

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

S.F. No. 4575

(SENATE AUTHORS: NEWMAN)

DATE
05/04/2022

D-PG

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

1.1 A bill for an act
1.2 relating to forfeiture; providing for a criminal forfeiture process; requiring a report;
1.3 amending Minnesota Statutes 2020, sections 145.4716, subdivision 2; 289A.14;
1.4 299A.681, subdivision 11; 609.66, subdivision 1d; 609.762, subdivision 2;
1.5 609B.515; 611.32, subdivision 2; 629.715, subdivision 2; proposing coding for
1.6 new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2020,
1.7 sections 609.531, subdivisions 1a, 4, 5, 5a, 6a, 7, 8; 609.5311, subdivision 1;
1.8 609.5312; 609.5313; 609.5315, subdivisions 1, 2, 3, 4, 5a, 5c, 7; 609.5316;
1.9 609.5318; 609.5319; 609.762, subdivisions 3, 4, 5, 6; Minnesota Statutes 2021
1.10 Supplement, sections 609.531, subdivision 1; 609.5311, subdivisions 2, 3, 4;
1.11 609.5314; 609.5315, subdivisions 5, 5b, 6.

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

1.13 **ARTICLE 1**
1.14 **CRIMINAL FORFEITURE PROCESS**

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

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

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

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

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

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

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

2.5 (1) scheduled drugs without a valid prescription;

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

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

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

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

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

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

2.16 (g) "Designated offense" means:

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

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

2.19 or

2.20 (3) for all other purposes, a felony violation of, or a felony-level attempt or conspiracy
 2.21 to violate, chapter 152; section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112;
 2.22 609.2113; 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245;
 2.23 609.25; 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f);
 2.24 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e) and (h)
 2.25 to (j); 609.345, subdivision 1, clauses (a) to (e) and (h) to (j); 609.352; 609.42; 609.425;
 2.26 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551;
 2.27 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision
 2.28 le; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;
 2.29 609.89; 609.893; 609.895; 617.246; or 617.247; or a gross misdemeanor or felony violation
 2.30 of section 609.891 or 624.7181; or any violation of section 609.324.

2.31 (h) "Innocent owner" means an owner, co-owner, defendant's heir or assigns, or person
 2.32 who regularly uses property subject to forfeiture who does not have actual knowledge of

3.1 the use of the property in a crime that authorizes the forfeiture of property. Innocent owner
3.2 does not include the defendant or a secured interest holder.

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

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

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

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

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

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

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

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

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

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

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

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

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

3.30 Subd. 4. **Seizure of personal property with process.** At the request of the prosecuting
3.31 authority, a court may issue an ex parte order to attach, seize, or secure personal property

4.1 for which forfeiture is sought and to provide for its custody. Application, issuance, execution,
4.2 and return are subject to state law and court rules.

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

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

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

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

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

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

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

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

4.23 Subd. 7. **Stolen property and contraband.** (a) No property right exists in stolen property
4.24 or contraband.

4.25 (b) Stolen property and contraband are subject to seizure.

4.26 (c) Stolen property shall be returned and contraband shall be disposed of according to
4.27 state law.

4.28 (d) Notwithstanding paragraph (c), the court may impose reasonable conditions on the
4.29 release of stolen property and the disposal of contraband, including the use of photographic
4.30 evidence, to preserve the property for later use as evidence in proceedings under this chapter.

4.31 Subd. 8. **Receipt.** When property is seized, the law enforcement officer shall give an
4.32 itemized receipt to the person possessing the property at the time of the seizure. The receipt

5.1 shall be numbered for future reference and shall constitute notice of seizure. If the person
5.2 possessing the property is not present, the law enforcement officer shall leave a receipt in
5.3 the place where the property was found, if reasonably possible.

5.4 Subd. 9. **Property exempt from seizure and forfeiture.** (a) The following property is
5.5 exempt from seizure and forfeiture:

5.6 (1) homestead real property;

5.7 (2) United States currency totaling no more than \$500; and

5.8 (3) a motor vehicle of no more than \$5,000 in market value, except that this clause does
5.9 not apply to a motor vehicle used in a violation of section 609.66, subdivision 1e.

5.10 (b) The prosecuting authority shall advise law enforcement agencies on the publications
5.11 that they may use to establish the value of a motor vehicle in the prosecuting authority's
5.12 jurisdiction. The publications may include the *Kelley Blue Book* and the *JD Power NADA*
5.13 *Official Used Car Guide*.

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

5.16 (d) The larger amounts in paragraph (c) shall be based on the prosecuting authority's
5.17 exclusive determination of:

5.18 (1) the type and number of occurrences of offenses that include the seizure of property;
5.19 and

5.20 (2) the average value of seized property less the costs to seize and forfeit it.

5.21 Subd. 10. **Waiver prohibition.** (a) A law enforcement officer, other than the prosecuting
5.22 authority, may not request, require, or induce a person to waive, for purpose of forfeiture,
5.23 the person's interest in property.

5.24 (b) A document purporting to waive interest or rights in seized property is void and
5.25 inadmissible in court unless the prosecuting authority obtained the waiver.

5.26 Subd. 11. **Title.** (a) Title to the property subject to forfeiture vests with the state when
5.27 the court issues a forfeiture judgment and relates back to the time when the state seizes or
5.28 restrains the property.

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

6.1 Subd. 12. **Counsel.** (a) If the defendant in the criminal prosecution is represented by a
6.2 public defender, the public defender's office shall authorize representation of the defendant
6.3 in the forfeiture portion of the proceeding and any other related proceeding.

6.4 (b) If the defendant and any other person with an interest in the property engages in pro
6.5 se representation in the forfeiture-related proceeding before a judge, the court may exercise
6.6 its discretion applying the rules of pleading, procedure, or evidence.

6.7 Subd. 13. **Notice to other known owners.** (a) The prosecuting authority shall perform
6.8 a reasonable search of vehicle registrations, property records, and other public records to
6.9 identify any person, other than the defendant, known to have an interest in the property
6.10 subject to forfeiture.

6.11 (b) The prosecuting authority shall give notice to any person identified to have an interest
6.12 in the property subject to forfeiture who is not charged or indicted. The notice shall include
6.13 the seizure receipt number in subdivision 8. Notice must be given as provided by the rules
6.14 of the court.

6.15 (c) The following language substantially and conspicuously must appear in the notice:
6.16 "WARNING: You may lose the right to be heard in court if you do not promptly file a
6.17 statement of interest or ownership pursuant to Minnesota Statutes, section 609.112,
6.18 subdivision 21 or 22. You do not have to pay a filing fee to file your notice."

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

6.23 Subd. 14. **Prompt postseizure hearing.** (a) Following seizure, a defendant or any other
6.24 person with an interest in the property has a right to a prompt postseizure hearing.

6.25 (b) A person with an interest in the property may petition the court for a hearing.

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

6.27 (1) as a separate hearing;

6.28 (2) at the same time as a probable cause determination, a postarrest omnibus
6.29 hearing, or other pretrial hearing; or

6.30 (3) at the court's discretion.

6.31 (d) A party, by agreement or for good cause, may move for one extension. Any motion
6.32 may be supported by affidavits or other submissions.

7.1 (e) The court shall order the return of property if it finds:

7.2 (1) the seizure was invalid;

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

7.4 or

7.5 (3) the final judgment likely will be in favor of the defendant or any other person with
7.6 an interest in the property.

7.7 (f) At the court's discretion, the court may order the return of enough funds and property
7.8 for the defendant to obtain counsel of choice but less than the total amount seized.

7.9 (g) Notwithstanding paragraphs (d) and (e), the court may impose reasonable conditions
7.10 on the return of the property, including the use of photographic evidence, to preserve the
7.11 property for later use as evidence in proceedings under this chapter.

7.12 (h) The provisions of this subdivision do not apply to contraband.

7.13 Subd. 15. **Notice of proposed forfeiture.** (a) In any case in which the state seeks
7.14 forfeiture of property, the prosecuting authority shall include the following information in
7.15 a charging document:

7.16 (1) a description of the property seized;

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

7.18 (3) the seizure receipt number under subdivision 8; and

7.19 (4) a description of the property used in or derived from the alleged crime.

7.20 (b) The prosecuting authority may allege, in the notice, the forfeiture of property as a
7.21 process after the conviction of the crime for which the defendant is charged or as part of
7.22 sentencing consideration.

7.23 (c) The notice shall not be read to the jury.

7.24 (d) The prosecuting authority shall serve the notice:

7.25 (1) with the initial charging instrument;

7.26 (2) separately but not later than 90 days after the presentment of the complaint for a
7.27 misdemeanor;

7.28 (3) the earlier of 90 days after presentment to a grand jury or 180 days after an arrest
7.29 for a felony; or

7.30 (4) at the court's discretion.

8.1 (e) At the court's discretion, the court may allow the prosecuting authority to amend the
8.2 notice as required in the interest of justice.

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

8.6 Subd. 16. **Discovery.** Discovery related to the forfeiture proceeding is subject to the
8.7 rules of criminal procedure.

8.8 Subd. 17. **Trial; conviction required; standard of proof.** (a) Property may be forfeited
8.9 if:

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

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

8.15 (b) After the defendant's conviction, the court has the discretion to hold the forfeiture
8.16 proceeding as soon as practicable, including concurrent with sentencing. The court shall
8.17 conduct the forfeiture proceeding without a jury.

8.18 (c) Except as required by subdivision 9, nothing in this section prevents property from
8.19 being forfeited as part of:

8.20 (1) a plea agreement;

8.21 (2) a diversion agreement; or

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

8.24 (d) To effectuate paragraph (c), clause (3), the parties may file notice under seal with
8.25 the court if the person is represented by counsel. If the person is not represented by counsel,
8.26 the prosecuting authority may file an ex parte notice under seal with the court. The notice
8.27 shall advise the court of the reason for granting immunity, reducing punishment, or not
8.28 filing a charge.

8.29 (e) The court may use the notice in paragraph (d) in its consideration of an order to
8.30 transfer title to the property to the state and dispose of the property according to subdivision
8.31 29.

9.1 Subd. 18. Exceptions to the conviction requirement. (a) The court may waive the
9.2 conviction requirement and grant permanent title of the property to the state if the prosecuting
9.3 authority files a motion no fewer than 90 days after seizure and shows by clear and
9.4 convincing evidence that, before conviction, the defendant:

9.5 (1) died;

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

9.7 (3) abandoned the property; or

9.8 (4) fled the jurisdiction.

9.9 (b) The defendant's death does not preclude the defendant's heir or legatee from filing
9.10 a claim for the seized property as a secured interest holder under subdivision 20 or an
9.11 innocent owner under subdivision 21.

9.12 Subd. 19. Proportionality. (a) The defendant may petition the court to determine whether
9.13 the forfeiture is unconstitutionally excessive under the state or federal constitution.

9.14 (b) At the court's discretion, the court may hold a proportionality hearing:

9.15 (1) as a separate hearing;

9.16 (2) at the same time as a probable-cause determination, a post-arraignment hearing, an
9.17 omnibus hearing, or other pretrial hearing;

9.18 (3) at trial; or

9.19 (4) upon conviction.

9.20 (c) The defendant has the burden of establishing that the forfeiture is unconstitutionally
9.21 excessive by a preponderance of the evidence at a hearing conducted by the court without
9.22 a jury.

9.23 (d) At a hearing prior to conviction, as allowed by paragraph (b), clauses (1), (2), and
9.24 (3), the court first shall determine, by a preponderance of the evidence, if the prosecuting
9.25 attorney will secure a conviction. The court then shall determine if the forfeiture is
9.26 unconstitutionally excessive.

9.27 (e) At any hearing, as allowed by paragraph (b), clauses (1), (2), (3), and (4), the court
9.28 may consider all relevant factors to determine unconstitutional excessiveness, including:

9.29 (1) the seriousness of the crime and its impact on the community, including the duration
9.30 of the activity, use of a firearm, and harm caused by the defendant;

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

- 10.1 (3) the extent to which the property was integral to facilitating the crime;
- 10.2 (4) the sentence to be imposed for committing the crime;
- 10.3 (5) whether the crime was completed or attempted;
- 10.4 (6) the hardship to the defendant if the forfeiture of a motor vehicle is realized and
10.5 whether the forfeiture would deprive the defendant of the defendant's livelihood; and
- 10.6 (7) the unjust hardship to the defendant's family if the property is forfeited.
- 10.7 (f) In determining the value of the instrumentality subject to forfeiture, the court may
10.8 consider all relevant factors related to the fair market value of the property, including
10.9 information in publication advised by the prosecuting authority in subdivision 9.
- 10.10 (g) The court may not consider the benefit or value of the property to the state in
10.11 determining whether the forfeiture is unconstitutionally excessive.
- 10.12 Subd. 20. Secured interest holder. (a) Property encumbered by a security interest shall
10.13 not be forfeited.
- 10.14 (b) The prosecuting authority summarily shall return property to a secured interest holder,
10.15 other than the defendant or an innocent owner, up to the value of the interest. Contraband
10.16 shall not be returned.
- 10.17 (c) If the property is not summarily returned, the secured interest holder may petition
10.18 the court at any time before the court enters judgment in the criminal prosecution or grants
10.19 the motion described in subdivision 18.
- 10.20 (d) The court shall hear the petition within 30 days after its filing or at the court's
10.21 discretion. The hearing shall be held before the court without a jury. The court may
10.22 consolidate the hearing on the petition with any other hearing before the court in the case.
- 10.23 (e) The secured interest holder must establish by clear and convincing evidence the
10.24 validity of the security interest, mortgage, lien, leasehold, lease, rental agreement, or other
10.25 agreement.
- 10.26 (f) If the secured interest holder alleges a valid interest but the prosecuting authority
10.27 seeks to proceed, the prosecuting authority shall prove by clear and convincing evidence
10.28 that:
- 10.29 (1) the interest is invalid;
- 10.30 (2) the interest resulted from a fraudulent conveyance;

11.1 (3) the interest is held through a straw purchase, trust, or otherwise for the benefit of the
11.2 defendant; or

11.3 (4) the secured interest holder consented to the use of the property in the crime for which
11.4 the defendant is charged.

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

11.8 (h) Notwithstanding paragraph (g), the court may impose reasonable conditions on the
11.9 return of the property, including the use of photographic evidence, to preserve the property
11.10 for later use as evidence in proceedings under this chapter.

11.11 Subd. 21. **Innocent owner.** (a) Property of an innocent owner shall not be forfeited.

11.12 (b) The prosecuting authority summarily shall return property to an innocent owner.
11.13 Contraband shall not be returned.

11.14 (c) If the property is not summarily returned, an innocent owner claimant may petition
11.15 the court at any time before the court enters judgment in the criminal prosecution or grants
11.16 the motion in subdivision 18.

11.17 (d) The innocent owner claimant may petition the court by filing a simple statement that
11.18 sets forth:

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

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

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

11.22 (4) the relief sought by the claimant; and

11.23 (5) the seizure receipt number in subdivision 8, if available.

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

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

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

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

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

12.5 (2) the claimant did not regularly use the property as the claimant claimed;

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

12.7 (4) the claimant was not a bona fide purchaser without notice of any defect in title and
12.8 for valuable consideration;

12.9 (5) the claimant had actual knowledge that the property was used in or derived directly
12.10 from the crime for which the defendant is charged; or

12.11 (6) if the claimant had actual knowledge, the claimant did not take reasonable steps to
12.12 prevent the use of the property in the crime for which the defendant is charged. The claimant
12.13 is not required to take steps the claimant reasonably believes likely would subject the
12.14 claimant to physical danger.

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

12.17 (j) Notwithstanding paragraph (i), the court may impose reasonable conditions on the
12.18 return of the property, including the use of photographic evidence, to preserve the property
12.19 for later use as evidence in proceedings under this chapter.

12.20 (k) No information in the claimant's statement in paragraph (d) shall be used as evidence
12.21 in the criminal portion of the case.

12.22 (l) Nothing in this subdivision prohibits the claimant from providing information to any
12.23 party or testifying in any trial as to facts the claimant knows.

12.24 (m) The defendant or convicted offender may invoke the right against self-incrimination
12.25 or the marital privilege during the forfeiture proceeding. The trier of fact may draw an
12.26 adverse inference from the invocation of the right or privilege.

12.27 Subd. 22. **Judgment.** (a) If the prosecuting authority fails to meet its burden in the
12.28 criminal or forfeiture proceeding, the court shall enter judgment dismissing the forfeiture
12.29 proceeding and ordering the return of property to the rightful owner, unless the owner's
12.30 possession of the property is illegal.

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

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

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

13.8 (1) dissipated the property;

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

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

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

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

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

13.18 Subd. 26. **Appeals.** (a) A party to a forfeiture proceeding, other than the defendant, may
13.19 appeal the court's order concerning the disposition of the property upon the issuance of the
13.20 order according to the state's rules of procedure and court rules.

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

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

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

13.27 (2) postjudgment interest; and

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

13.30 Subd. 28. **Return of property; damages and costs.** (a) If the court orders the return of
13.31 property, the law enforcement agency that holds the property shall return the property to

14.1 the rightful owner within a reasonable period not to exceed five days after the date of the
14.2 order.

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

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

14.7 Subd. 29. **Disposition of property and proceeds.** (a) At any time when contraband is
14.8 no longer needed as evidence, the court may order it to be destroyed pursuant to state law.

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

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

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

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

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

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

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

14.22 (5) reimburse the prosecuting authority, public defender, or court-appointed attorney
14.23 for nonpersonnel court costs, including filing fees, subpoenas, court reporters, and transcripts.

14.24 (e) After disbursements under paragraph (d), the court may order the remaining funds
14.25 be disbursed equally to:

14.26 (1) the state's general fund; and

14.27 (2) the Department of Public Safety's Office of Justice Programs for statewide grant
14.28 programs.

14.29 Subd. 30. **Sale restrictions.** No law enforcement agency may sell forfeited property
14.30 directly or indirectly to any employee of the law enforcement agency, to a person related

15.1 to an employee within the third degree of consanguinity or affinity, or to another law
15.2 enforcement agency.

15.3 Subd. 31. **Limitation on federal adoption.** A law enforcement agency shall not offer
15.4 for adoption property, seized under state law, to a federal agency for the purpose of forfeiture
15.5 under the federal Controlled Substances Act, Public Law 91-513-Oct. 27, 1970, or other
15.6 federal law.

15.7 Subd. 32. **Limitation on state and federal joint task forces.** (a) Except as allowed for
15.8 in paragraph (b), a joint task force of a law enforcement agency and a federal agency shall
15.9 transfer seized property to the prosecuting authority for forfeiture under this chapter.

15.10 (b) The joint task force may transfer seized property to the United States Department of
15.11 Justice for forfeiture under federal law if the seized property includes United States currency
15.12 that exceeds \$50,000.

15.13 (c) A law enforcement agency is prohibited from accepting payment or distribution of
15.14 any kind from the federal government if the federal government requires seized property
15.15 that includes United States currency of \$50,000 or less as established in paragraph (b) be
15.16 transferred to the federal government for forfeiture under federal law.

15.17 (d) Nothing in paragraph (a) or (b) shall be construed to prohibit the federal government,
15.18 acting alone, from seizing property and seeking forfeiture under federal law.

15.19 Subd. 33. **Exception.** The provisions of this section do not apply to forfeiture proceedings
15.20 under chapter 84.

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

15.23 Subd. 35. **Subsequent unlawful use of seized vehicle; immunity.** An appropriate
15.24 agency or prosecuting authority, including but not limited to any peace officer as defined
15.25 in section 626.84, subdivision 1, paragraph (c); prosecutor; or employee of an appropriate
15.26 agency or prosecuting authority who, in good faith and within the course and scope of the
15.27 official duties of the person or entity, returns a vehicle seized under this section to the owner
15.28 pursuant to this section shall be immune from criminal or civil liability regarding any event
15.29 arising out of the subsequent unlawful or unauthorized use of the vehicle.

15.30 **EFFECTIVE DATE.** This section is effective July 1, 2023.

16.1

ARTICLE 2

16.2

CONFORMING CHANGES

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

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

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

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

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

16.14 (4) managing grant programs established under sections 145.4716 to 145.4718; and
16.15 609.3241, paragraph (c), clause (3); ~~and 609.5315, subdivision 5e, clause (3);~~

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

16.18 (6) identifying best practices in serving sexually exploited youth, as defined in section
16.19 260C.007, subdivision 31;

16.20 (7) providing oversight of and technical support to regional navigators pursuant to section
16.21 145.4717;

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

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

16.27 Sec. 2. Minnesota Statutes 2020, section 289A.14, is amended to read:

16.28 **289A.14 USE OF AUTOMATED SALES SUPPRESSION DEVICES;**

16.29 **DEFINITIONS.**

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

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

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

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

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

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

17.23 Sec. 3. Minnesota Statutes 2020, section 299A.681, subdivision 11, is amended to read:

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

17.28 Sec. 4. Minnesota Statutes 2020, section 609.66, subdivision 1d, is amended to read:

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

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

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

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

18.10 (e) As used in this subdivision:

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

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

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

18.15 (4) "school property" means:

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

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

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

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

18.28 (f) This subdivision does not apply to:

18.29 (1) active licensed peace officers;

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

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

19.4 (4) persons who keep or store in a motor vehicle pistols in accordance with section
 19.5 624.714 or 624.715 or other firearms in accordance with section 97B.045;

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

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

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

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

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

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

19.20 Sec. 5. Minnesota Statutes 2020, section 609.762, subdivision 2, is amended to read:

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

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

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

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

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

20.1 Sec. 6. Minnesota Statutes 2020, section 609B.515, is amended to read:

20.2 **609B.515 DWI; VEHICLE FORFEITURE.**

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

20.6 ~~Section 169A.63, subdivision 7, specifies limitations on vehicle forfeiture. Section~~
20.7 ~~169A.63, subdivisions 8 and 9, provide for administrative forfeiture procedure and judicial~~
20.8 ~~forfeiture procedure. Section 169A.63, subdivisions 10 and 11, provide for disposition of~~
20.9 ~~a forfeited vehicle.~~

20.10 Sec. 7. Minnesota Statutes 2020, section 611.32, subdivision 2, is amended to read:

20.11 Subd. 2. **Proceedings at time of apprehension or arrest.** Following the apprehension
20.12 or arrest of a person disabled in communication for an alleged violation of a criminal law,
20.13 the arresting officer, sheriff or other law enforcement official shall immediately make
20.14 necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the
20.15 earliest possible time at the place of detention. A law enforcement officer shall, with the
20.16 assistance of the interpreter, explain to the person disabled in communication, all charges
20.17 filed against the person, and all procedures relating to the person's detainment and release.
20.18 If the property of a person is seized under section ~~609.531, subdivision 4~~ 609.112, the seizing
20.19 officer, sheriff, or other law enforcement official shall, upon request, make available to the
20.20 person at the earliest possible time a qualified interpreter to assist the person in understanding
20.21 the possible consequences of the seizure and the person's right to judicial review. ~~If the~~
20.22 ~~seizure is governed by section 609.5314, subdivision 2, a request for an interpreter must be~~
20.23 ~~made within 15 days after service of the notice of seizure and forfeiture. For a person who~~
20.24 ~~requests an interpreter under this section because of a seizure of property under section~~
20.25 ~~609.5314, the 60 days for filing a demand for a judicial determination of a forfeiture begins~~
20.26 ~~when the interpreter is provided.~~ The interpreter shall also assist the person with all other
20.27 communications, including communications relating to needed medical attention. Prior to
20.28 interrogating or taking the statement of the person disabled in communication, the arresting
20.29 officer, sheriff, or other law enforcement official shall make available to the person a
20.30 qualified interpreter to assist the person throughout the interrogation or taking of a statement.

20.31 Sec. 8. Minnesota Statutes 2020, section 629.715, subdivision 2, is amended to read:

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

21.1 dangerous weapons owned or possessed by the person, and may not live in a residence
21.2 where others possess firearms. Any firearm, destructive device, or dangerous weapon
21.3 surrendered under this subdivision shall be inventoried and retained, with due care to preserve
21.4 its quality and function, by the local law enforcement agency, and must be returned to the
21.5 person upon the person's acquittal, when charges are dismissed, or if no charges are filed.
21.6 If the person is convicted, the firearm must be returned when the court orders the return or
21.7 when the person is discharged from probation and restored to civil rights. If the person is
21.8 convicted of a ~~designated~~ an offense as defined in section 609.531, under which the firearm
21.9 is subject to forfeiture, the firearm is subject to forfeiture as provided under that section
21.10 609.112. This condition may be imposed in addition to any other condition authorized by
21.11 rule 6.02 of the Rules of Criminal Procedure.

21.12 Sec. 9. **REVISOR INSTRUCTION.**

21.13 The revisor of statutes shall make changes to statutory cross-references and other
21.14 nonsubstantive changes to statute including grammatical changes necessitated by article 1
21.15 and section 10.

21.16 Sec. 10. **REPEALER.**

21.17 (a) Minnesota Statutes 2020, sections 609.531, subdivisions 1a, 4, 5, 5a, 6a, 7, and 8;
21.18 609.5311, subdivision 1; 609.5312; 609.5313; 609.5315, subdivisions 1, 2, 3, 4, 5a, 5c, and
21.19 7; 609.5316; 609.5318; 609.5319; and 609.762, subdivisions 3, 4, 5, and 6, are repealed.

21.20 (b) Minnesota Statutes 2021 Supplement, sections 609.531, subdivision 1; 609.5311,
21.21 subdivisions 2, 3, and 4; 609.5314; and 609.5315, subdivisions 5, 5b, and 6, are repealed.

21.22 Sec. 11. **EFFECTIVE DATE.**

21.23 This article is effective July 1, 2023.

609.531 FORFEITURES.

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

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

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

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

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

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Department of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Three Rivers Park District Department of Public Safety, 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, or subdivision 1a, clauses (a) to (f) and (i); 609.343, subdivision 1, or subdivision 1a, clauses (a) to (f) and (i); 609.344, subdivision 1, or subdivision 1a, clauses (a) to (e), (h), or (i); 609.345, subdivision 1, or subdivision 1a, clauses (a) to (e), (h), and (i); 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.

(i) "Asserting person" means a person, other than the driver alleged to have used a vehicle in the transportation or exchange of a controlled substance intended for distribution or sale, claiming an ownership interest in a vehicle that has been seized or restrained under this section.

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;

APPENDIX
Repealed Minnesota Statutes: 22-07633

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

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

- (i) the property was used or is intended to be used in commission of a felony; or
- (ii) the property is dangerous to health or safety.

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

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

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

- (1) place the property under seal;
- (2) remove the property to a place designated by it; and
- (3) in the case of controlled substances, require the state Board of Pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

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

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

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

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

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

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

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

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

Subd. 7. **Petition for remission or mitigation.** Prior to the entry of a court order disposing with the forfeiture action, any person who has an interest in forfeited property may file with the prosecuting authority a petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and conditions the prosecuting authority deems reasonable if the prosecuting authority finds that: (1) the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or (2) extenuating circumstances justify the remission or mitigation of the forfeiture.

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

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

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

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

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

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

609.5311 FORFEITURE OF PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.

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

Subd. 2. **Associated property.** (a) All personal property and real property, other than homestead property exempt from seizure under section 510.01, that is an instrument or represents the proceeds of a controlled substance offense 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).

(c) Money is the property of an appropriate agency and may be seized and recovered by the appropriate agency if:

- (1) the money is used by an appropriate agency, or furnished to a person operating on behalf of an appropriate agency, to purchase or attempt to purchase a controlled substance; and

APPENDIX
Repealed Minnesota Statutes: 22-07633

(2) the appropriate agency records the serial number or otherwise marks the money for identification.

As used in this paragraph, "money" means United States currency and coin; the currency and coin of a foreign country; a bank check, cashier's check, or traveler's check; a prepaid credit card; cryptocurrency; or a money order.

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 \$100 or more and the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.

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

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

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

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

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

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

(h) Money is subject to forfeiture under this section only if it has a total value of \$1,500 or more or there is probable cause to believe that the money was exchanged for the purchase of a controlled substance. As used in this paragraph, "money" means United States currency and coin; the currency and coin of a foreign country; a bank check, cashier's check, or traveler's check; a prepaid credit card; cryptocurrency; or a money order.

(i) 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).

(j) Nothing in this subdivision prohibits the seizure, with or without warrant, of any property or thing for the purpose of being produced as evidence on any trial or for any other lawful purpose.

Subd. 4. Records; proceeds. 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.

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).

APPENDIX
Repealed Minnesota Statutes: 22-07633

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.

(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.

APPENDIX
Repealed Minnesota Statutes: 22-07633

(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.

(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.** (a) The following are subject to administrative forfeiture under this section:

(1) all money totaling \$1,500 or more, precious metals, and precious stones that there is probable cause to believe represent the proceeds of a controlled substance offense;

(2) all money found in proximity to controlled substances when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance;

(3) all conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale; and

(4) 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 (3) and (4), for the purposes of forfeiture.

(c) Money is the property of an appropriate agency and may be seized and recovered by the appropriate agency if:

(1) the money is used by an appropriate agency, or furnished to a person operating on behalf of an appropriate agency, to purchase or attempt to purchase a controlled substance; and

(2) the appropriate agency records the serial number or otherwise marks the money for identification.

(d) As used in this section, "money" means United States currency and coin; the currency and coin of a foreign country; a bank check, cashier's check, or traveler's check; a prepaid credit card; cryptocurrency; or a money order.

Subd. 1a. **Innocent owner.** (a) Any person, other than the defendant driver, alleged to have used a vehicle in the transportation or exchange of a controlled substance intended for distribution or sale, claiming an ownership interest in a vehicle that has been seized or restrained under this section may assert that right by notifying the prosecuting authority in writing and within 60 days of the service of the notice of seizure.

(b) Upon receipt of notice pursuant to paragraph (a), the prosecuting authority may release the vehicle to the asserting person. If the prosecuting authority proceeds with the forfeiture, the prosecuting authority must, within 30 days, file a separate complaint in the name of the jurisdiction pursuing the forfeiture against the vehicle, describing the vehicle, specifying that the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale, and specifying the time and place of the vehicle's unlawful use. The complaint may be filed in district court or conciliation court and the filing fee is waived.

(c) A complaint filed by the prosecuting authority must be served on the asserting person and on any other registered owners. Service may be made by certified mail at the address listed in the Department of Public Safety's computerized motor vehicle registration records or by any means permitted by court rules.

(d) The hearing on the complaint shall, to the extent practicable, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the complaint with a hearing on any other complaint involving a claim of an ownership interest in the same vehicle.

APPENDIX
Repealed Minnesota Statutes: 22-07633

(e) At a hearing held pursuant to this subdivision, the state must prove by a preponderance of the evidence that:

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

(2) the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale.

(f) At a hearing held pursuant to this subdivision, the asserting person must prove by a preponderance of the evidence that the asserting person:

(1) has an actual ownership interest in the vehicle; and

(2) did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the asserting person took reasonable steps to prevent use of the vehicle by the alleged offender.

(g) If the court determines that the state met both burdens under paragraph (e) and the asserting person failed to meet any burden under paragraph (f), the court shall order that the vehicle remains subject to forfeiture under this section.

(h) The court shall order that the vehicle is not subject to forfeiture under this section and shall order the vehicle returned to the asserting person if it determines that:

(1) the state failed to meet any burden under paragraph (e);

(2) the asserting person proved both elements under paragraph (f); or

(3) clauses (1) and (2) apply.

(i) If the court determines that the asserting person is an innocent owner and orders the vehicle returned to the innocent owner, an entity in possession of the vehicle is not required to release the vehicle until the innocent owner pays:

(1) the reasonable costs of the towing, seizure, and storage of the vehicle incurred before the innocent owner provided the notice required under paragraph (a); and

(2) any reasonable costs of storage of the vehicle incurred more than two weeks after an order issued under paragraph (h).

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: If you were the person arrested when the property was seized, 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 do not have to pay a filing fee for your lawsuit.

WARNING: If you have an ownership interest in the above-described property and were not the person arrested when the property was seized, you will automatically lose the above-described property and the right to be heard in court if you do not notify the prosecuting authority of your interest in writing within 60 days."

(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. 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. The claimant does not have to pay the 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 may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

609.5315 DISPOSITION OF FORFEITED PROPERTY.

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

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

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

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

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

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

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

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

APPENDIX
Repealed Minnesota Statutes: 22-07633

(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 firearms 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.

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, training, education, crime prevention, equipment, or capital expenses;

(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, training, education, crime prevention, equipment, or capital expenses; 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

APPENDIX
Repealed Minnesota Statutes: 22-07633

(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. 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.

Subd. 5c. Disposition of money; prostitution. Money forfeited under section 609.5312, subdivision 1, paragraph (b), must be distributed as follows:

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

(2) 20 percent must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent must be forwarded to the commissioner of health to be deposited in the safe harbor for youth account in the special revenue fund and is appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

Subd. 6. Reporting requirement. (a) For each forfeiture occurring in the state regardless of the authority for it and including forfeitures pursued under federal law, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include:

(1) the amount forfeited;

(2) the statutory authority for the forfeiture;

(3) the date of the forfeiture;

(4) a brief description of the circumstances involved;

(5) whether the forfeiture was contested;

(6) whether the defendant was convicted pursuant to a plea agreement or a trial;

(7) whether there was a forfeiture settlement agreement;

(8) whether the property was sold, destroyed, or retained by an appropriate agency;

(9) the gross revenue from the disposition of the forfeited property;

(10) an estimate of the total costs to the agency to store the property in an impound lot, evidence room, or other location; pay for the time and expenses of an appropriate agency and prosecuting authority to litigate forfeiture cases; and sell or dispose of the forfeited property;

(11) the net revenue, determined by subtracting the costs identified under clause (10) from the gross revenue identified in clause (9), the appropriate agency received from the disposition of forfeited property;

(12) if any property was retained by an appropriate agency, the purpose for which it is used;

(13) for controlled substance and driving while impaired forfeitures, whether the forfeiture was initiated as an administrative or a judicial forfeiture;

(14) the number of firearms forfeited and the make, model, and serial number of each firearm forfeited; and

APPENDIX
Repealed Minnesota Statutes: 22-07633

(15) 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) Each appropriate agency and prosecuting authority shall provide a written record regarding the proceeds of forfeited property, including proceeds received through forfeiture under state and federal law. The record shall include:

(1) the total amount of money or proceeds from the sale of forfeited property obtained or received by an appropriate agency or prosecuting authority in the previous reporting period;

(2) the manner in which each appropriate agency and prosecuting authority expended money or proceeds from the sale of forfeited property in the previous reporting period, including the total amount expended in the following categories:

(i) drug abuse, crime, and gang prevention programs;

(ii) victim reparations;

(iii) gifts or grants to crime victim service organizations that provide services to sexually exploited youth;

(iv) gifts or grants to crime victim service organizations that provide services to victims of trafficking offenses;

(v) investigation costs, including but not limited to witness protection, informant fees, and controlled buys;

(vi) court costs and attorney fees;

(vii) salaries, overtime, and benefits, as permitted by law;

(viii) professional outside services, including but not limited to auditing, court reporting, expert witness fees, outside attorney fees, and membership fees paid to trade associations;

(ix) travel, meals, and conferences;

(x) training and continuing education;

(xi) other operating expenses, including but not limited to office supplies, postage, and printing;

(xii) capital expenditures, including but not limited to vehicles, firearms, equipment, computers, and furniture;

(xiii) gifts or grants to nonprofit or other programs, indicating the recipient of the gift or grant; and

(xiv) any other expenditure, indicating the type of expenditure and, if applicable, the recipient of any gift or grant;

(3) the total value of seized and forfeited property held by an appropriate agency and not sold or otherwise disposed of; and

(4) a statement from the end of each year showing the balance of any designated forfeiture accounts maintained by an appropriate agency or prosecuting authority.

(d) Reports under paragraphs (a) and (b) shall be made on a quarterly basis in a manner prescribed by the state auditor and reports under paragraph (c) shall be made on an annual 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, including the information provided by each appropriate agency or prosecuting authority under paragraphs (a) to (c). Summary data on seizures, forfeitures, and expenditures of forfeiture proceeds shall be disaggregated by each appropriate agency and prosecuting authority. The report shall be made public on the state auditor's website.

(e) 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.

(f) The prosecuting authority is not required to report information required by paragraph (a) or (b) 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.

609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.

Subdivision 1. **Motor vehicles subject to forfeiture.** (a) If the prosecuting authority establishes by clear and convincing evidence that a motor vehicle was used in a violation of section 609.66, subdivision 1e, the vehicle is subject to forfeiture under this section upon a conviction for the same offense.

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

Subd. 2. **Notice.** (a) The registered owner of the vehicle must be notified of the seizure and intent to forfeit the vehicle within seven days after the seizure. Notice by certified mail to the address shown in Department of Public Safety records is deemed to be sufficient notice to the registered owner.

(b) The notice must be in writing and:

(1) contain a description of the property seized;

(2) contain the date of seizure; and

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

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

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

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

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

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

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

Subd. 4. **Procedure.** (a) If a judicial determination of the forfeiture is requested, a separate complaint must be filed against the vehicle, stating the specific act giving rise to the forfeiture and the date, time, and place of the act. The action must be captioned in the name of the prosecuting authority or the prosecuting authority's designee as plaintiff and the property as defendant.

(b) If a demand for judicial determination of an administrative forfeiture is filed and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, attorney fees, and towing and storage fees. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

Subd. 5. **Limitations.** (a) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner is a consenting party to, or is privy to, the commission of the act giving rise to the forfeiture.

(b) A vehicle is subject to forfeiture under this section only if the registered owner was privy to the act upon which the forfeiture is based, the act occurred with the owner's knowledge or consent, or the act occurred due to the owner's gross negligence in allowing another to use the vehicle.

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

609.5319 FINANCIAL INSTITUTION SECURED INTEREST.

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of this chapter or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND PROCEEDS.

Subd. 3. **Not subject to replevin.** Property taken or detained under subdivision 2 is not subject to a replevin action, but is considered to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings.

Subd. 4. **Procedures.** Property must be forfeited after a conviction for a gambling violation according to the following procedure:

(1) a separate complaint must be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use;

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

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

APPENDIX
Repealed Minnesota Statutes: 22-07633

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.