

**Subject** Judiciary Omnibus Bill

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## Overview

The Judiciary omnibus bill provides funding for the courts, civil legal services, Guardian ad Litem Board, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, and Human Rights Department. The bill establishes a new judicial unit, makes changes to laws involving access to courts, makes changes in laws relating to victims and criminal defendants, contains provisions affecting the Department of Human Rights, makes certain changes in civil laws, contains provisions related to data practices, and amends Minnesota's forfeiture system.

## Article 1: Appropriations

This article provides funding for the courts, civil legal services, Guardian ad Litem Board, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, and Human Rights Department. The article further provides supplemental funding for the Office of the State Auditor and the Department of Public Safety.

### Section Description – Article 1: Appropriations

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- 1 Appropriations.**  
Summarizes direct appropriations by fund.
- 2 Supreme court.**
  - Subd. 1. Total appropriation.** Appropriates a total of \$62,240,000 in FY22 and \$62,800,000 in FY23 to the supreme court.
  - Subd. 2. Supreme court operations.** Appropriates \$45,312,000 in FY22 and \$44,602,000 in FY23 for supreme court operations.

**Section Description – Article 1: Appropriations**

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**(a) Contingent account.** Specifies that \$5,000 each year is for a contingent account for which no other reimbursement is provided.

**(b) Insurance cost increases.** Specifies that \$306,000 in FY22 and \$661,000 in FY23 are for increases in insurance costs.

**(c) Employee compensation.** Specifies that \$1,084,000 in FY23 is for increased compensation of three percent for employees other than judges.

**(d) Minnesota Court Record Online application.** Specifies that \$741,000 in FY22 is to fund critical improvements to the Minnesota Court Record Online application. This is a onetime appropriation.

**(e) Cybersecurity program.** Specifies that \$375,000 in FY22 is to fund improvements to the judiciary branch cybersecurity program. This is a onetime appropriation.

**(f) Courthouse safety.** Specifies that \$1,000,000 in FY22 is for a competitive grant program to provide or maintain courthouse safety. Recipients must provide a 50 percent nonstate match. This is a onetime appropriation, but funds are available until June 30, 2024.

**(g) Interpreter compensation.** Provides that \$400,000 in FY22 and FY23 are to increase hourly fees paid to qualified certified and uncertified interpreters.

**Subd. 3. Civil legal services.** Appropriates \$16,928,000 in FY22 and \$18,198,000 in FY23 to civil legal services to provide legal representation to low-income clients. \$1,017,000 in FY22 and FY23 is to improve access in family law matters. The base appropriation for civil legal services is \$18,387,000 in FY24 and beyond.

**3 Court of appeals.**

Appropriates \$13,234,000 in FY22 and \$13,495,000 in FY23 for the court of appeals.

**(a) Insurance cost increases.** Specifies that \$71,000 in FY22 and \$155,000 in FY23 are for increases in insurance costs.

**(b) Employee compensation.** Specifies that \$1,084,000 in FY23 is for increased compensation of three percent for employees other than judges.

**4 District courts.**

Appropriates \$319,627,000 in FY22 and \$327,816,000 in FY23 for trial courts.

**(a) Insurance cost increases.** Specifies that \$2,425,000 in FY22 and \$5,232,000 in FY23 are for increases in insurance costs.

**Section Description – Article 1: Appropriations**

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**(b) Employee compensation.** Specifies that \$5,382,000 in FY23 is for increased compensation of three percent for employees other than judges.

**5 Guardian ad Litem Board.**

Appropriates \$22,206,000 in FY22 and \$22,889,000 in FY23 to the Guardian ad Litem Board.

**6 Tax Court.**

Appropriates \$1,827,000 in FY22 and \$22,889,000 in FY23 to the Tax Court.

**7 Uniform Laws Commission.**

Appropriates \$100,000 in FY22 and \$100,000 in FY23 to the Uniform Laws Commission.

**8 Board on Judicial Standards.**

Appropriates \$580,000 in FY22 and \$586,000 in FY23 to the Board on Judicial Standards. Provides that \$125,000 each year is for special investigative and hearing costs.

**9 Board of Public Defense.**

Appropriates \$109,770,000 in FY22 and \$112,468,000 in FY23 to the Board of Public Defense.

**(a) Public defense corporations.** Specifies that \$74,000 in FY22 and \$152,000 in FY23 are for public defense corporations.

**(b) Postconviction relief petitions.** Specifies that \$187,000 in FY22 is for contract attorneys to represent individuals who file postconviction relief petitions.

**10 Human rights.**

Appropriates \$5,668,000 in FY22 and \$5,768,000 in FY23 to the Department of Human Rights. \$345,000 in FY22 and \$350,000 in FY23 is for improving caseload processing, costs associated with prohibiting rental discrimination, and staff and administrative costs necessary to collect and report on crimes of bias.

**11 Office of the State Auditor.**

Appropriates \$64,000 in FY22 and \$30,000 in FY23 for costs associated with forfeiture reporting.

**Section Description – Article 1: Appropriations**

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**12 Department of Public Safety.**

Appropriates \$24,000 in FY22 for technological upgrades required for generating forfeiture notices and property receipts.

**Article 2: Access to Courts; Distribution of Fees; Deadlines**

This article contains provisions creating a new judge unit, addressing access to court, providing for the distribution of certain fees and fines, and amending deadlines to take certain actions.

**Section Description – Article 2: Access to Courts; Distribution of Fees; Deadlines**

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**1 Description.**

Adds an additional judge unit in the Fifth Judicial District which includes the counties of Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson. The addition brings the total number of judges to 17.

**2 Appointment of counsel.**

Requires the court to appoint counsel to represent each parent, guardian, or custodian who desires counsel and is financially eligible for counsel prior to the first hearing and at all stages, for all child protection proceedings where a child risks removal from the care of a parent, guardian, or custodian. This includes:

- a child in need of protection or services (CHIPS) petition;
- an action pursuing removal from the child’s home;
- a termination of parental rights petition; and
- a petition for out-of-home placement.

Removes reference to qualifications for court-appointed counsel retained by counties, and removes paragraph (i) of the section, specifying qualifications for counsel retained by the counties to represent parents, guardians, and custodians. Makes this section effective July 1, 2022, except that the removal of paragraph (i) is effective the day following final enactment.

**3 Transmittal of fees to commissioner of management and budget.**

Provides that a federally recognized American Indian tribe, and their attorney, can appear and file documents without paying a filing fee if the case they are participating in is for child support, paternity, civil commitment, public guardianship or conservatorship, or juvenile court or child protection matters.

**Section Description – Article 2: Access to Courts; Distribution of Fees; Deadlines**

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- 4 Counties.**  
Modifies the process for allocating county program aid, to reflect the change in the structure for providing and paying for public defender services, as detailed in the sections of the bill that follow.
- 5 Disposition of fines, fees, and other money; accounts; Ramsey County district court.**  
Amends the distribution of fines, penalties, and forfeiture collected by the court administrator by providing that, as of July 1, 2022, every municipality or subdivision of government within Ramsey County shall receive two-thirds of money with the balance going to the general fund.
- 6 Time limit.**  
Establishes an exception to the two-year limitations period on filing a petition for postconviction relief for a person in immigration removal proceedings when the proceedings are the result of a conviction that was obtained by relying on incorrect advice or absent advice from counsel on immigration consequences.
- 7 Services other than counsel.**  
Provides that court-appointed counsel may file an application with the district court to pay for interpreters used in meetings that take place outside of court and are necessary to prepare an adequate defense.
- 8 Request for other appointment of counsel.**  
Provides that the chief district public defender may request that the state public defender appoint counsel in a case where the chief district public defender does not believe that the office can provide adequate representation. Under current law, the state public defender must request that the chief judge of the district court appoint counsel.
- 9 Addition of permanent staff.**  
Prohibits the state public defender from approving the addition of permanent staff outside of the appropriations made to the Board of Public Defense. Under current law, this prohibition applies to appointment by the chief judge of a district court.
- 10 Appointment of counsel.**  
Establishes that, if the state public defender determines that the district public defender cannot provide adequate services, the state public defender may approve the appointment of other counsel. Removes the responsibility of the district court to appoint counsel and also strikes related references to decisions made by the district court and the right to appeal those decisions.

**Section Description – Article 2: Access to Courts; Distribution of Fees; Deadlines**

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**11 Correctional facility inmates.**

Makes conforming changes consistent with permitting the state public defender, not the district courts, to appoint counsel in a case where the chief district public defender does not believe that the office can provide adequate representation.

**12 Costs of transcripts.**

Eliminates the requirement that the state public defender forward billings for transcripts and other necessary expenses to the commissioner of management and budget in appeal cases and postconviction cases where the appellate public defender's office does not have sufficient funds to pay because it has spent or committed all of the funds allocated for that purpose in its annual budget.

### **Article 3: Victims; Criminal Defendants**

This article contains provisions related to the Safe at Home program, the surcharge imposed on criminal and traffic convictions, certification that certain individuals were a victim of crime, and requirements when prosecutors use jailhouse witnesses.

**Section Description – Article 3: Victims; Criminal Defendants**

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**1 Definitions.**

Clarifies the definition of “mail” in the Safe at Home program to establish that the definition does not include packages and parcels unless they are clearly identifiable as nonrefrigerated pharmaceuticals or indicate that they were sent by a government entity.

**2 Use of designated address.**

Clarifies that a participant in the Safe at Home program may present an address designated by the secretary of state to a person or entity.

**3 Display by landlord.**

Clarifies that a landlord may not display the name of a participant in the Safe at Home program at the address where the participant resides.

**4 Notice of surcharge.**

Requires the uniform traffic ticket to notify recipients that they may be required to pay a surcharge. This section is effective August 1, 2022, and directs that changes to the uniform traffic ticket must be reflected on the ticket the next time it is revised.

**Section Description – Article 3: Victims; Criminal Defendants**

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**5 Financial hardship.**

Contains the language required to be printed on the uniform traffic ticket informing recipients that the cost of the summons may be waived on a showing of financial hardship. This section is effective August 1, 2022, and directs that changes to the uniform traffic ticket must be reflected on the ticket the next time it is revised.

**6 Surcharges on criminal and traffic offenders.**

Allows courts to reduce or waive the surcharge imposed on criminal and traffic offenders based on their ability to pay. Courts may also impose community work service in lieu of the surcharge. This section is effective July 1, 2022.

**7 Waiver prohibited; reduction and installment payments.**

Requires the court to consider a defendant's ability to pay, including the hardship payment would place on the person's immediate family, before imposing a fine, fee, or surcharge. The bill includes six factors a court must consider to determine a defendant's ability to pay. The requirement does not apply to a violation listed on the statewide payables list if the person does not request a hearing. This section is effective July 1, 2022.

**8 Certifications for victims of crimes.**

Requires law enforcement agencies to timely process a specific immigration-related request from victims of certain crimes who are foreign nationals. These victims are required to provide a certificate from law enforcement identifying them as crime victims to federal immigration authorities to support their request to remain in the United States under a U-visa. A U-visa is intended to protect crime victims and to ensure that foreign national crime victims are available to assist in the prosecution of those accused of the crimes.

**9 Jailhouse witnesses.**

**Subd. 1. Definitions.** Defines the terms "benefit" and "jailhouse witness."

**Subd. 2. Use of and benefits provided to jailhouse witnesses; data collection.**

Requires county attorneys to collect and report data to the attorney general regarding the use of jailhouse witnesses and the nature of any cooperation agreements. Provides that data collected and maintained by the attorney general is confidential data on individuals.

**Subd. 3. Report on jailhouse witnesses.** Directs the attorney general to report summary data identifying the total number of jailhouse witnesses reported to the attorney general, including the number of witnesses reported by each county.

**Section Description – Article 3: Victims; Criminal Defendants**

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**Subd. 4. Disclosure of information regarding jailhouse witnesses.** Requires prosecutors, in addition to the disclosures required by court rule, to disclose specific information about any jailhouse witness including any cooperation agreements; the nature of any statements, including recantations, made by the jailhouse witness; and whether the jailhouse witness has testified or offered to testify in other cases. Requires the prosecutor to update the disclosures based on new information. Consistent with current court rule, permits the prosecutor to file a written certificate to limit disclosures if the disclosure would subject the witness or others to physical harm or coercion.

**Subd. 5. Victim notification.** Requires prosecutors to notify any victim of a crime if a defendant receives a reduction or dismissal of charges, plea bargain, change in bail, or change in sentence in exchange for the defendant’s agreement to testify in another case. Requires the notification to include information about orders for protection and harassment restraining orders if the victim was the victim of domestic assault, criminal sexual conduct, or harassment or stalking. Provides that the notice to victims required under this section is in addition to notice required under other sections of law.

## **Article 4: Human Rights**

This article amends various sections of the Minnesota Human Rights Act, as well as laws related to the collection of data collected by the Department of Human Rights and discrimination in access to organ transplants.

**Section Description – Article 4: Human Rights**

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- 1 Certificates of compliance.**  
Adds a new section to the Minnesota government data practices act creating a cross reference in statute and indicating that access to data on certificates of compliance are governed by the existing rules in data in the Minnesota human rights act.
  
- 2 Nondiscrimination in access to transplants.**  
Prohibits a health plan providing coverage for anatomical gifts and organ transplants from denying eligibility or overage for a covered person’s disability, or penalizing or dropping their coverage because of the person’s disability. This section also allows collective bargaining agreements to be updated to conform to this section.

**Section Description – Article 4: Human Rights**

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- 3 Freedom from discrimination.**  
Adds the protected class ‘familial status’ to the public policy statement in the Minnesota Human Rights Act (MHRA).
- 4 Formulation of policies.**  
Directs the commissioner to solicit, receive, and compile reports from community organizations, schools, and individuals regarding crimes that members of the community believe are motivated by bias.
- 5 Reasonable accommodation.**  
This section updates the language used in the section of the Minnesota Human Rights Act that requires an employer to make a reasonable accommodation for a job applicant or employee, when the individual has a disability. This section adds that an employer may engage in an informal discussion to identify the limitations due to the disability and what reasonable accommodation would help with those limitations.
- 6 Inquiries into pay history prohibited.**  
This section prevents employers, including labor unions and employment agencies, from requesting a job applicant’s pay history. This provision does not prevent a job applicant from volunteering their past pay if the employer does not prompt them or require them to provide it.  
  
The use of the job applicant or prospective employees pay history to determine their pay or benefits creates a rebuttable presumption that the employer has committed an unfair discrimination in violation of the Minnesota Human Rights Act, section 363A.08. This provision does not prohibit an employer from providing a job applicant with wage and benefit information for a position or discussing pay expectations with an applicant.  
  
This section does not apply to existing collective bargaining agreements, but applies to new agreements executed after January 1, 2022.
- 7 Real property interests; action by owner, lessee, and others.**  
Prohibits discrimination in housing, including a home purchase or residential rental, against an individual who is receiving public assistance.
- 8 Real property interest; action by brokers, agents, and others.**  
Prohibits discrimination in housing by a real estate broker, salesperson, or agent against an individual who is receiving public assistance.

**Section Description – Article 4: Human Rights**

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- 9        **Definition; public assistance program.**  
Provides a definition for the term “public assistance program” in the Minnesota Human Rights Act.
- 10       **Actions.**  
Clarifies that a person can file a charge with the Department of Human Rights about discrimination online.
- 11       **Charging process.**  
Allows a person bringing a discrimination claim to request reconsideration on a determination that no discrimination was found within 30 days after the determination is issued. The current statute requires a request for reconsideration to be made within ten days of receiving the notice. This section also allows the respondent 30 days to request a reconsideration if the Department of Human Rights finds probable cause that discrimination has occurred.  
  
This section also allows notices to be sent electronically when the parties have agreed to receive notice electronically.
- 12       **Rescission of waiver.**  
Clarifies that a person can file a charge with the Department of Human Rights about discrimination online.
- 13       **Summons and complaints in a civil action.**  
Allows notice of a case filing to be provided electronically to the Department of Human Rights when a case is brought in court while an administrative action is pending.
- 14       **Scope of application.**  
Updates the requirements and applications of certificates of compliance for public contracts, clarifying application to the Metropolitan Council and updating language related to the application of affirmative action plans, and removes obsolete language.  
  
This section would be effective June 1, 2021, and would apply prospectively to contracts enter into after that date.
- 15       **Filing fee.**  
Increases the filing fee for certificates of compliance from \$150 to \$250.

**Section Description – Article 4: Human Rights**

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**16 Violations; remedies.**

Allows the commissioner to impose a fine for violations, and allows the commissioner to suspend or revoke a certificate of compliance when fines are not paid, or if the certificate holder has not complied with the statute. This section is effective on July 1, 2021.

**17 Revocation of contract.**

Makes conforming changes.

**18 Access to data. (Certificates of Compliance)**

Provides that data related to certificates of compliance submitted by businesses is classified as private data on individuals or nonpublic data when the data does not relate to department employees. The bill provides, however, that the commissioner's decisions on issuing, revoking, suspending, or penalizing a certificate holder is public data, and that application forms for a certificate are public data. This section also authorizes the commissioner to share private or nonpublic data with other government entities for compliance purposes.

**19 Application.**

Increases the filing fee for an equal pay certificate from \$150 to \$250.

**20 Violations; remedies.**

Allows the commissioner to issue a fine for lack of compliance, or suspend or revoke an equal pay certificate until all fines have been paid. This section is effective July 1, 2021.

**21 Access to data. (Equal Pay Certificates)**

Provides that data related to equal pay certificates submitted by businesses is classified as private data on individuals or nonpublic data when the data does not relate to department employees. The bill provides, however, that the commissioner's decisions on issuing, revoking, suspending, or penalizing individuals or business related to equal pay certificates are public data, and that application forms for a certificate are public data. This section also authorizes the commissioner to share private or nonpublic data with other government entities for compliance purposes.

**22 Nondiscrimination in access to transplants (Human Rights Act).**

Prohibits discrimination by a health care provider or anatomical gift donor matching organization from discriminating based on a person's mental or physical disability in accessing the list for a transplant, providing the transplant, or providing insurance for the transplant. This section provides that the enforcement remedies available in the

**Section Description – Article 4: Human Rights**

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Minnesota Human Rights Act are available for discrimination that occurs under this section.

**Article 5: Civil Law**

This article contains provisions that allow public notaries who are licensed in Minnesota to register to perform marriages. Currently in Minnesota judges and ordained ministers and religious officiants can perform marriages in Minnesota. This article also makes two temporary provisions passed during the COVID-19 pandemic permanent to allow marriage license applications to occur virtually and to allow the harmless error rule to apply in the probate of a will in Minnesota, and extends a temporary provision related to the filing of mortgage or deed of trusts related to public utilities through June 30, 2022.

**Section Description – Article 5: Civil Law**

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- 1 Notaries public.**  
Allows a notary to charge a larger fee than allowed to notarize a document to perform a wedding, which is capped at \$5 to perform notary services otherwise.
- 2 Powers.**  
Provides that notaries have the power to perform a civil marriage, along with the other powers notaries are granted when they have a valid notary commission.
- 3 Civil marriage officiant.**  
Authorizes a notary to solemnize a marriage if they have registered their notary commission with the local registrar in a county and fulfills the technical filing requirements which mirror the requirements for a religious officiant.
- 4 Persons authorized to perform civil marriages.**  
Adds notaries to the list of individuals able to perform a civil marriage.
- 5 Term of license; fee; premarital education.**  
Replaces the existing law allowing one party to a marriage to apply in person for another party to provide a notarized statement attesting to the application and proof of age, with a provision that would allow the parties to do the oath virtually, and to accept electronic filings of the marriage license application.

The new provisions are retroactive to January 1, 2021, and would apply to the applications and oaths that occurred on or after that date. Separate laws in 2020 and

**Section Description – Article 5: Civil Law**

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2021 provided this service to occur virtually on a temporary basis. (See Laws 2020, ch. 74, art. 1, § 18; and Laws 2021, ch. 1, § 1)

**6 Harmless error.**

Amends the temporary harmless error rule that was passed in 2020, so that it no longer expires on February 15, 2021, making it a permanent part of the probate code. This provision would be retroactive to March 13, 2020, and apply to writings that occurred on or after that date since the previously passed law would have been in place and allowed writings on or after that date to have this rule apply.

The harmless error rule allows a court to consider evidence in a probate matter about whether or not all the formalities of a will have been met. The court may determine by clear and convincing evidence that the person making the document, such as a will or the revocation of the will, did intend for the document to be valid even if all the formal requirements for executing a will have not been met.

A number of states have adopted the rule in whole or part, including: California, Colorado, Hawaii, Michigan, Montana, New Jersey, South Dakota, Utah, and Virginia.

**7 Filing of mortgage or deed trust.**

This section extends a temporary provision passed in 2020 related to filings under section 336B.02, security interests for a utility or taconite company, to June 30, 2022. The previous session law expired on December 31, 2021, and this section is retroactive to include filings made prior to passage of this bill.

## **Article 6: Government Data Practices**

This article contains sections related to the Government Data Practices Act.

**Section Description – Article 6: Government Data Practices**

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**1 Legislative Commission on Data Practices.**

Reestablishes the Legislative Commission on Data Practices and Personal Data Privacy, which was first established in 2014, but expired in 2019. Section 16 of this article provides for initial appointments.

**2 Safe at Home program: definitions.**

Amends the definitions of “location data” and “real property records.”

**Section Description – Article 6: Government Data Practices**

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- 3 Safe at Home program: notification of certification.**  
Amends the provisions regarding how a program participant shall notify a government entity of the participant’s protected status in the program. Among other changes, adds a requirement that the participant’s notice list the participant’s date of birth.
- 4 Safe at Home program: classification of identity and location data; amendment of records; sharing and dissemination.**  
Makes technical changes regarding the classification of data and data sharing provisions. Permits a government entity to amend official records to protect a participant’s address or other “location data.”
- 5 Safe at Home program: real property records.**  
Makes conforming changes to reflect the expanded definition of “real property records” in section 2 of this article. Permits sharing of participant’s identity to another government entity in conjunction with real property records for purposes of administering assessment and taxation laws. Requires the secretary of state’s office to be notified when there is a change regarding the protected status of a participant’s property records.
- 6 Private data; when disclosure is permitted.**  
Allows private educational data to be disclosed to tribal nations about tribally-enrolled or descendant students. The provision in this bill is also contained in H.F. 950, which is the governor’s education policy bill.
- 7 Attorney general data coded elsewhere.**  
Makes a conforming reference in chapter 13 to data collected and maintained by the attorney general regarding jailhouse witnesses under article 3, section 9, of the bill.
- 8 Data on individuals who are minors.**  
Creates a cross-reference within the Government Data Practices Act for the new statute created by section 7 of the bill.
- 9 Mental health care data.**  
**(a)** States the mental health data received from the welfare system are classified by section 13.46, subdivision 7. That section classifies mental health data as private. Paragraph (c) of that subdivision also limits the welfare system’s ability to share data with law enforcement to emergency situations, and states that law enforcement may only use the disclosed data to respond to that emergency situation.

**Section Description – Article 6: Government Data Practices**

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**(b)** States that mental health records received from a health care provider are classified by section 144.294 of the Health Records Act (HRA). Subdivision 2 of this HRA section concerns provider disclosures of mental health records to law enforcement. This subdivision classifies as private the mental health records received by law enforcement. It also contains the same sharing and use limitations that exist for the welfare system.

**(c)** States that health records received from a health care provider are governed by section 144.293 of the HRA. This section of the HRA concerns all kinds of “health records,” which does include mental health records though mental health records also have the unique provisions discussed in the explanation of paragraph (b). Section 144.293, subdivision 2, of the HRA prohibits a person who receives health records from a provider from releasing the records without patient consent or specific authorization in law.

**(d)** Classifies as private the enumerated mental health data that a law enforcement agency may create or collect on its own.

**(e)** Authorizes a law enforcement agency to share the addressed in paragraph (d) with the welfare system to coordinate services on behalf of the data subject.

**(f)** Clarifies that nothing in this section alters the classifications already provided in section 13.82 for: data regarding citations or arrests; data regarding public requests for law enforcement services; or data regarding active or inactive criminal investigations.

**10 Biennial audit.**

Corrects a typo in the automated license plate reader statute.

**11 Biennial audit.**

In the police body camera statute, adds a requirement that biennial audit reports also be sent to the relevant legislative committees.

**12 Public data.**

In the statute concerning data maintained by the ombudsperson for corrections, clarifies that the enumerated categories of data are public only for closed cases.

**13 Data on individuals who are minors.**

Classifies as private the enumerated kinds of data that the DNR collects, creates, receives, maintains, or disseminates about known minors. Creates an exception for

**Section Description – Article 6: Government Data Practices**

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data that would be classified as public because the minor is employed by the DNR. Specifies that data on a minor remains private even after the individual turns 18.

**14 Certified birth or death record.**

Makes the following changes related to who may obtain an individual’s certified birth or death record:

- removes a requirement that an individual requesting a certified record has a tangible interest in the record and defining tangible interest, and instead just lists individuals who may obtain a certified record;
- removes from the list of individuals who may obtain a certified record, the party responsible for filing the record (persons responsible for filing vital records include hospitals or other facilities where births occur; a physician, family member, or other person present at a birth for births outside a facility; and persons in charge of disposition of dead human bodies. With this change, these individuals will no longer be able to obtain certified birth or death records unless eligible under another provision of this subdivision); and
- provides that for an attorney to obtain a certified record, the attorney must represent the subject of the record or another individual otherwise authorized in clause (1) to obtain a certified record. (Under current law any attorney may obtain a certified record.)

**15 Certification for victims of crimes.**

Requires law enforcement agencies to timely process a specific immigration-related request from victims of certain crimes who are foreign nationals. These victims are required to provide a certificate from law enforcement identifying them as crime victims to federal immigration authorities to support their request to remain in the United States under a U-visa. A U-visa is intended to protect crime victims and to ensure that foreign national crime victims are available to assist in the prosecution of those accused of the crimes.

**16 Initial appointments and meetings.**

Related to the reestablishment of the Legislative Commission on Data Practices and Personal Data Privacy from section 1 of this article. Sets deadlines for initial appointments and the first meeting of the commission.

## **Article 7: Forfeiture**

This article revises Minnesota’s forfeiture system for property seized in relation to criminal activity.

**Section Description – Article 7: Forfeiture**

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**1 Definitions.**

Defines “asserting person” as a person, other than the driver, asserting an ownership interest in a vehicle that has been seized or restrained under the law governing forfeiture of certain vehicles following a DWI violation. Amends the definition of “designated offense” to include only a first-degree DWI or a third or subsequent DWI offense within ten years.

**2 Limitations on vehicle forfeiture.**

Strikes the paragraph making a vehicle subject to forfeiture if the driver fails to appear for a scheduled court appearance with respect to a designated offense and fails to voluntarily surrender within 48 hours of that required appearance. Strikes the existing provisions related to innocent owners which are replaced by section 3 of the bill.

**3 Innocent owner.**

**(a)** Permits a person, other than the driver of a vehicle that has been seized, to assert a claim to being an innocent owner by notifying the prosecuting authority in writing within 60 days of receiving the notice of seizure.

**(b)** Permits a prosecuting authority to release a vehicle to the asserting person. Requires a prosecutor to file a complaint within 30 days if the prosecutor chooses to proceed with the forfeiture. The complaint must be filed with the district court.

**(c)** Requires the prosecutor to serve the complaint on the asserting person and any other registered owner. Allows service to be made by registered mail.

**(d)** Directs the court to hold a hearing on the innocent owner claim within 30 days, to the extent possible, and permits multiple claims to be combined into one hearing.

**(e)** Establishes burdens on the prosecuting authority to prove by a preponderance of the evidence that the seizure was incident to a lawful arrest or search and to certify that the prosecuting authority has filed, or intends to file, charges against the driver.

**(f)** Establishes burdens on the asserting person to prove by a preponderance of the evidence that the person has an actual ownership interest in the vehicle and either did not know that the vehicle would be operated in a manner contrary to law or took steps to prevent the illegal use.

**Section Description – Article 7: Forfeiture**

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**(g)** Directs the court to order that the vehicle remains subject to forfeiture if the state meets both its burdens and the asserting person fails to meet either burden.

**(h)** Directs the court to order that a vehicle is not subject to forfeiture if the state failed to meet either of its burdens, the asserting person met both burdens, or both of those situations apply.

**(i)** Requires an innocent owner to pay the reasonable costs of the towing, seizure, and storage of the vehicle incurred before the innocent owner provided notice to the prosecuting authority and any reasonable costs of storage incurred if more than two weeks pass after the court orders that the vehicle is not subject to forfeiture.

**4 Administrative forfeiture procedure.**

Requires forfeiture notices to contain a warning to person, other than the driver, who may have an ownership interest in a vehicle that has been seized describing the manner in which the person may assert an innocent owner claim. Makes a conforming change consistent with DWI forfeitures being limited to vehicles. Eliminates the court filing fee for a driver who contests a forfeiture.

**5 Judicial forfeiture procedure.**

Makes conforming changes to reference the new innocent owner subdivision and remove language related to returning filing fees which were removed in another section of the bill.

**6 Disposition of forfeited vehicle.**

Identifies the specific ways in which a law enforcement agency or prosecuting authority can use money obtained through forfeiture.

**7 Exception.**

Provides that a forfeiture proceeding in relation to a DWI offense is stayed if the driver becomes a program participant in the ignition interlock program provided the driver either (1) committed a designated offense other than a first-degree DWI, or (2) is accepted into a treatment court dedicated to changing the behavior of alcohol- and other drug-dependent offenders arrested for a DWI offense. Clarifies that a person's vehicle may be subject to forfeiture if the person operates any vehicle without an interlock device when the person's driver's license requires such a device. Current law does not include a reference to the driver's license requirement. Provides that a person's vehicle is subject to forfeiture if forfeiture was stayed after the person entered treatment court and the driver ceases to be a participant in treatment court for any reason. Replaces the option of posting a bond in lieu of a vehicle being forfeit

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- with the option of surrendering a title. Practitioners have indicated that bonds were difficult or impossible to obtain.
- 8      **Subsequent unlawful use of seized vehicle; immunity.**  
Provides that appropriate agencies (a defined term including law enforcement agencies), prosecuting authorities, and their employees are immune from liability for any harm caused by a driver to whom a vehicle is returned if they return a vehicle in good faith and within the course and scope of employment.
- 9      **Definitions.**  
Defines “asserting person” for purposes of the forfeiture statutes in chapter 609 to mean a person, other than the driver alleged to have used a vehicle in the transportation or exchange of a controlled substance, who claims an ownership interest in a vehicle that has been seized. Makes a technical change to recognize the correct name of the Three Rivers Park District Department of Public Safety.
- 10     **Transfer of forfeitable property to federal government.**  
Prohibits the transfer of property subject to forfeiture under Minnesota’s forfeiture laws to a federal agency if such a transfer would circumvent state law.
- 11     **Associated property.**  
Provides that personal property and real property, other than homestead property exempt from seizure, is subject to forfeiture if it is an instrument or represents the proceeds of a controlled substance offense. The current statute permits forfeiture of homestead property, but the Minnesota Supreme Court found such forfeiture unconstitutional in *Torgelson v. Real Property*, 749 N.W.2d 24 (Minn. 2008). Provides that money is the property of an appropriate agency and may be recovered if that money was provided by the agency and marked or recorded as “buy money.”
- 12     **Limitations on forfeiture of certain property associated with controlled substances.**  
Provides that a vehicle is subject to forfeiture if it was used in the transportation or exchange of controlled substances intended for distribution or sale and the controlled substances had a value of at least \$100. Also states that money is subject to forfeiture only if it has a value of at least \$1,500 or there is probable cause to believe that it was exchanged for the purchase of a controlled substance. States that nothing in the limitation prevents the seizure of property for use as evidence in a trial or for any other lawful purpose.
- 13     **Records; proceeds.**  
Makes a conforming change consistent with section 10 of the bill, striking the paragraph providing that certain property, real and personal, is subject to forfeiture.

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**14 Property subject to administrative forfeiture.**

Establishes that money totaling \$1,500 and any precious metals or stones are subject to forfeiture if there is probable cause to believe that they represent the proceeds of a controlled substance offense. Further establishes that all money found in proximity to controlled substances is subject to forfeiture when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance, and that any vehicle containing controlled substances with a value of \$100 or more is subject to forfeiture if there is probable cause to believe that the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale. Establishes that money is the property of an appropriate agency and may be recovered if it is properly documented or marked and used as “buy money.”

**15 Innocent owner.**

Establishes an innocent owner proceeding that is essentially identical to the proceeding described in section 3 of the bill. Instead of requiring that the prosecutor has filed, or intends to file, appropriate DWI charges, this section requires that the prosecutor establish, by a preponderance of evidence that the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale.

**16 Administrative forfeiture procedure.**

Requires forfeiture notices to contain a warning to a person, other than the person arrested when the property was seized, who may have an ownership interest in the property describing the manner in which the person may assert an innocent owner claim.

**17 Judicial determination.**

Removes the requirement that a person challenging forfeiture pay a court filing fee and makes a conforming change to remove language related to the return of filing fees.

**18 Distribution of money.**

Identifies the specific ways in which a law enforcement agency or prosecuting authority can use money obtained through forfeiture.

**19 Disposition of certain forfeited proceeds; trafficking of persons; report required.**

Strikes the report on forfeiture required under current law. The bill establishes a new mandatory report.

**20 Reporting requirement.**

Requires appropriate agencies and prosecuting authorities to provide the state auditor with information in 15 categories about each forfeiture occurring under the

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authority of the agency or prosecutor. Requires appropriate agencies and prosecuting authorities to provide the state auditor with a written record of the total amount of money or proceeds from the sale of forfeited property the agency or prosecutor obtained and the manner in which the money and proceeds were used. Requires the reports of specific forfeitures to be made quarterly and reports of the use of money or proceeds to be made annually. Directs the state auditor to report summary data, disaggregated by appropriate agency and prosecuting authority, to the legislature and to make the report available on its website.

**21 Recidivism study.**

Directs the legislative auditor to conduct an audit on the efficacy of forfeiture and ignition interlock in DWI cases. The report should identify the financial impact of the programs, the efficacy in reducing recidivism, and any impact on public safety. The auditor must provide the final report to the legislature by January 15, 2025.

**22 Repealer.**

Repeals section 609.5317 which governs the seizure of residential rental property.



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