

1.1 moves to amend H.F. No. 1535 as follows:

1.2 Page 15, after line 28, insert:

1.3 "Sec. 17. Minnesota Statutes 2010, section 609.531, subdivision 6a, is amended to read:

1.4 Subd. 6a. **Forfeiture a civil procedure; conviction results in presumption.** (a) An
1.5 action for forfeiture is a civil in rem action and is independent of any criminal prosecution,
1.6 except as provided in this subdivision and section 609.5318.

1.7 (b) An asset is subject to a designated offense forfeiture under section 609.5312 only
1.8 if the underlying designated offense is established by proof of a criminal conviction.

1.9 (c) The appropriate agency handling the forfeiture has the benefit of the evidentiary
1.10 presumption of section 609.5314, subdivision 1, but otherwise bears the burden of
1.11 proving the act or omission giving rise to the forfeiture by clear and convincing evidence;
1.12 except that in cases arising under section 609.5312, the designated offense may only be
1.13 established by a criminal conviction for forfeitures related to controlled substances.

1.14 (d) For all other forfeitures, the appropriate agency handling the forfeiture bears the
1.15 burden of proving the act or omission by clear and convincing evidence.

1.16 ~~(b)~~ (e) A court may not issue an order of forfeiture under section 609.5311 while the
1.17 alleged owner of the property is in custody and related criminal proceedings are pending
1.18 against the alleged owner. As used in this paragraph, the alleged owner is:

1.19 (1) for forfeiture of a motor vehicle, the alleged owner is the registered owner
1.20 according to records of the Department of Public Safety;

1.21 (2) for real property, the alleged owner is the owner of record; and

1.22 (3) for other property, the alleged owner is the person notified by the prosecuting
1.23 authority in filing the forfeiture action.

1.24 **EFFECTIVE DATE.** This section is effective July 1, 2011, and applies to
1.25 forfeitures initiated on or after that date."

1.26 Page 20, after line 20, insert:

2.1 "Sec. 24. Minnesota Statutes 2010, section 609.5315, subdivision 6, is amended to read:

2.2 Subd. 6. **Reporting requirement.** (a) For each forfeiture occurring in the state
2.3 regardless of the authority for it, the appropriate agency and the prosecutor shall provide
2.4 a written record of the forfeiture incident to the state auditor. The record shall include
2.5 the amount forfeited, the statutory authority for the forfeiture, its date, a brief description
2.6 of the circumstances involved, and whether the forfeiture was contested. For controlled
2.7 substance and driving while impaired forfeitures, the record shall indicate whether the
2.8 forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also
2.9 list the number of firearms forfeited and the make, model, and serial number of each
2.10 firearm forfeited. The record shall indicate how the property was or is to be disposed of.

2.11 (b) An appropriate agency or the prosecutor shall report to the state auditor all
2.12 instances in which property seized for forfeiture is returned to its owner either because
2.13 forfeiture is not pursued or for any other reason.

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

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

2.20 (e) The prosecutor is not required to report information required by this subdivision
2.21 unless the prosecutor has been notified by the state auditor that the appropriate agency
2.22 has not reported it.

2.23 (f) The appropriate agency shall provide a written record under this subdivision to
2.24 the state auditor addressing instances in which the agency transfers a proceeding that
2.25 involves asset forfeiture to another agency, including the federal government. In addition
2.26 to the information required under paragraphs (a) and (b), the record must provide the name
2.27 of the agency receiving the case and, if available, the case number.

2.28 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to all
2.29 cases pending on or after that date."

2.30 Renumber the sections in sequence and correct the internal references

2.31 Amend the title as follows:

2.32 Page 1, line 7, after the semicolon, insert "requiring state law enforcement agencies
2.33 to report on the transfer of cases involving forfeiture to the federal government; clarifying
2.34 the general criminal code forfeiture law; necessity of conviction and burden of proof;"

2.35 Page 1, line 10, delete "subdivision 1" and insert "subdivisions 1, 6a" and after "
2.36 5b" insert ", 6"