

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1239

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DATE	D-PG	OFFICIAL STATUS
04/18/2011	1391	Introduction and first reading Referred to Judiciary and Public Safety See SF1240, Sec. 17

1.1 A bill for an act
 1.2 relating to public safety; clarifying the general criminal code forfeiture law;
 1.3 necessity of conviction and burden of proof; amending Minnesota Statutes 2010,
 1.4 section 609.531, subdivision 6a.

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

1.6 Section 1. Minnesota Statutes 2010, section 609.531, subdivision 6a, is amended to
 1.7 read:

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

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

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

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

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

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

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2.1 (2) for real property, ~~the alleged owner is~~ the owner of record; and
2.2 (3) for other property, ~~the alleged owner is~~ the person notified by the prosecuting
2.3 authority in filing the forfeiture action.

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