609.907 PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE.

Subdivision 1. **Temporary restraining order.** (a) When an indictment or complaint is filed under section 609.903, the district court may take any of the following actions if the prosecuting authority shows by a preponderance of the evidence that the action is necessary to preserve the reachability of property subject to criminal forfeiture:

(1) enter a restraining order or injunction;

(2) require the execution of a satisfactory performance bond; or

(3) take any other reasonable action, including the appointment of a receiver.

(b) Before granting the remedies provided by this subdivision, the court shall hold a hearing, after notice to all affected persons, giving them a reasonable opportunity to respond. At the hearing, the rules of evidence do not apply.

Subd. 2. **Preindictment order.** (a) If no indictment or complaint has been filed, the district court may take actions provided in subdivision 1 if the prosecuting authority makes the showing required by subdivision 1 and also shows that:

(1) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.904; and

(2) the requested order would not result in substantial and irreparable harm or injury to the party against whom the order is to be entered, or to other affected persons, that outweighs the need to preserve the reachability of the property.

(b) An order entered under this subdivision is effective for a maximum of 90 days unless:

(1) extended by the district court for good cause; or

(2) terminated by the filing of an indictment or complaint alleging that the property is subject to forfeiture.

Subd. 3. **Restraining order without notice.** (a) On application by the prosecuting authority, the district court may grant, without notice to any party, a temporary restraining order to preserve the reachability of property subject to criminal forfeiture under section 609.905 if:

(1) an indictment or complaint alleging that property is subject to criminal forfeiture has been filed or the district court determines that there is probable cause to believe that property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.905;

(2) the property is in the possession or control of the party against whom the order is to be entered; and

(3) the district court makes a specific finding in writing that the property can be concealed, disposed of, or placed beyond the jurisdiction of the court before any party may be heard in opposition.

(b) A temporary restraining order granted without notice to any party under this subdivision expires within the time fixed by the court, not to exceed ten days. The court may extend the order for good cause shown, or if the party against whom it is entered consents to an extension. After a temporary restraining order is granted under this subdivision, a hearing concerning the entry of an order under this section shall be held at the earliest practicable time and before the temporary order expires.

History: *1989 c 286 s 10*