.16 case.

12.17 (g) The claimant shall establish by clear and convincing evidence the validity of the
12.18 interest in the property.

12.19 (h) If paragraph (g) is satisfied and the prosecuting authority seeks to proceed, the
12.20 prosecuting authority shall prove by clear and convincing evidence that the claimant is not
12.21 an innocent owner because:

12.22 (1) the claimant's interest in the property is invalid;

12.23 (2) the claimant had actual knowledge the property was used in or derived directly from
12.24 the crime for which the defendant is charged;

12.25 (3) the claimant was willfully blind to the crime for which the defendant is charged; or

12.26 (4) the claimant was not a bona fide purchaser without notice of any defect in title and
12.27 for valuable consideration.

12.28 (i) If the prosecuting authority fails to meet its burden in paragraph (h), the court shall
12.29 order the state to relinquish all claims and return the property to the innocent owner.

12.30 (j) No information in the claimant's statement in paragraph (d) shall be used as evidence
12.31 in the criminal portion of the case.

13.1 (k) Nothing in this subdivision prohibits the claimant from providing information to any
13.2 party or testifying in any trial as to facts the claimant knows.

13.3 (l) The defendant or convicted offender may invoke the right against self-incrimination
13.4 or the marital privilege during the forfeiture proceeding. The trier of fact may draw an
13.5 adverse inference from the invocation of the right or privilege.

13.6 Subd. 23. **Judgment.** (a) If the prosecuting authority fails to meet its burden in the
13.7 criminal or forfeiture proceeding, the court shall enter judgment dismissing the forfeiture
13.8 proceeding and ordering the return of property to the rightful owner, unless the owner's
13.9 possession of the property is illegal.

13.10 (b) If the prosecuting authority meets its burden in the criminal and forfeiture proceeding,
13.11 the court shall enter judgment forfeiting the property.

13.12 (c) A court may enter judgment following a hearing, pursuant to a stipulation or plea
13.13 agreement, or at the court's discretion.

13.14 Subd. 24. **Substitution of assets.** Upon the prosecuting authority's motion following
13.15 conviction or at the court's discretion, the court may order the forfeiture of substitute property
13.16 owned solely by the defendant up to the value of property that is beyond the court's
13.17 jurisdiction or cannot be located through due diligence, only if the state proves by a
13.18 preponderance of the evidence that the defendant intentionally:

13.19 (1) dissipated the property;

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

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

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

13.23 Subd. 25. **No additional remedies.** The state may not seek personal money judgments
13.24 or other remedies related to the forfeiture of property not provided for in this section.

13.25 Subd. 26. **No joint and several liability.** A defendant is not jointly and severally liable
13.26 for forfeiture awards owed by other defendants. When ownership is unclear, a court may
13.27 order each defendant to forfeit property on a pro rata basis or by another means the court
13.28 finds equitable.

13.29 Subd. 27. **Appeals.** (a) A party to a forfeiture proceeding, other than the defendant, may
13.30 appeal the court's decision.

13.31 (b) The defendant may appeal the court's decision regarding the seizure or forfeiture of
13.32 property following final judgment in the forfeiture proceeding.

14.1 Subd. 28. **Attorney fees.** In any proceeding in which a property owner's claims prevails
14.2 by recovering at least half, by value, of the property or currency claimed, the seizing agency
14.3 shall be liable for:

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

14.5 (2) postjudgment interest; and

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

14.8 Subd. 29. **Return of property; damages and costs.** (a) If the court orders the return of
14.9 property, the law enforcement agency that holds the property shall return the property to
14.10 the rightful owner within a reasonable period not to exceed five days after the date of the
14.11 order.

14.12 (b) The rightful owner shall not be subject to any expenses related to towing, storage,
14.13 or preservation of the property.

14.14 (c) The law enforcement agency that holds the property is responsible for any damages,
14.15 storage fees, and related costs applicable to property returned under this subdivision.

14.16 Subd. 30. **Disposition of property and proceeds.** (a) At any time when contraband is
14.17 no longer needed as evidence, the court may order it to be destroyed pursuant to state law.

14.18 (b) At any time when abandoned property or property seized from a defendant who flees
14.19 the jurisdiction is no longer needed as evidence, the court may order it to be sold.

14.20 (c) If the forfeiture is granted, the court shall order the sale of forfeited property other
14.21 than currency.

14.22 (d) If forfeiture is granted, the court may order forfeited currency and the proceeds from
14.23 the sale of forfeited property other than currency to:

14.24 (1) pay restitution to the victim related to the underlying criminal offense;

14.25 (2) satisfy recorded liens, mortgages, or filed security interests in the forfeited property;

14.26 (3) pay reasonable costs for the towing, storage, maintenance, repair, and other operating
14.27 costs related to the property used in the underlying criminal offense;

14.28 (4) reimburse the seizing law enforcement agency for nonpersonnel operating costs,
14.29 including controlled-drug buy money, related to the investigation of the underlying criminal
14.30 offense;

15.1 (5) reimburse the seizing law enforcement agency for the salaries, benefits, and overtime
15.2 pay of uniformed personnel expended in the seizure of the property and investigation of the
15.3 underlying criminal offense;

15.4 (6) reimburse the prosecuting authority and public defender's office for the salaries,
15.5 benefits, and overtime pay expended in the prosecution of the underlying criminal offense
15.6 and the subsequent property litigation; and

15.7 (7) be disbursed to the Department of Public Safety's Office of Justice Programs for
15.8 statewide grant programs.

15.9 Subd. 31. **Sale restrictions.** No law enforcement agency may sell forfeited property
15.10 directly or indirectly to any employee of the law enforcement agency, to a person related
15.11 to an employee by blood or marriage, or to another law enforcement agency.

15.12 Subd. 32. **Limitation on federal adoption.** (a) A law enforcement agency shall not
15.13 offer for adoption property, seized under state law, to a federal agency for the purpose of
15.14 forfeiture under the federal Controlled Substances Act, Public Law 91-513-Oct. 27, 1970,
15.15 or other federal law unless the seized property includes United States currency that exceeds
15.16 \$5,000.

15.17 (b) Nothing in paragraph (a) shall be construed to restrict a law enforcement agency
15.18 from collaborating with a federal agency as part of a joint task force.

15.19 Subd. 33. **Exception.** The provisions of this section, other than the reporting requirement
15.20 under subdivision 35, do not apply to forfeiture proceedings under chapter 84 or 97.

15.21 Subd. 34. **Preemption.** This section preempts laws by township, municipal, county, and
15.22 other governments in the state that regulate civil and criminal forfeiture.

15.23 Subd. 35. **Reporting requirement.** (a) For each forfeiture occurring in the state regardless
15.24 of the authority for it and including forfeitures pursued under federal law, the appropriate
15.25 agency and the prosecuting authority shall provide a written record of the forfeiture incident
15.26 to the state auditor. The record shall include the amount forfeited, the statutory authority
15.27 for the forfeiture, its date, a brief description of the circumstances involved, and whether
15.28 the forfeiture was contested. The record shall also list the number of firearms forfeited and
15.29 the make, model, and serial number of each firearm forfeited. The record shall indicate how
15.30 the property was or is to be disposed of.

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

16.1 (c) Reports under paragraphs (a) and (b) shall be made on a monthly and quarterly basis
16.2 in a manner prescribed by the state auditor.

16.3 (d) The state auditor shall report annually to the legislature on the nature and extent of
16.4 forfeitures, including the information provided by each appropriate agency or prosecuting
16.5 authority under paragraphs (a) and (b). Summary data on seizures, forfeitures, and
16.6 expenditures of forfeiture proceeds shall be disaggregated by each appropriate agency and
16.7 prosecuting authority. The report shall be made public on the state auditor's website.

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

16.10 (f) The prosecuting authority is not required to report information required by paragraph
16.11 (a) or (b) unless the prosecuting authority has been notified by the state auditor that the
16.12 appropriate agency has not reported it.

16.13 (g) The state auditor may perform a financial audit of an appropriate agency or
16.14 prosecuting authority under the generally accepted government auditing standards of records
16.15 related to inventory of seized property and expenditures of forfeiture proceeds. A copy of
16.16 the final audit shall be submitted to the legislature within 90 days of the end of the fiscal
16.17 year and shall be made public.

16.18 Subd. 36. **Subsequent unlawful use of seized vehicle; immunity.** An appropriate
16.19 agency or prosecuting authority, including but not limited to any peace officer as defined
16.20 in section 626.84, subdivision 1, paragraph (c); prosecutor; or employee of an appropriate
16.21 agency or prosecuting authority who, in good faith and within the course and scope of the
16.22 official duties of the person or entity, returns a vehicle seized under this section to the owner
16.23 pursuant to this section shall be immune from criminal or civil liability regarding any event
16.24 arising out of the subsequent unlawful or unauthorized use of the vehicle.

16.25 **EFFECTIVE DATE.** This section is effective July 1, 2021.

16.26 **ARTICLE 2**
16.27 **CONFORMING CHANGES**

16.28 Section 1. Minnesota Statutes 2020, section 145.4716, subdivision 2, is amended to read:

16.29 Subd. 2. **Duties of director.** The director of child sex trafficking prevention is responsible
16.30 for the following:

17.1 (1) developing and providing comprehensive training on sexual exploitation of youth
 17.2 for social service professionals, medical professionals, public health workers, and criminal
 17.3 justice professionals;

17.4 (2) collecting, organizing, maintaining, and disseminating information on sexual
 17.5 exploitation and services across the state, including maintaining a list of resources on the
 17.6 Department of Health website;

17.7 (3) monitoring and applying for federal funding for antitrafficking efforts that may
 17.8 benefit victims in the state;

17.9 (4) managing grant programs established under sections 145.4716 to 145.4718; and
 17.10 609.3241, paragraph (c), clause (3); ~~and 609.5315, subdivision 5c, clause (3);~~

17.11 (5) managing the request for proposals for grants for comprehensive services, including
 17.12 trauma-informed, culturally specific services;

17.13 (6) identifying best practices in serving sexually exploited youth, as defined in section
 17.14 260C.007, subdivision 31;

17.15 (7) providing oversight of and technical support to regional navigators pursuant to section
 17.16 145.4717;

17.17 (8) conducting a comprehensive evaluation of the statewide program for safe harbor of
 17.18 sexually exploited youth; and

17.19 (9) developing a policy consistent with the requirements of chapter 13 for sharing data
 17.20 related to sexually exploited youth, as defined in section 260C.007, subdivision 31, among
 17.21 regional navigators and community-based advocates.

17.22 Sec. 2. Minnesota Statutes 2020, section 169A.60, subdivision 1, is amended to read:

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

17.25 (b) "Family or household member" ~~has the meaning given in section 169A.63, subdivision~~
 17.26 1 means:

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

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

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

18.3 (c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in
18.4 operation or an off-road recreational vehicle.

18.5 (d) "Plate impoundment violation" includes:

18.6 (1) a violation of section 169A.20 (driving while impaired), 169A.52 (license revocation
18.7 for test failure or refusal), or 171.177 (revocation; search warrant), or an ordinance from
18.8 this state or a statute or ordinance from another state in conformity with any of those sections,
18.9 that results in the revocation of a person's driver's license or driving privileges, within ten
18.10 years of a qualified prior impaired driving incident;

18.11 (2) a license disqualification under section 171.165 (commercial driver's license
18.12 disqualification) resulting from a violation of section 169A.52 or 171.177 within ten years
18.13 of a qualified prior impaired driving incident;

18.14 (3) a violation of section 169A.20, 169A.52, or 171.177 while having an alcohol
18.15 concentration of twice the legal limit or more as measured at the time, or within two hours
18.16 of the time, of the offense;

18.17 (4) a violation of section 169A.20, 169A.52, or 171.177 while having a child under the
18.18 age of 16 in the vehicle if the child is more than 36 months younger than the offender; or

18.19 (5) a violation of section 171.24 (driving without valid license) by a person whose driver's
18.20 license or driving privileges have been canceled or denied under section 171.04, subdivision
18.21 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

18.22 (e) "Violator" means a person who was driving, operating, or in physical control of the
18.23 motor vehicle when the plate impoundment violation occurred.

18.24 Sec. 3. Minnesota Statutes 2020, section 289A.14, is amended to read:

18.25 **289A.14 USE OF AUTOMATED SALES SUPPRESSION DEVICES;**

18.26 **DEFINITIONS.**

18.27 (a) For the purposes of sections 289A.60, subdivision 32, and 289A.63, subdivision 12,
18.28 ~~and 609.5316, subdivision 3~~, the following terms have the meanings given.

18.29 (b) "Automated sales suppression device" or "zapper" means a software program, carried
18.30 on any tangible medium, or accessed through any other means, that falsifies the electronic
18.31 records of electronic cash registers and other point-of-sale systems including, but not limited
18.32 to, transaction data and transaction reports.

19.1 (c) "Electronic cash register" means a device that keeps a register or supporting documents
 19.2 through the means of an electronic device or computer system designed to record transaction
 19.3 data for the purpose of computing, compiling, or processing retail sales transaction data in
 19.4 whatever manner.

19.5 (d) "Phantom-ware" means hidden preinstalled or later-installed programming option
 19.6 embedded in the operating system of an electronic cash register or hardwired into the
 19.7 electronic cash register that can be used to create a virtual second electronic cash register
 19.8 or may eliminate or manipulate transaction records that may or may not be preserved in
 19.9 digital formats to represent the true or manipulated record of transactions in the electronic
 19.10 cash register.

19.11 (e) "Transaction data" includes items purchased by a customer, the price of each item,
 19.12 the taxability determination for each item, a segregated tax amount for each of the taxed
 19.13 items, the date and time of the purchase, the name, address, and identification number of
 19.14 the vendor, and the receipt or invoice number of the transaction.

19.15 (f) "Transaction report" means a report documenting, but not limited to, the sales, taxes
 19.16 collected, media totals, and discount voids at an electronic cash register that is printed on
 19.17 cash register tape at the end of a day or shift, or a report documenting every action at an
 19.18 electronic cash register that is stored electronically.

19.19 Sec. 4. Minnesota Statutes 2020, section 299A.681, subdivision 11, is amended to read:

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

19.24 Sec. 5. Minnesota Statutes 2020, section 609.66, subdivision 1d, is amended to read:

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

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

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

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

20.6 (e) As used in this subdivision:

20.7 (1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less
20.8 in diameter;

20.9 (2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

20.10 (3) "replica firearm" has the meaning given it in section 609.713; and

20.11 (4) "school property" means:

20.12 (i) a public or private elementary, middle, or secondary school building and its improved
20.13 grounds, whether leased or owned by the school;

20.14 (ii) a child care center licensed under chapter 245A during the period children are present
20.15 and participating in a child care program;

20.16 (iii) the area within a school bus when that bus is being used by a school to transport
20.17 one or more elementary, middle, or secondary school students to and from school-related
20.18 activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary
20.19 activities; and

20.20 (iv) that portion of a building or facility under the temporary, exclusive control of a
20.21 public or private school, a school district, or an association of such entities where conspicuous
20.22 signs are prominently posted at each entrance that give actual notice to persons of the
20.23 school-related use.

20.24 (f) This subdivision does not apply to:

20.25 (1) active licensed peace officers;

20.26 (2) military personnel or students participating in military training, who are on-duty,
20.27 performing official duties;

20.28 (3) persons authorized to carry a pistol under section 624.714 while in a motor vehicle
20.29 or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or
20.30 rear area of the vehicle;

21.1 (4) persons who keep or store in a motor vehicle pistols in accordance with section
21.2 624.714 or 624.715 or other firearms in accordance with section 97B.045;

21.3 (5) firearm safety or marksmanship courses or activities conducted on school property;

21.4 (6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial
21.5 color guard;

21.6 (7) a gun or knife show held on school property;

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

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

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

21.17 Sec. 6. Minnesota Statutes 2020, section 609.762, subdivision 2, is amended to read:

21.18 Subd. 2. **Seizure.** Forfeiture of property subject to forfeiture under identified in
21.19 subdivision 1 may be seized by any law enforcement agency upon process issued by any
21.20 court having jurisdiction over the property must be made pursuant to section 609.112.

21.21 ~~Seizure without process may be made if:~~

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

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

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

22.1 Sec. 7. Minnesota Statutes 2020, section 609B.515, is amended to read:

22.2 **609B.515 DWI; VEHICLE FORFEITURE.**

22.3 ~~Under section 169A.63, A motor vehicle is subject to forfeiture if a driver is convicted~~
22.4 ~~of a "designated offense," as defined in section 169A.63, subdivision 1 for an impaired~~
22.5 ~~driving offense as provided in section 609.112.~~

22.6 ~~Section 169A.63, subdivision 7, specifies limitations on vehicle forfeiture. Section~~
22.7 ~~169A.63, subdivisions 8 and 9, provide for administrative forfeiture procedure and judicial~~
22.8 ~~forfeiture procedure. Section 169A.63, subdivisions 10 and 11, provide for disposition of~~
22.9 ~~a forfeited vehicle.~~

22.10 Sec. 8. Minnesota Statutes 2020, section 611.32, subdivision 2, is amended to read:

22.11 Subd. 2. **Proceedings at time of apprehension or arrest.** Following the apprehension
22.12 or arrest of a person disabled in communication for an alleged violation of a criminal law,
22.13 the arresting officer, sheriff or other law enforcement official shall immediately make
22.14 necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the
22.15 earliest possible time at the place of detention. A law enforcement officer shall, with the
22.16 assistance of the interpreter, explain to the person disabled in communication, all charges
22.17 filed against the person, and all procedures relating to the person's detainment and release.
22.18 If the property of a person is seized under section ~~609.531, subdivision 4~~ 609.112, the seizing
22.19 officer, sheriff, or other law enforcement official shall, upon request, make available to the
22.20 person at the earliest possible time a qualified interpreter to assist the person in understanding
22.21 the possible consequences of the seizure and the person's right to judicial review. ~~If the~~
22.22 ~~seizure is governed by section 609.5314, subdivision 2, a request for an interpreter must be~~
22.23 ~~made within 15 days after service of the notice of seizure and forfeiture. For a person who~~
22.24 ~~requests an interpreter under this section because of a seizure of property under section~~
22.25 ~~609.5314, the 60 days for filing a demand for a judicial determination of a forfeiture begins~~
22.26 ~~when the interpreter is provided.~~ The interpreter shall also assist the person with all other
22.27 communications, including communications relating to needed medical attention. Prior to
22.28 interrogating or taking the statement of the person disabled in communication, the arresting
22.29 officer, sheriff, or other law enforcement official shall make available to the person a
22.30 qualified interpreter to assist the person throughout the interrogation or taking of a statement.

22.31 Sec. 9. Minnesota Statutes 2020, section 629.715, subdivision 2, is amended to read:

22.32 Subd. 2. **Surrender of firearms.** The judge may order as a condition of release that the
22.33 person surrender to the local law enforcement agency all firearms, destructive devices, or

23.1 dangerous weapons owned or possessed by the person, and may not live in a residence
23.2 where others possess firearms. Any firearm, destructive device, or dangerous weapon
23.3 surrendered under this subdivision shall be inventoried and retained, with due care to preserve
23.4 its quality and function, by the local law enforcement agency, and must be returned to the
23.5 person upon the person's acquittal, when charges are dismissed, or if no charges are filed.
23.6 If the person is convicted, the firearm must be returned when the court orders the return or
23.7 when the person is discharged from probation and restored to civil rights. If the person is
23.8 convicted of a ~~designated~~ an offense as defined in section 609.531, under which the firearm
23.9 is subject to forfeiture, the firearm is subject to forfeiture as provided under that section
23.10 609.112. This condition may be imposed in addition to any other condition authorized by
23.11 rule 6.02 of the Rules of Criminal Procedure.

23.12 Sec. 10. **REVISOR INSTRUCTION.**

23.13 The revisor of statutes shall make changes to statutory cross-references and other
23.14 nonsubstantive changes to statute including grammatical changes necessitated by article 1
23.15 and section 11.

23.16 Sec. 11. **REPEALER.**

23.17 Minnesota Statutes 2020, sections 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a, 6a, 7,
23.18 and 8; 609.5311; 609.5312; 609.5313; 609.5314; 609.5315; 609.5316; 609.5317; 609.5318;
23.19 609.5319; and 609.762, subdivisions 3, 4, 5, and 6, are repealed.

23.20 Sec. 12. **EFFECTIVE DATE.**

23.21 This article is effective July 1, 2021.

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;

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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:

APPENDIX
Repealed Minnesota Statutes: 21-01670

"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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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

APPENDIX
Repealed Minnesota Statutes: 21-01670

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.

Subd. 13. **Exception.** (a) If the driver who committed a designated offense or whose conduct resulted in a designated license revocation becomes a program participant in the ignition interlock program under section 171.306 at any time before the motor vehicle is forfeited, the forfeiture proceeding is stayed and the vehicle must be returned.

(b) Notwithstanding paragraph (a), the vehicle whose forfeiture was stayed in paragraph (a) may be seized and the forfeiture action may proceed under this section if the program participant described in paragraph (a):

(1) subsequently operates a motor vehicle:

(i) to commit a violation of section 169A.20 (driving while impaired);

(ii) in a manner that results in 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;

(iii) after tampering with, circumventing, or bypassing an ignition interlock device; or

(iv) without an ignition interlock device; or

(2) either voluntarily or involuntarily ceases to participate in the program for more than 30 days, or fails to successfully complete it as required by the Department of Public Safety due to:

(i) two or more occasions of the participant's driving privileges being withdrawn for violating the terms of the program, unless the withdrawal is determined to be caused by an error of the department or the interlock provider; or

(ii) violating the terms of the contract with the provider as determined by the provider.

(c) Paragraph (b) applies only if the described conduct occurs before the participant has been restored to full driving privileges or within three years of the original designated offense or designated license revocation, whichever occurs latest.

(d) The requirement in subdivision 2, paragraph (b), that device manufacturers provide a discounted rate to indigent program participants applies also to device installation under this subdivision.

(e) An impound or law enforcement storage lot operator must allow an ignition interlock manufacturer sufficient access to the lot to install an ignition interlock device under this subdivision.

(f) Notwithstanding paragraph (a), an entity in possession of the vehicle is not required to release it until the reasonable costs of the towing, seizure, and storage of the vehicle have been paid by the vehicle owner.

(g) At any time prior to the vehicle being forfeited, the appropriate agency may require that the owner or driver of the vehicle give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. If this occurs, any future forfeiture action against the vehicle must instead proceed against the security as if it were the vehicle.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(h) The appropriate agency may require an owner or driver to give security or post bond payable to the agency in an amount equal to the retail value of the vehicle, prior to releasing the vehicle from the impound lot to install an ignition interlock device.

(i) If an event described in paragraph (b) occurs in a jurisdiction other than the one in which the original forfeitable event occurred, and the vehicle is subsequently forfeited, the proceeds shall be divided equally, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the vehicle, among the appropriate agencies and prosecuting authorities in each jurisdiction.

(j) Upon successful completion of the program, the stayed forfeiture proceeding is terminated or dismissed and any vehicle, security, or bond held by an agency must be returned to the owner of the vehicle.

(k) A claimant of a vehicle for which a forfeiture action was stayed under paragraph (a) but which later proceeds under paragraph (b), may file a demand for judicial forfeiture as provided in subdivision 8, in which case the forfeiture proceedings must be conducted as provided in subdivision 9.

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;

APPENDIX
Repealed Minnesota Statutes: 21-01670

- (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:

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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;

APPENDIX
Repealed Minnesota Statutes: 21-01670

(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.

APPENDIX
Repealed Minnesota Statutes: 21-01670

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.