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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. **31**

06/12/2020 Authored by Lesch
The bill was referred to the Judiciary Finance and Civil Law Division

- 1.1 A bill for an act
- 1.2 relating to forfeiture; limiting vehicles and other property subject to forfeiture;
- 1.3 providing for recovery of property by innocent owners; modifying participation
- 1.4 in the federal equitable sharing program; requiring reports; appropriating money;
- 1.5 amending Minnesota Statutes 2018, sections 169A.63, subdivisions 1, 7, 8, 10, by
- 1.6 adding subdivisions; 609.531, subdivision 1, by adding a subdivision; 609.5311,
- 1.7 subdivisions 2, 3, 4; 609.5314, subdivisions 1, 2, by adding a subdivision; 609.5315,
- 1.8 subdivisions 5, 5b, 6; Minnesota Statutes 2019 Supplement, section 169A.63,
- 1.9 subdivision 13; repealing Minnesota Statutes 2018, section 609.5317.
- 1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.11 Section 1. Minnesota Statutes 2018, section 169A.63, subdivision 1, is amended to read:
- 1.12 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
- 1.13 meanings given them.
- 1.14 (b) "Appropriate agency" means a law enforcement agency that has the authority to
- 1.15 make an arrest for a violation of a designated offense or to require a test under section
- 1.16 169A.51 (chemical tests for intoxication).
- 1.17 (c) "Asserting person" means a person, other than the driver alleged to have committed
- 1.18 a designated offense, claiming an ownership interest in a vehicle that has been seized or
- 1.19 restrained under this section.
- 1.20 ~~(e)~~ (d) "Claimant" means an owner of a motor vehicle or a person claiming a leasehold
- 1.21 or security interest in a motor vehicle.
- 1.22 ~~(d)~~ (e) "Designated license revocation" includes a license revocation under section
- 1.23 169A.52 (license revocation for test failure or refusal) or 171.177 (revocation; search warrant)
- 1.24 or a license disqualification under section 171.165 (commercial driver's license

2.1 disqualification) resulting from a violation of section 169A.52 or 171.177; within ten years
 2.2 of the first of two or more qualified prior impaired driving incidents.

2.3 ~~(e)~~ (f) "Designated offense" includes:

2.4 (1) a violation of section 169A.20 (driving while impaired) under the circumstances
 2.5 described in section 169A.24 (first-degree driving while impaired), ~~or 169A.25~~
 2.6 ~~(second-degree driving while impaired); or~~

2.7 (2) a violation of section 169A.20 or an ordinance in conformity with it: within ten years
 2.8 of the first of two qualified prior impaired driving incidents.

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

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

2.14 ~~(f)~~ (g) "Family or household member" means:

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

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

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

2.21 ~~(g)~~ (h) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken
 2.22 in violation of the law.

2.23 ~~(h)~~ (i) "Owner" means a person legally entitled to possession, use, and control of a motor
 2.24 vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days
 2.25 or more. There is a rebuttable presumption that a person registered as the owner of a motor
 2.26 vehicle according to the records of the Department of Public Safety is the legal owner. For
 2.27 purposes of this section, if a motor vehicle is owned jointly by two or more people, each
 2.28 owner's interest extends to the whole of the vehicle and is not subject to apportionment.

2.29 ~~(i)~~ (j) "Prosecuting authority" means the attorney in the jurisdiction in which the
 2.30 designated offense occurred who is responsible for prosecuting violations of a designated
 2.31 offense or a designee. If a state agency initiated the forfeiture, and the attorney responsible

3.1 for prosecuting the designated offense declines to pursue forfeiture, the Attorney General's
3.2 Office or its designee may initiate forfeiture under this section.

3.3 ~~(j)~~ (k) "Security interest" means a bona fide security interest perfected according to
3.4 section 168A.17, subdivision 2, based on a loan or other financing that, if a vehicle is
3.5 required to be registered under chapter 168, is listed on the vehicle's title.

3.6 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
3.7 that take place on or after that date.

3.8 Sec. 2. Minnesota Statutes 2018, section 169A.63, subdivision 7, is amended to read:

3.9 Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to forfeiture
3.10 under this section if:

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

3.13 ~~(2) the driver fails to appear for a scheduled court appearance with respect to the~~
3.14 ~~designated offense charged and fails to voluntarily surrender within 48 hours after the time~~
3.15 ~~required for appearance; or~~

3.16 ~~(3)~~ (2) the driver's conduct results in a designated license revocation and the driver fails
3.17 to seek judicial review of the revocation in a timely manner as required by section 169A.53,
3.18 subdivision 2, (petition for judicial review), or the license revocation is judicially reviewed
3.19 and sustained under section 169A.53, subdivision 2.

3.20 (b) A vehicle encumbered by a security interest perfected according to section 168A.17,
3.21 subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the
3.22 interest of the secured party or lessor unless the party or lessor had knowledge of or consented
3.23 to the act upon which the forfeiture is based. However, when the proceeds of the sale of a
3.24 seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency
3.25 shall remit all proceeds of the sale to the secured party after deducting the agency's costs
3.26 for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is
3.27 conducted in a commercially reasonable manner consistent with the provisions of section
3.28 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in
3.29 excess of the sale proceeds. The validity and amount of a nonperfected security interest
3.30 must be established by its holder by clear and convincing evidence.

3.31 (c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle is
3.32 not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act
3.33 or omission upon which the forfeiture is based if the secured party or lessor demonstrates

4.1 by clear and convincing evidence that the party or lessor took reasonable steps to terminate
4.2 use of the vehicle by the offender.

4.3 ~~(d) A motor vehicle is not subject to forfeiture under this section if any of its owners
4.4 who petition the court can demonstrate by clear and convincing evidence that the petitioning
4.5 owner did not have actual or constructive knowledge that the vehicle would be used or
4.6 operated in any manner contrary to law or that the petitioning owner took reasonable steps
4.7 to prevent use of the vehicle by the offender. If the offender is a family or household member
4.8 of any of the owners who petition the court and has three or more prior impaired driving
4.9 convictions, the petitioning owner is presumed to know of any vehicle use by the offender
4.10 that is contrary to law. "Vehicle use contrary to law" includes, but is not limited to, violations
4.11 of the following statutes:~~

4.12 ~~(1) section 171.24 (violations; driving without valid license);~~

4.13 ~~(2) section 169.791 (criminal penalty for failure to produce proof of insurance);~~

4.14 ~~(3) section 171.09 (driving restrictions; authority, violations);~~

4.15 ~~(4) section 169A.20 (driving while impaired);~~

4.16 ~~(5) section 169A.33 (underage drinking and driving); and~~

4.17 ~~(6) section 169A.35 (open bottle law).~~

4.18 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
4.19 that take place on or after that date.

4.20 Sec. 3. Minnesota Statutes 2018, section 169A.63, is amended by adding a subdivision to
4.21 read:

4.22 Subd. 7a. **Innocent owner.** (a) An asserting person may bring an innocent owner claim
4.23 by notifying the prosecuting authority in writing and within 60 days of the service of the
4.24 notice of seizure.

4.25 (b) Upon receipt of notice pursuant to paragraph (a), the prosecuting authority may
4.26 release the vehicle to the asserting person. If the prosecuting authority proceeds with the
4.27 forfeiture, the prosecuting authority must, within 30 days, file a separate complaint in the
4.28 name of the jurisdiction pursuing the forfeiture against the vehicle, describing the vehicle,
4.29 specifying that the vehicle was used in the commission of a designated offense or was used
4.30 in conduct resulting in a designated license revocation, and specifying the time and place
4.31 of the vehicle's unlawful use. The complaint may be filed in district court or conciliation
4.32 court and the filing fee is waived.

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

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

5.9 (e) At a hearing held pursuant to this subdivision, the prosecuting authority must:

5.10 (1) prove by a preponderance of the evidence that the seizure was incident to a lawful
5.11 arrest or a lawful search; and

5.12 (2) certify that the prosecuting authority has filed, or intends to file, charges against the
5.13 driver for a designated offense or that the driver has a designated license revocation.

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

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

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

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

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

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

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

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

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

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

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

6.5 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
6.6 that take place on or after that date.

6.7 Sec. 4. Minnesota Statutes 2018, section 169A.63, subdivision 8, is amended to read:

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

6.11 (b) Within 60 days from when a motor vehicle is seized under subdivision 2, or within
6.12 a reasonable time after seizure, the appropriate agency shall serve the driver or operator of
6.13 the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when
6.14 a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all
6.15 persons known to have an ownership, possessory, or security interest in the vehicle must
6.16 be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to
6.17 be registered under chapter 168, the notification to a person known to have a security interest
6.18 in the vehicle is required only if the vehicle is registered under chapter 168 and the interest
6.19 is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting
6.20 authority, a court may extend the time period for sending notice for a period not to exceed
6.21 90 days for good cause shown. Notice mailed by certified mail to the address shown in
6.22 Department of Public Safety records is sufficient notice to the registered owner of the
6.23 vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed
6.24 by certified mail to the address shown in the applicable filing or registration for the vehicle
6.25 is sufficient notice to a person known to have an ownership, possessory, or security interest
6.26 in the vehicle. Otherwise, notice may be given in the manner provided by law for service
6.27 of a summons in a civil action.

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

6.29 (1) a description of the vehicle seized;

6.30 (2) the date of seizure; and

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

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

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

7.8 WARNING: If you have an ownership interest in the vehicle and were not the driver,
 7.9 you will automatically lose the above-described property and the right to be heard in court
 7.10 if you do not notify the prosecuting authority of your interest in writing within 60 days."

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

7.17 (e) Within 60 days following service of a notice of seizure and forfeiture under this
 7.18 subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The
 7.19 demand must be in the form of a civil complaint and must be filed with the court
 7.20 administrator in the county in which the seizure occurred, together with proof of service of
 7.21 a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture,
 7.22 ~~including the standard filing fee for civil actions unless the petitioner has the right to sue~~
 7.23 ~~in forma pauperis under section 563.01.~~ The claimant may serve the complaint by certified
 7.24 mail or any means permitted by court rules. If the value of the seized property is \$15,000
 7.25 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle.
 7.26 A copy of the conciliation court statement of claim must be served personally or by mail
 7.27 on the prosecuting authority having jurisdiction over the forfeiture, ~~as well as on the~~
 7.28 ~~appropriate agency that initiated the forfeiture,~~ within 60 days following service of the
 7.29 notice of seizure and forfeiture under this subdivision. ~~If the value of the seized property is~~
 7.30 ~~less than \$500,~~ The claimant does not have to pay the ~~conciliation~~ court filing fee.

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

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

8.8 (g) If the claimant makes a timely demand for a judicial determination under this
8.9 subdivision, the forfeiture proceedings must be conducted as provided under subdivision
8.10 9.

8.11 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
8.12 that take place on or after that date.

8.13 Sec. 5. Minnesota Statutes 2018, section 169A.63, subdivision 10, is amended to read:

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

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

8.18 (2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for
8.19 official use, it shall make reasonable efforts to ensure that the motor vehicle is available for
8.20 use by the agency's officers who participate in the drug abuse resistance education program.

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

8.24 (1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit
8.25 as a supplement to the state or local agency's operating fund or similar fund for use in
8.26 DWI-related enforcement, training, ~~and~~ education, crime prevention, equipment, or capital
8.27 expenses; and

8.28 (2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority
8.29 that handled the forfeiture for deposit as a supplement to its operating fund or similar fund
8.30 for prosecutorial purposes, training, education, crime prevention, equipment, or capital
8.31 expenses. For purposes of this subdivision, the prosecuting authority shall not include
8.32 privately contracted prosecutors of a local political subdivision and, in those events, the

9.1 forfeiture proceeds shall be forwarded to the political subdivision where the forfeiture was
 9.2 handled for the purposes identified in clause (1).

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

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

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

9.19 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
 9.20 that take place on or after that date.

9.21 Sec. 6. Minnesota Statutes 2019 Supplement, section 169A.63, subdivision 13, is amended
 9.22 to read:

9.23 Subd. 13. **Exception.** (a) A forfeiture proceeding is stayed and the vehicle must be
 9.24 returned if the driver who committed a designated offense or whose conduct resulted in a
 9.25 designated license revocation becomes a program participant in the ignition interlock program
 9.26 under section 171.306 at any time before the motor vehicle is forfeited, the forfeiture
 9.27 proceeding is stayed and the vehicle must be returned and any of the following apply:

9.28 (1) the driver committed a designated offense other than a violation of section 169A.20
 9.29 under the circumstances described in section 169A.24; or

9.30 (2) the driver is accepted into a treatment court dedicated to changing the behavior of
 9.31 alcohol- and other drug-dependent offenders arrested for driving while impaired.

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

10.4 (1) subsequently operates a motor vehicle:

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

10.6 (ii) in a manner that results in a license revocation under section 169A.52 (license
10.7 revocation for test failure or refusal) or 171.177 (revocation; search warrant) or a license
10.8 disqualification under section 171.165 (commercial driver's license disqualification) resulting
10.9 from a violation of section 169A.52 or 171.177;

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

10.11 (iv) without an ignition interlock device at any time when the driver's license requires
10.12 such device; ~~or~~

10.13 (2) either voluntarily or involuntarily ceases to participate in the program for more than
10.14 30 days, or fails to successfully complete it as required by the Department of Public Safety
10.15 due to:

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

10.19 (ii) violating the terms of the contract with the provider as determined by the provider;
10.20 or

10.21 (3) if forfeiture was stayed after the driver entered a treatment court, the driver ceases
10.22 to be a participant in the treatment court for any reason.

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

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

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

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

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

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

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

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

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

11.24 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
 11.25 that take place on or after that date.

11.26 Sec. 7. Minnesota Statutes 2018, section 169A.63, is amended by adding a subdivision to
 11.27 read:

11.28 **Subd. 14. Subsequent unlawful use of seized vehicle; immunity.** An appropriate
 11.29 agency or prosecuting authority, including but not limited to any peace officer as defined
 11.30 in section 626.84, subdivision 1, paragraph (c); prosecutor; or employee of an appropriate
 11.31 agency or prosecuting authority who, in good faith and within the course and scope of the
 11.32 official duties of the person or entity, returns a vehicle seized under this chapter to the owner

12.1 pursuant to this section shall be immune from criminal or civil liability regarding any event
 12.2 arising out of the subsequent unlawful or unauthorized use of the motor vehicle.

12.3 **EFFECTIVE DATE.** This section is effective January 1, 2021.

12.4 Sec. 8. Minnesota Statutes 2018, section 609.531, subdivision 1, is amended to read:

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

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

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

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

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

12.15 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Department
 12.16 of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle Services, the
 12.17 Minnesota State Patrol, a county sheriff's department, the Three Rivers Park District park
 12.18 rangers, the Department of Natural Resources Division of Enforcement, the University of
 12.19 Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit,
 12.20 a city, metropolitan transit, or airport police department; or a multijurisdictional entity
 12.21 established under section 299A.642 or 299A.681.

12.22 (f) "Designated offense" includes:

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

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

12.26 (3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy
 12.27 to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112; 609.2113;
 12.28 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245; 609.25;
 12.29 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343,
 12.30 subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j);
 12.31 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
 12.32 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;

13.1 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
 13.2 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89;
 13.3 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section
 13.4 609.891 or 624.7181; or any violation of section 609.324; or a felony violation of, or a
 13.5 felony-level attempt or conspiracy to violate, Minnesota Statutes 2012, section 609.21.

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

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

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

13.13 **EFFECTIVE DATE.** This section is effective January 1, 2021.

13.14 Sec. 9. Minnesota Statutes 2018, section 609.531, is amended by adding a subdivision to
 13.15 read:

13.16 **Subd. 9. Transfer of forfeitable property to federal government.** The appropriate
 13.17 agency shall not directly or indirectly transfer property subject to forfeiture under sections
 13.18 609.531 to 609.5318 to a federal agency if the transfer would circumvent state law.

13.19 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
 13.20 that take place on or after that date.

13.21 Sec. 10. Minnesota Statutes 2018, section 609.5311, subdivision 2, is amended to read:

13.22 **Subd. 2. Associated property.** (a) All personal property; and real and personal property,
 13.23 other than homestead property exempt from seizure under section 510.01, that has been
 13.24 used, or is intended for use, or has in any way facilitated, in whole or in part, the
 13.25 manufacturing, compounding, processing, delivering, importing, cultivating, exporting,
 13.26 transporting, or exchanging of contraband or a controlled substance that has not been lawfully
 13.27 manufactured, distributed, dispensed, and acquired is an instrument or represents the proceeds
 13.28 of a controlled substance offense is subject to forfeiture under this section, except as provided
 13.29 in subdivision 3.

13.30 (b) The Department of Corrections Fugitive Apprehension Unit shall not seize real
 13.31 property for the purposes of forfeiture under paragraph (a).

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

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

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

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

14.11 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
14.12 that take place on or after that date.

14.13 Sec. 11. Minnesota Statutes 2018, section 609.5311, subdivision 3, is amended to read:

14.14 Subd. 3. **Limitations on forfeiture of certain property associated with controlled**
14.15 **substances.** (a) A conveyance device is subject to forfeiture under this section only if the
14.16 retail value of the controlled substance is ~~\$75~~ \$100 or more and the conveyance device is
14.17 ~~associated with a felony-level controlled substance crime~~ was used in the transportation or
14.18 exchange of a controlled substance intended for distribution or sale.

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

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

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

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

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

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

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

15.16 ~~(h)~~ (i) The Department of Corrections Fugitive Apprehension Unit shall not seize a
15.17 conveyance device or real property, for the purposes of forfeiture under paragraphs (a) to
15.18 (g).

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

15.22 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
15.23 that take place on or after that date.

15.24 Sec. 12. Minnesota Statutes 2018, section 609.5311, subdivision 4, is amended to read:

15.25 Subd. 4. **Records; proceeds.** ~~(a)~~ All books, records, and research products and materials,
15.26 including formulas, microfilm, tapes, and data that are used, or intended for use in the
15.27 manner described in subdivision 2 are subject to forfeiture.

15.28 ~~(b) All property, real and personal, that represents proceeds derived from or traceable~~
15.29 ~~to a use described in subdivision 2 is subject to forfeiture.~~

15.30 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
15.31 that take place on or after that date.

16.1 Sec. 13. Minnesota Statutes 2018, section 609.5314, subdivision 1, is amended to read:

16.2 Subdivision 1. **Property subject to administrative forfeiture; ~~presumption.~~** (a) The
16.3 following are ~~presumed to be~~ subject to administrative forfeiture under this section:

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

16.7 (i) ~~controlled substances;~~

16.8 (ii) ~~forfeitable drug manufacturing or distributing equipment or devices; or~~

16.9 (iii) ~~forfeitable records of manufacture or distribution of controlled substances;~~

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

16.12 ~~(2)~~ (3) all conveyance devices containing controlled substances with a retail value of
16.13 \$100 or more if ~~possession or sale of the controlled substance would be a felony under~~
16.14 ~~chapter 152~~ there is probable cause to believe that the conveyance device was used in the
16.15 transportation or exchange of a controlled substance intended for distribution or sale; and

16.16 ~~(3)~~ (4) all firearms, ammunition, and firearm accessories found:

16.17 (i) in a conveyance device used or intended for use to commit or facilitate the commission
16.18 of a felony offense involving a controlled substance;

16.19 (ii) on or in proximity to a person from whom a felony amount of controlled substance
16.20 is seized; or

16.21 (iii) on the premises where a controlled substance is seized and in proximity to the
16.22 controlled substance, if possession or sale of the controlled substance would be a felony
16.23 under chapter 152.

16.24 (b) The Department of Corrections Fugitive Apprehension Unit shall not seize items
16.25 listed in paragraph (a), clauses ~~(2)~~ (3) and ~~(3)~~ (4), for the purposes of forfeiture.

16.26 (c) ~~a claimant of the property bears the burden to rebut this presumption.~~ Money is the
16.27 property of an appropriate agency and may be seized and recovered by the appropriate
16.28 agency if:

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

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

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

17.6 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
17.7 that take place on or after that date.

17.8 Sec. 14. Minnesota Statutes 2018, section 609.5314, is amended by adding a subdivision
17.9 to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.24 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
18.25 that take place on or after that date.

18.26 Sec. 15. Minnesota Statutes 2018, section 609.5314, subdivision 2, is amended to read:

18.27 Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in
18.28 subdivision 1 that does not exceed \$50,000 in value is governed by this subdivision. Within
18.29 60 days from when seizure occurs, all persons known to have an ownership, possessory, or
18.30 security interest in seized property must be notified of the seizure and the intent to forfeit
18.31 the property. In the case of a motor vehicle required to be registered under chapter 168,

19.1 notice mailed by certified mail to the address shown in Department of Public Safety records
19.2 is deemed sufficient notice to the registered owner. The notification to a person known to
19.3 have a security interest in seized property required under this paragraph applies only to
19.4 motor vehicles required to be registered under chapter 168 and only if the security interest
19.5 is listed on the vehicle's title. Upon motion by the appropriate agency or the prosecuting
19.6 authority, a court may extend the time period for sending notice for a period not to exceed
19.7 90 days for good cause shown.

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

19.10 (1) a description of the property seized;

19.11 (2) the date of seizure; and

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

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

19.16 "WARNING: You will automatically lose the above-described property and the right
19.17 to be heard in court if you do not file a lawsuit and serve the prosecuting authority within
19.18 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or
19.19 less; otherwise, you must file in district court. You ~~may~~ do not have to pay a filing fee for
19.20 your lawsuit ~~if you are unable to afford the fee. You do not have to pay a conciliation court~~
19.21 ~~fee if your property is worth less than \$500.~~

19.22 WARNING: If you have an ownership interest in the vehicle and were not the driver,
19.23 you will automatically lose the above-described property and the right to be heard in court
19.24 if you do not notify the prosecuting authority of your interest in writing within 60 days."

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

19.31 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
19.32 that take place on or after that date.

20.1 Sec. 16. Minnesota Statutes 2018, section 609.5315, subdivision 5, is amended to read:

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

20.5 (1) 70 percent of the money or proceeds must be forwarded to the appropriate agency
20.6 for deposit as a supplement to the agency's operating fund or similar fund for use in law
20.7 enforcement, training, education, crime prevention, equipment, or capital expenses;

20.8 (2) 20 percent of the money or proceeds must be forwarded to the prosecuting authority
20.9 that handled the forfeiture for deposit as a supplement to its operating fund or similar fund
20.10 for prosecutorial purposes, training, education, crime prevention, equipment, or capital
20.11 expenses; and

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

20.18 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
20.19 that take place on or after that date.

20.20 Sec. 17. Minnesota Statutes 2018, section 609.5315, subdivision 5b, is amended to read:

20.21 Subd. 5b. **Disposition of certain forfeited proceeds; trafficking of persons; ~~report~~**
20.22 **required.** (a) Except as provided in subdivision 5c, for forfeitures resulting from violations
20.23 of section 609.282, 609.283, or 609.322, the money or proceeds from the sale of forfeited
20.24 property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction
20.25 of valid liens against the property, must be distributed as follows:

20.26 (1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit
20.27 as a supplement to the agency's operating fund or similar fund for use in law enforcement;

20.28 (2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled
20.29 the forfeiture for deposit as a supplement to its operating fund or similar fund for
20.30 prosecutorial purposes; and

21.1 (3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of
 21.2 health and are appropriated to the commissioner for distribution to crime victims services
 21.3 organizations that provide services to victims of trafficking offenses.

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

21.9 ~~(1) the amount of money appropriated to the commissioner;~~

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

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

21.12 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
 21.13 that take place on or after that date.

21.14 Sec. 18. Minnesota Statutes 2018, section 609.5315, subdivision 6, is amended to read:

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

21.19 (1) the amount forfeited;

21.20 (2) the statutory authority for the forfeiture;

21.21 (3) the date of the forfeiture;

21.22 (4) a brief description of the circumstances involved;

21.23 (5) whether the forfeiture was contested;

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

21.25 (7) whether there was a forfeiture settlement agreement;

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

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

21.28 (10) an estimate of the total costs to the agency to store the property in an impound lot,
 21.29 evidence room, or other location; pay for the time and expenses of an appropriate agency

22.1 and prosecuting authority to litigate forfeiture cases; and sell or dispose of the forfeited
22.2 property;

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

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

22.8 (13) for controlled substance and driving while impaired forfeitures, the record shall
22.9 indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture.
22.10 The record shall also list;

22.11 (14) the number of firearms forfeited and the make, model, and serial number of each
22.12 firearm forfeited. The record shall indicate; and

22.13 (15) how the property was or is to be disposed of.

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

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

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

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

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

22.27 (ii) victim reparations;

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

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

- 23.1 (v) investigation costs, including but not limited to witness protection, informant fees,
 23.2 and controlled buys;
- 23.3 (vi) court costs and attorney fees;
- 23.4 (vii) salaries, overtime, and benefits, as permitted by law;
- 23.5 (viii) professional outside services, including but not limited to auditing, court reporting,
 23.6 expert witness fees, outside attorney fees, and membership fees paid to trade associations;
- 23.7 (ix) travel, meals, and conferences;
- 23.8 (x) training and continuing education;
- 23.9 (xi) other operating expenses, including but not limited to office supplies, postage, and
 23.10 printing;
- 23.11 (xii) capital expenditures, including but not limited to vehicles, firearms, equipment,
 23.12 computers, and furniture;
- 23.13 (xiii) gifts or grants to nonprofit or other programs, indicating the recipient of the gift
 23.14 or grant; and
- 23.15 (xiv) any other expenditure, indicating the type of expenditure and, if applicable, the
 23.16 recipient of any gift or grant;
- 23.17 (3) the total value of seized and forfeited property held by an appropriate agency and
 23.18 not sold or otherwise disposed of; and
- 23.19 (4) a statement from the end of each year showing the balance of any designated forfeiture
 23.20 accounts maintained by an appropriate agency or prosecuting authority.
- 23.21 ~~(e)~~ (d) Reports under paragraphs (a) and (b) shall be made on a ~~monthly~~ quarterly basis
 23.22 in a manner prescribed by the state auditor. Reports under paragraph (c) shall be made on
 23.23 an annual basis in a manner prescribed by the state auditor. The state auditor shall report
 23.24 annually to the legislature on the nature and extent of forfeitures-, including the information
 23.25 provided by each appropriate agency or prosecuting authority under paragraphs (a) to (c).
 23.26 Summary data on seizures, forfeitures, and expenditures of forfeiture proceeds shall be
 23.27 disaggregated by each appropriate agency and prosecuting authority. The report shall be
 23.28 made public on the state auditor's website.
- 23.29 ~~(d)~~ (e) For forfeitures resulting from the activities of multijurisdictional law enforcement
 23.30 entities, the entity on its own behalf shall report the information required in this subdivision.

24.1 ~~(e)~~ (f) The prosecuting authority is not required to report information required by ~~this~~
 24.2 ~~subdivision~~ paragraph (a) or (b) unless the prosecuting authority has been notified by the
 24.3 state auditor that the appropriate agency has not reported it.

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

24.9 **EFFECTIVE DATE.** This section is effective January 1, 2021, and applies to seizures
 24.10 that take place on or after that date.

24.11 Sec. 19. **RECIDIVISM STUDY.**

24.12 The legislative auditor shall conduct or contract with an independent third-party vendor
 24.13 to conduct a comprehensive program audit on the efficacy of forfeiture and the use of ignition
 24.14 interlock in cases involving an alleged violation of Minnesota Statutes, section 169A.20.
 24.15 The audit shall assess the financial impact of the programs, the efficacy in reducing
 24.16 recidivism, and the impacts, if any, on public safety. The audit shall be conducted in
 24.17 accordance with generally accepted government auditing standards issued by the United
 24.18 States Government Accountability Office. The legislative auditor shall complete the audit
 24.19 no later than August 1, 2023, and shall report the results of the audit to the chairs and ranking
 24.20 minority members of the legislative committees and divisions with jurisdiction over public
 24.21 safety by January 15, 2024.

24.22 **EFFECTIVE DATE.** This section is effective January 1, 2021.

24.23 Sec. 20. **APPROPRIATION; STATE AUDITOR.**

24.24 \$61,000 in fiscal year 2021 is appropriated from the general fund to the state auditor for
 24.25 the audit, data collection, and reporting requirements in section 18. The base for this activity
 24.26 is \$209,000 in fiscal year 2022 and each year thereafter.

24.27 Sec. 21. **REPEALER.**

24.28 Minnesota Statutes 2018, section 609.5317, is repealed.

24.29 **EFFECTIVE DATE.** This section is effective January 1, 2021.

609.5317 REAL PROPERTY; SEIZURES.

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

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

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the prosecuting authority as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the prosecuting authority requests an assignment and the landlord makes an assignment, the prosecuting authority may bring an eviction action rather than an action for forfeiture.

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

Subd. 2. **Additional remedies.** Nothing in subdivision 1 prevents the prosecuting authority from proceeding under section 609.5311 whenever that section applies.

Subd. 3. **Defenses.** It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the prosecuting authority the right to bring an eviction action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. **Limitations.** This section shall not apply if the retail value of the controlled substance is less than \$100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) \$1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.