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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1971

03/04/2019 Authored by Lesch, Mariani, Scott, Lucero, Long and others
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to forfeiture; providing for criminal forfeiture; limiting participation in
1.3 the federal Equitable Sharing Program; eliminating administrative forfeiture;
1.4 amending Minnesota Statutes 2018, sections 84.7741, subdivision 1; 97A.201,
1.5 subdivision 3; 97A.221, subdivision 5; 97A.223, subdivision 1; 97A.225,
1.6 subdivision 2; 152.21, subdivision 6; 152.32, subdivision 2; 299A.681, subdivision
1.7 11; 357.021, subdivision 1a; 609.66, subdivision 1d; 609.762, subdivision 2;
1.8 609.856, subdivision 2; 609.895, subdivision 5; 609.908, subdivision 3; 609B.515;
1.9 611.32, subdivision 2; 624.714, subdivisions 1b, 7a, 17; 624.7142, subdivision 6;
1.10 629.715, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.11 chapter 609; repealing Minnesota Statutes 2018, sections 84.7741, subdivisions
1.12 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13; 97A.223, subdivisions 2, 3, 4, 5, 6; 97A.225,
1.13 subdivisions 3, 4, 5, 6, 7, 8, 9, 10; 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a,
1.14 6a, 7, 8; 609.5311; 609.5312; 609.5313; 609.5314; 609.5315; 609.5316; 609.5317;
1.15 609.5318; 609.5319; 609.762, subdivisions 3, 4, 5, 6; 609.905, subdivision 3.

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

1.17 ARTICLE 1
1.18 CRIMINAL FORFEITURE

1.19 Section 1. [609.112] CRIMINAL FORFEITURE.

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

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

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

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

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

2.13 (1) a controlled substance crime;

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

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

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

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

2.21 (g) "Designated offense" means:

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

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

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

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

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

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

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

3.10 (6) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy
 3.11 to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112; 609.2113;
 3.12 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245; 609.25;
 3.13 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343,
 3.14 subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e) and (h) to (j);
 3.15 609.345, subdivision 1, clauses (a) to (e) and (h) to (j); 609.352; 609.42; 609.425; 609.466;
 3.16 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
 3.17 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
 3.18 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89;
 3.19 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section
 3.20 609.891 or 624.7181; or any violation of section 609.324; or a felony violation of, or a
 3.21 felony-level attempt or conspiracy to violate, Minnesota Statutes 2012, section 609.21.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.3 Subd. 6. **Rental property.** (a) When contraband or a controlled substance manufactured,
5.4 distributed, or acquired in violation of chapter 152 is seized on residential rental property
5.5 incident to a lawful search or arrest, the prosecuting authority shall give the notice required
5.6 by this subdivision to (1) the landlord of the property or the fee owner identified in the
5.7 records of the county assessor, and (2) the agent authorized by the owner to accept service
5.8 pursuant to section 504B.181. The notice is not required during an ongoing investigation.
5.9 The notice shall state what has been seized and specify the applicable duties and penalties
5.10 under this subdivision. The notice shall state that the landlord who chooses to assign the
5.11 right to bring an eviction action retains all rights and duties, including removal of a tenant's
5.12 personal property following issuance of the writ of recovery and delivery of the writ to the
5.13 sheriff for execution. The notice shall also state that the landlord may contact the prosecuting
5.14 authority if threatened by the tenant. Notice shall be sent by certified letter, return receipt
5.15 requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in
5.16 the manner provided by law for service of summons in a civil action.

5.17 (b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign
5.18 to the prosecuting authority of the county in which the real property is located, the right to
5.19 bring an eviction action against the tenant. The assignment must be in writing on a form
5.20 prepared by the prosecuting authority. Should the landlord choose to assign the right to
5.21 bring an eviction action, the assignment shall be limited to those rights and duties up to and
5.22 including delivery of the writ of recovery to the sheriff for execution.

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

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

5.33 (e) It is a defense against a proceeding under paragraph (b) that the tenant had no
5.34 knowledge or reason to know of the presence of the contraband or controlled substance or

6.1 could not prevent its being brought onto the property. It is a defense against a proceeding
6.2 under paragraph (c) that the landlord made every reasonable attempt to evict a tenant or to
6.3 assign the prosecuting authority the right to bring an eviction action against the tenant, or
6.4 that the landlord did not receive notice of the seizure.

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

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

6.10 (1) homestead real property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.16 (1) died;

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

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

7.20 (4) fled state jurisdiction; or

7.21 (5) abandoned the property.

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

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

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

7.30 (1) a criminal charge; and

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

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

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

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

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

8.15 (d) Notice must be provided as set forth in the complaint process provided in subdivision
8.16 14 to all persons known to have an interest in the property who are not named in the
8.17 indictment or information.

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

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

8.30 (1) a description of the property seized;

8.31 (2) the date and place of the seizure;

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

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

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

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

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

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

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

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

9.24 (1) a description of the property seized;

9.25 (2) the date of seizure; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.23 (e) The court may also consider:

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

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

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

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

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

12.7 (c) If the person alleges a valid security interest but the state seeks to proceed with the
12.8 forfeiture against the property claimed by the person, the state shall prove by clear and
12.9 convincing evidence that the person had actual knowledge of the underlying crime giving
12.10 rise to the forfeiture. Either party may ask the court for a hearing at any time before the
12.11 court's entering judgment in the criminal prosecution.

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

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

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

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

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

12.31 (f) The petitioner who has an ownership interest in property subject to forfeiture at the
12.32 time the commission of the crime giving rise to forfeiture occurred and who claims to be

13.1 an innocent owner bears the burden of proving by clear and convincing evidence that the
13.2 person has a legal right, title, or interest in the property seized under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

14.8 (1) dissipated property;

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

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

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

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

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

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

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

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

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

14.27 (2) postjudgment interest; and

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

14.30 Subd. 28. **Return of property; damages; costs.** (a) If the court orders the return of
14.31 property, the appropriate agency that holds the property shall return the property to the

15.1 owner or other prevailing claimant within a reasonable period of time not to exceed five
 15.2 days after entry of judgment.

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

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

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

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

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

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

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

15.20 (1) the account of the Office of Justice Programs;

15.21 (2) the commissioner for distribution to crime victims services organizations that provide
 15.22 services to sexually exploited youth, as defined in section 260C.007, subdivision 31;

15.23 (3) the Minnesota Board of Public Defense; and

15.24 (4) the state's general fund.

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

15.29 Subd. 31. **Prohibition of federal adoption.** A local, county, or state law enforcement
 15.30 agency shall not refer, transfer, or otherwise relinquish possession of property seized under
 15.31 state law to a federal agency by way of adoption of the seized property or other means by
 15.32 the federal agency for the purpose of the property's forfeiture under the federal Controlled

16.1 Substances Act, United States Code, title 21, section 881; or the Comprehensive Drug Abuse
16.2 Prevention and Control Act of 1970, Public Law 91-513, section 413.

16.3 Subd. 32. **Limit on receiving forfeiture proceeds from joint task forces.** (a) In a case
16.4 in which the aggregate net equity value of the property and currency seized has a value of
16.5 \$50,000 or less, excluding the value of contraband, a local, county, or state law enforcement
16.6 agency or participant in a joint task force or other multijurisdictional collaboration with the
16.7 federal government shall transfer responsibility for the seized property to the state prosecuting
16.8 authority for forfeiture under state law.

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

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

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

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

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

16.28 Subd. 34. **Reporting requirement.** (a) For each forfeiture occurring in the state, the
16.29 appropriate agency and the prosecuting authority shall provide a written record of the
16.30 forfeiture incident to the state auditor. The record shall include the amount forfeited, the
16.31 statutory authority for the forfeiture, its date, a brief description of the circumstances
16.32 involved, and whether the forfeiture was contested. The record shall also list the number of
16.33 firearms forfeited and the make, model, and serial number of each firearm forfeited. The
16.34 record shall indicate how the property was or is to be disposed of.

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

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

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

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

17.11 **EFFECTIVE DATE.** This article is effective July 1, 2019.

17.12 **ARTICLE 2**
 17.13 **CONFORMING CHANGES**

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

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

17.17 ~~(b) "Appropriate agency" means a law enforcement agency that has the authority to~~
 17.18 ~~make an arrest for a violation of a designated offense.~~

17.19 ~~(c) "Claimant" means an owner of an off-highway vehicle or a person claiming a leasehold~~
 17.20 ~~or security interest in an off-highway vehicle.~~

17.21 ~~(d) "Designated offense" means a second gross misdemeanor violation under section~~
 17.22 ~~84.774, paragraph (b).~~

17.23 ~~(e) "Family or household member" means:~~

17.24 ~~(1) a parent, stepparent, or guardian;~~

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

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

18.1 ~~(f) Forfeiture of an off-highway vehicle must be made pursuant to section 609.112.~~

18.2 "Off-highway vehicle" and "vehicle" do not include an off-highway vehicle that is stolen
18.3 or taken in violation of the law.

18.4 ~~(g) "Owner" means a person legally entitled to possession, use, and control of an
18.5 off-highway vehicle, including a lessee of an off-highway vehicle if the lease agreement
18.6 has a term of 180 days or more. There is a rebuttable presumption that a person registered
18.7 as the owner of an off-highway vehicle according to the records of the Department of Public
18.8 Safety or the Department of Natural Resources is the legal owner. For purposes of this
18.9 section, if an off-highway vehicle is owned jointly by two or more people, each owner's
18.10 interest extends to the whole of the vehicle and is not subject to apportionment.~~

18.11 ~~(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated
18.12 offense occurred, or a designee, who is responsible for prosecuting violations of a designated
18.13 offense. If a state agency initiated the forfeiture and the attorney responsible for prosecuting
18.14 the designated offense declines to pursue forfeiture, the attorney general's office, or its
18.15 designee, may initiate forfeiture under this section.~~

18.16 ~~(i) "Security interest" means a bona fide security interest perfected according to section
18.17 168A.17, subdivision 2, based on a loan or other financing that, if an off-highway vehicle
18.18 is required to be registered under chapter 168, is listed on the vehicle's title.~~

18.19 Sec. 2. Minnesota Statutes 2018, section 97A.201, subdivision 3, is amended to read:

18.20 Subd. 3. **Prosecuting authority.** County attorneys are the primary prosecuting authority
18.21 for violations under section 97A.205, clause (5). Prosecution includes associated civil
18.22 forfeiture actions provided by law.

18.23 Sec. 3. Minnesota Statutes 2018, section 97A.221, subdivision 5, is amended to read:

18.24 Subd. 5. **Reporting.** The appropriate agency and prosecuting authority shall report on
18.25 forfeitures of firearms, bows, and motor vehicles occurring under this section as described
18.26 in section ~~609.5315, subdivision 6~~ 609.112, subdivision 34.

18.27 Sec. 4. Minnesota Statutes 2018, section 97A.223, subdivision 1, is amended to read:

18.28 Subdivision 1. **Property subject to seizure and forfeiture.** (a) An enforcement officer
18.29 must seize:

18.30 (1) firearms possessed in violation of state or federal law or court order; and

19.1 (2) property described in section 97A.221, subdivision 1, where no owner can be
19.2 determined.

19.3 (b) Property seized under this section is subject to ~~administrative~~ forfeiture under section
19.4 609.112.

19.5 Sec. 5. Minnesota Statutes 2018, section 97A.225, subdivision 2, is amended to read:

19.6 Subd. 2. **Procedure for confiscating seized property.** The enforcement officer must
19.7 hold the seized property, subject to the order of the court having jurisdiction where the
19.8 offense was committed. The property ~~held is confiscated when:~~ is subject to forfeiture under
19.9 section 609.112.

19.10 ~~(1) the commissioner complies with this section;~~

19.11 ~~(2) the person from whom it was seized is convicted of the offense; and~~

19.12 ~~(3) the conviction is not under appeal and the time period for appeal of the conviction~~
19.13 ~~has expired.~~

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

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

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

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

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

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

19.25 For the purposes of this section, THC is removed from Schedule I contained in section
19.26 152.02, subdivision 2, and inserted in Schedule II contained in section 152.02, subdivision
19.27 3.

19.28 Sec. 7. Minnesota Statutes 2018, section 152.32, subdivision 2, is amended to read:

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

20.1 (1) use or possession of medical cannabis or medical cannabis products by a patient
20.2 enrolled in the registry program, or possession by a registered designated caregiver or the
20.3 parent or legal guardian of a patient if the parent or legal guardian is listed on the registry
20.4 verification;

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

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

20.10 (b) Medical cannabis obtained and distributed pursuant to sections 152.22 to 152.37 and
20.11 associated property is not subject to forfeiture under ~~sections 609.531 to 609.5316~~ section
20.12 609.112.

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

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

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

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

20.32 (g) No information contained in a report, document, or registry or obtained from a patient
20.33 under sections 152.22 to 152.37 may be admitted as evidence in a criminal proceeding

21.1 unless independently obtained or in connection with a proceeding involving a violation of
21.2 sections 152.22 to 152.37.

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

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

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

21.14 Sec. 8. Minnesota Statutes 2018, section 299A.681, subdivision 11, is amended to read:

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

21.19 Sec. 9. Minnesota Statutes 2018, section 357.021, subdivision 1a, is amended to read:

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

21.30 (b) In a county which has a screener-collector position, fees paid by a county pursuant
21.31 to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the
21.32 fees first to reimburse the county for the amount of the salary paid for the screener-collector

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

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

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

22.13 (2) civil commitment under chapter 253B;

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

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

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

22.19 (6) forfeiture of property under ~~sections 169A.63 and 609.531 to 609.5317~~ section
 22.20 609.112;

22.21 (7) recovery of amounts issued by political subdivisions or public institutions under
 22.22 sections 246.52, 252.27, 256.045, 256.25, 256.87, 256B.042, 256B.14, 256B.15, 256B.37,
 22.23 260B.331, and 260C.331, or other sections referring to other forms of public assistance;

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

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

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

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

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

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

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

23.10 (d) Notwithstanding paragraph (a), (b), or (c), it is a misdemeanor for a person authorized
23.11 to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or
23.12 about the person's clothes or person in a location the person knows is school property.
23.13 Notwithstanding ~~section 609.534~~ any law to the contrary, a firearm carried in violation of
23.14 this paragraph is not subject to forfeiture.

23.15 (e) As used in this subdivision:

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

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

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

23.20 (4) "school property" means:

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

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

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

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

24.1 (f) This subdivision does not apply to:

24.2 (1) active licensed peace officers;

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

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

24.8 (4) persons who keep or store in a motor vehicle pistols in accordance with section
24.9 624.714 or 624.715 or other firearms in accordance with section 97B.045;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25.10 Subd. 5. **Forfeiture.** Property used to commit or facilitate the commission of a violation
 25.11 of this section, and all money and property representing proceeds of a violation of this
 25.12 section, shall be forfeited in accordance with ~~sections 609.531 to 609.5316~~ section 609.112.
 25.13 Notwithstanding any provision of section ~~609.5315~~ 609.112 to the contrary, forfeited items
 25.14 bearing or identified by a counterfeit mark must be destroyed unless the intellectual property
 25.15 owner consents to another disposition.

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

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

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

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

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

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

26.2 **609B.515 DWI; VEHICLE FORFEITURE.**

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

26.6 Section ~~169A.63, subdivision 7,~~ 609.112 specifies limitations on vehicle forfeiture.
 26.7 ~~Section 169A.63, subdivisions 8 and 9, provide for administrative forfeiture procedure and~~
 26.8 ~~judicial forfeiture procedure. Section 169A.63, subdivisions 10 and 11, provide for disposition~~
 26.9 ~~of a forfeited vehicle.~~

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

26.11 Subd. 2. **Proceedings at time of apprehension or arrest.** Following the apprehension
 26.12 or arrest of a person disabled in communication for an alleged violation of a criminal law,
 26.13 the arresting officer, sheriff or other law enforcement official shall immediately make
 26.14 necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the
 26.15 earliest possible time at the place of detention. A law enforcement officer shall, with the
 26.16 assistance of the interpreter, explain to the person disabled in communication, all charges
 26.17 filed against the person, and all procedures relating to the person's detainment and release.
 26.18 If the property of a person is seized under section ~~609.531, subdivision 4~~ 609.112, the seizing
 26.19 officer, sheriff, or other law enforcement official shall, upon request, make available to the
 26.20 person at the earliest possible time a qualified interpreter to assist the person in understanding
 26.21 the possible consequences of the seizure and the person's right to judicial review. ~~If the~~
 26.22 ~~seizure is governed by section 609.5314, subdivision 2, a request for an interpreter must be~~
 26.23 ~~made within 15 days after service of the notice of seizure and forfeiture. For a person who~~
 26.24 ~~requests an interpreter under this section because of a seizure of property under section~~
 26.25 ~~609.5314, the 60 days for filing a demand for a judicial determination of a forfeiture begins~~
 26.26 ~~when the interpreter is provided.~~ The interpreter shall also assist the person with all other
 26.27 communications, including communications relating to needed medical attention. Prior to
 26.28 interrogating or taking the statement of the person disabled in communication, the arresting
 26.29 officer, sheriff, or other law enforcement official shall make available to the person a
 26.30 qualified interpreter to assist the person throughout the interrogation or taking of a statement.

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

26.32 Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the
 26.33 permit card and a driver's license, state identification card, or other government-issued photo

27.1 identification in immediate possession at all times when carrying a pistol and must display
27.2 the permit card and identification document upon lawful demand by a peace officer, as
27.3 defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor.
27.4 The fine for a first offense must not exceed \$25. Notwithstanding section ~~609.531~~ 609.112,
27.5 a firearm carried in violation of this paragraph is not subject to forfeiture.

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

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

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

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

27.14 Subd. 7a. **Change of address; loss or destruction of permit.** (a) Within 30 days after
27.15 changing permanent address, or within 30 days of having lost or destroyed the permit card,
27.16 the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure
27.17 to provide notification as required by this subdivision is a petty misdemeanor. The fine for
27.18 a first offense must not exceed \$25. Notwithstanding section ~~609.531~~ 609.112, a firearm
27.19 carried in violation of this paragraph is not subject to forfeiture.

27.20 (b) After notice is given under paragraph (a), a permit holder may obtain a replacement
27.21 permit card by paying \$10 to the sheriff. The request for a replacement permit card must
27.22 be made on an official, standardized application adopted for this purpose under section
27.23 624.7151, and, except in the case of an address change, must include a notarized statement
27.24 that the permit card has been lost or destroyed.

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

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

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

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

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

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

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

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

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

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

28.16 (d) The owner or operator of a private establishment may not prohibit the lawful carry
28.17 or possession of firearms by a peace officer, as defined in section 626.84, subdivision 1,
28.18 paragraph (c), within the private establishment or deny the officer access thereto, except
28.19 when specifically authorized by statute. The owner or operator of the private establishment
28.20 may require the display of official credentials issued by the agency that employs the peace
28.21 officer prior to granting the officer entry into the private establishment.

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

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

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

28.29 (h) This subdivision does not apply to a security guard acting in the course and scope
28.30 of employment. The owner or operator of a private establishment may require the display
28.31 of official credentials issued by the company, which must be licensed by the Private Detective

29.1 and Protective Agent Services Board, that employs the security guard and the guard's permit
29.2 card prior to granting the guard entrance into the private establishment.

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

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

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

29.8 (c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision
29.9 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the
29.10 person's clothes or person under the provisions of a permit or otherwise is revoked and the
29.11 person may not reapply for a period of one year from the date of conviction.

29.12 (d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision
29.13 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's
29.14 clothes or person under the provisions of a permit or otherwise is suspended for 180 days
29.15 from the date of conviction.

29.16 (e) Notwithstanding section ~~609.531~~ 609.112, a firearm carried in violation of subdivision
29.17 1, clause (6), is not subject to forfeiture.

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

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

30.1 Sec. 22. **REPEALER.**

30.2 Minnesota Statutes 2018, sections 84.7741, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
30.3 and 13; 97A.223, subdivisions 2, 3, 4, 5, and 6; 97A.225, subdivisions 3, 4, 5, 6, 7, 8, 9,
30.4 and 10; 169A.63; 609.531, subdivisions 1, 1a, 4, 5, 5a, 6a, 7, and 8; 609.5311; 609.5312;
30.5 609.5313; 609.5314; 609.5315; 609.5316; 609.5317; 609.5318; 609.5319; 609.762,
30.6 subdivisions 3, 4, 5, and 6; and 609.905, subdivision 3, are repealed.

30.7 **EFFECTIVE DATE.** This article is effective July 1, 2019.

84.7741 OFF-HIGHWAY VEHICLE FORFEITURE.

Subd. 2. **Seizure.** (a) An off-highway 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;

(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 or Department of Natural Resources.

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

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in an off-highway vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense 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 an off-highway 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 the agency; and

(3) place a disabling device on the vehicle.

Subd. 4. **Bond by owner for possession.** If the owner of an off-highway 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. 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 off-highway vehicle and driver's records concerning prior incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense.

Subd. 6. **Vehicle subject to forfeiture.** An off-highway vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense.

Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

(1) is convicted of the designated offense upon which the forfeiture is based; or

(2) 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.

(b) An off-highway 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 section 336.9-610, the agency is not liable to the secured party

APPENDIX
Repealed Minnesota Statutes: 19-3997

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 an off-highway 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) An off-highway vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the 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 owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law.

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

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

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

(1) a description of the vehicle seized;

(2) the date of the seizure; and

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

Substantially the following language must appear conspicuously in the notice:

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

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

(e) Within 60 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve

APPENDIX
Repealed Minnesota Statutes: 19-3997

the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 60 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

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

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

Subd. 9. Judicial forfeiture procedure. (a) This subdivision governs judicial determinations of the forfeiture of an off-highway vehicle used to commit a designated offense. 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, 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.

(e) There is a presumption that an off-highway 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. 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 subdivision 12.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense 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 subdivision 12.

(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. 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

APPENDIX
Repealed Minnesota Statutes: 19-3997

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

(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 purchasing equipment for off-highway vehicle 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 off-highway vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 10. A financial institution wishing to dispose of an off-highway 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 family or household member of the violator, 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 10.

Subd. 12. Redemption requirements. (a) If an off-highway vehicle is seized by a peace officer for a designated offense, the seized vehicle must be released only:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner who provides proof of ownership of the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee who provides a copy of the rental or lease agreement; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle.

(b) The proof of ownership or, if applicable, the copy of the rental or lease agreement required under paragraph (a) must be provided to the law enforcement agency seizing the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

(c) No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to a seizure under this section.

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

97A.223 SEIZURE AND ADMINISTRATIVE FORFEITURE OF CERTAIN FIREARMS AND ABANDONED PROPERTY.

Subd. 2. **Notice of seizure and intent to forfeit.** When property is seized under subdivision 1, the enforcement officer shall serve any known owner and person possessing the property with a notice of the seizure and intent to forfeit the property. The notice must be in writing, describing the property seized, the date of seizure, and notice of the right to appeal the seizure and forfeiture as described in subdivision 3.

Subd. 3. **Appeal; final order.** Seizure and administrative forfeiture of property under this section may be appealed under the procedures in section 116.072, subdivision 6, if the owner or other person from whom the property was seized requests a hearing by notifying the commissioner in writing within 45 days after seizure of the property. For purposes of this section, the terms "commissioner" and "agency" as used in section 116.072 mean the commissioner of natural resources. If a hearing is not requested within 45 days of seizure, the forfeiture becomes a final order and not subject to further review.

Subd. 4. **Other remedies.** The authority to forfeit firearms and other property under this section is in addition to other remedies available under state and federal law.

Subd. 5. **Disposal of forfeited property.** Forfeited property under this section may be disposed of as contraband according to section 97A.221, subdivision 4.

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

97A.225 SEIZURE AND CONFISCATION OF MOTOR VEHICLES AND BOATS.

Subd. 3. **Complaint against property.** The commissioner shall file with the court a separate complaint against the property held. The complaint must identify the property, describe its use in the violation, and specify the time and place of the violation. A copy of the complaint must be served upon the defendant or the owner of the property.

Subd. 4. **Releasing property after posting bond.** At any time after seizure of the property specified in this section, the property must be returned to the owner or person having the legal right to possession upon execution of a valid bond to the state with a corporate surety. The bond must be approved by a judge of the court of jurisdiction, conditioned to abide by an order and judgment of the court and to pay the full value of the property at the time of seizure. The bond must be for \$100 or for a greater amount not more than twice the value of the property seized.

Subd. 5. **Court order.** (a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and:

(1) order it returned to the person legally entitled to it; and

(2) order the commissioner to reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as provided for publication of a summons in a civil action.

Subd. 6. **Court ordered sale after no answer.** If an answer is not filed within the time provided in subdivision 5, the court administrator shall notify the court and the court shall order the

APPENDIX
Repealed Minnesota Statutes: 19-3997

commissioner to sell the property. The net proceeds of the sale shall be deposited in the state treasury and credited to the game and fish fund.

Subd. 7. **Hearing after answer.** If an answer is filed within the time provided in subdivision 5, the court shall schedule a hearing within ten to 30 days after the time expired for filing the answer. The court, without a jury, shall determine whether any of the property was used in a violation specified in the complaint and whether the owner had knowledge or reason to believe that the property was being used, or intended to be used, in the violation. The court shall order the commissioner to sell the property that was unlawfully used with knowledge of the owner and to return to the owner property that was not unlawfully used with the knowledge of the owner. If the property is to be sold, the court shall determine the priority of liens against the property and whether the lienholders had knowledge that the property was being used or was intended to be used. Lienholders that had knowledge of the property's use in the violation are not to be paid. The court order must state the priority of the liens to be paid.

Subd. 8. **Proceeds of sale.** The proceeds from the sale after payment of the costs of seizing, towing, keeping, and selling the property and satisfying valid liens against the property must be distributed as follows:

(1) 70 percent of the money or proceeds shall be deposited in the state treasury and credited to the game and fish fund; and

(2) 30 percent of the money or proceeds is considered a cost of forfeiting the property and 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.

Subd. 9. **Security interests canceled.** A sale under this section cancels all liens on and security interests in the property sold.

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

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;

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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;

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

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.

(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).

APPENDIX
Repealed Minnesota Statutes: 19-3997

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

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

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

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

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

Substantially the following language must appear conspicuously in the notice:

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

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

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

APPENDIX
Repealed Minnesota Statutes: 19-3997

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.

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

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

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

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

609.531 FORFEITURES.

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

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

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

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

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

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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;

(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

APPENDIX
Repealed Minnesota Statutes: 19-3997

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:

- (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;

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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.

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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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.

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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.

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

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

APPENDIX
Repealed Minnesota Statutes: 19-3997

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.

(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.

APPENDIX
Repealed Minnesota Statutes: 19-3997

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;

(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

APPENDIX
Repealed Minnesota Statutes: 19-3997

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.

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;

APPENDIX
Repealed Minnesota Statutes: 19-3997

(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;

APPENDIX
Repealed Minnesota Statutes: 19-3997

(2) if the person charged with a gambling offense is acquitted, the court shall dismiss the complaint and order the property returned to the persons legally entitled to it; and

(3) if after conviction the court finds the property, or any part of it, was used in violation as specified in the complaint, it shall order that the property be sold or retained by the law enforcement agency for official use. Proceeds from the sale of forfeited property may be retained for official use and shared equally between the law enforcement agency investigating the offense involved in the forfeiture and the prosecuting agency that prosecuted the offense involved in the forfeiture and handled the forfeiture proceedings.

Subd. 5. **Exception.** Property may not be seized or forfeited under this section if the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in violation of this section.

Subd. 6. **Reporting.** The law enforcement and prosecuting agencies shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

609.905 CRIMINAL FORFEITURE.

Subd. 3. **Reporting.** The prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.