

# House Research Act Summary

**CHAPTER:** 391 (S.F. 2634/H.F. 2610)

**SESSION:** 2010 Regular Session

**TOPIC:** Forfeiture

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## Overview

This act makes various changes to forfeiture provisions, including: requiring officers to give receipts upon seizure of property; amending the bond provisions for forfeited property; implementing timelines for forfeiture notice and hearings; placing a cap on the value of property that may be forfeited administratively; requiring a prosecutor to certify administrative forfeitures; prohibiting sales of forfeited property to employees or family members; amending the conciliation court law to include certain forfeiture claims; amending forfeiture reporting provisions; and requiring the POST board and Minnesota County Attorney's Association to develop a statewide model policy for best practices in forfeiture.

### Section

- 1-5, 19, 20 Reporting.** Amend the game and fish, wetlands, DWI, gambling, and racketeering forfeiture laws to require the same type of forfeiture reporting as is required in section 18. The game and fish and wetlands forfeiture reporting requirements apply only to motor vehicles, bows, and firearms.
- 6 Jurisdiction.** Amends the conciliation court jurisdiction law to increase the monetary limit of claims that the court may hear to \$15,000. This increase applies to controlled substance and designated offense forfeiture cases in chapter 609.
- 7 Seizure.** Requires a law enforcement officer to provide a forfeiture receipt when seizing property.
- 8 Right to possession.** Amends the general forfeiture law to change statutory language from permissive to mandatory regarding a law enforcement officer's duty to secure seized

property and prevent waste.

- 9 Bond by owner for possession.** Amends the general forfeiture law to allow owners of seized property to regain possession pending the forfeiture's outcome by giving security or posting bond equal to the value of the property. Current law gives law enforcement veto power over this. Amends the law to exclude property being held for investigatory purposes.
- 10 Petition for remission.** Authorizes a person with an interest in forfeited property to file a petition for remission or mitigation with the county attorney. Provides that the county attorney may remit or mitigate the forfeiture if: (1) the forfeiture was incurred without willful negligence or intent to violate the law, or (2) extenuating circumstances exist.
- 11 Forfeiture model policy.** Requires the Minnesota County Attorneys Association and the POST Board to develop model policies on forfeiture designed to promote the uniform application of those laws across the state. Specifies what the model policies must include. Requires the county attorney in each county and the chief law enforcement officer of every state and local law enforcement agency to adopt a written policy on forfeitures that is identical or substantially similar to the applicable model policy. Provides that the policy shall be available to the public upon request. Requires that the model policies be reported to the legislature.
- 12 Limitations.** Amends the controlled substance judicial forfeiture law. Increase the current monetary thresholds applicable to the controlled substances involved in the forfeiture of conveyance devices (cars, boats, etc.) from \$25 to \$75 and real property from \$1,000 to \$2,000.
- 13 Forfeiture by judicial action.** Requires a county attorney to send notice of intent to forfeit property within 60 days from when seizure occurs. Allows the county attorney to petition the court for an additional 90 days for good cause shown. Directs the agency to return the property to the owner if notice is not timely sent. Provides that the agency retains the right to commence the forfeiture at a later time.
- 14 Administrative forfeiture procedure.** Places a cap of \$50,000 on the value of property that may be forfeited administratively. Implements the same notice requirements found in section 13. Amends the statutory notice language to reflect the new conciliation court threshold of \$15,000, and strikes the all-caps typeface in the notice and replaces it with the same language in regular typeface.
- 15 Judicial determination.** Requires a contested administrative hearing be held no later than 180 days from the filing of the demand by the claimant, unless a criminal proceeding is pending.
- 16 Disposition.** Amends the law addressing the disposition of forfeiture proceeds. Requires sales of forfeited property to be conducted in a commercially reasonable manner. Prohibits employees of law enforcement agencies and persons related to the officer from purchasing forfeited items seized by the agency.

- 17**      **Disposition of administratively forfeited property.** Requires a county attorney to certify that the following procedures were taken before property may be forfeited administratively (where no demand is made by the claimant): (1) the seizing agency provided an evidence or forfeiture receipt; (2) proper notice was timely served; and (3) probable cause for the forfeiture exists based upon the officer's statement.
- 18**      **Reporting requirement.** Amends the forfeiture law's reporting requirement. Specifically applies it to all forfeitures occurring in the state and to forfeitures initiated by multijurisdictional law enforcement entities. Expands the requirements of what must be reported. Provides that prosecutors are not required to report unless notified by the state auditor that law enforcement has not done so.
- 20**      **Development of administrative forfeiture notice language.** Directs DPS, in consultation with the POST board and the MN County Attorneys' Association, to recommend modifications to the administrative notice language provisions in chapters 84, 169A, and 609. Directs DPS to submit recommended language to the legislature by Jan. 15, 2011.