

(a) The person shall have a commitment hearing according to Minnesota Statutes, section 253B.08, prior to August 1, 1985. The head of the regional center shall notify the responsible county which shall initiate the petition for commitment.

(b) The person shall be deemed to be legally committed to the head of the regional center until the committing court issues an appropriate judgment according to Minnesota Statutes, section 253B.09, or until August 1, 1985, whichever date occurs first.

(c) A finding by the committing court that the individual does not satisfy the commitment criteria of Minnesota Statutes, chapter 253B, shall not terminate the guardianship or constitute a restoration to capacity. An order of restoration to capacity may only be obtained under Minnesota Statutes, section 525.61.

If the committing court finds that the individual does not satisfy the commitment criteria set forth in Minnesota Statutes, section 253B, the court, by order shall immediately notify the county welfare board. The designated agency shall locate an appropriate community placement within 90 days of notification by the guardian. Until an appropriate placement is available, the ward may continue to reside in the regional center in which the ward resided prior to the commitment hearing.

Sec. 11. EFFECTIVE DATE.

Sections 4, 5, 8, and 10 are effective the day following final enactment.

Approved May 2, 1984

CHAPTER 624 — S.F.No. 1560

An act relating to crimes; subjecting certain property to forfeiture if exchanged for or associated with controlled substances; conforming definitions with other statutes; amending Minnesota Statutes 1982, section 152.19, subdivisions 1, 2, 4, 5, and 8.

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

Section 1. Minnesota Statutes 1982, section 152.19, subdivision 1, is amended to read:

Subdivision 1. The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this chapter;

(2) All raw materials, moneys, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing,

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delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a primary container for property described in clauses (1) or (2);

(4) All drug paraphernalia as defined by section 152.01, subdivision 18;

(5) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in clauses (1) or (2) having a retail value of \$100 or more, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter.

(b) No conveyance is subject to forfeiture under this section unless the owner thereof is privy to a violation of this chapter, or that the use of the conveyance in such violation otherwise occurred with his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party unless he had knowledge of or consented to the act or omission upon which the forfeiture is based.

(6) All property or things of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of the law, all proceeds derived from or traceable to a controlled substance exchange, and all moneys, precious metals, gems, negotiable instruments, and securities used, or intended to be used, to facilitate any violation relating to controlled substances.

All moneys, precious metals, and gems found in proximity to controlled substances, forfeitable drug manufacturing or distributing equipment or devices, or to forfeitable records of manufacture or distribution of controlled substances, are presumed to be property subject to forfeiture under this section. Claimants of the property bear the burden to rebut this presumption.

Property shall be forfeited under this section, to the extent the owner thereof was privy to the violation upon which the forfeiture action is based.

~~(4)~~ (7) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

Sec. 2. Minnesota Statutes 1982, section 152.19, subdivision 2, is amended to read:

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Subd. 2. Property subject to forfeiture under this chapter, may be seized by the appropriate state agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;
- (3) The appropriate state agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety and the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property; or
- (4) The appropriate state agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter and the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property.

Sec. 3. Minnesota Statutes 1982, section 152.19, subdivision 4, is amended to read:

Subd. 4. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the appropriate state agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the appropriate state agency may:

- (1) Place the property under seal;
- (2) Remove the property to a place designated by it; or
- (3) In the case of controlled substances, require the state board of pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Sec. 4. Minnesota Statutes 1982, section 152.19, subdivision 5, is amended to read:

Subd. 5. Property shall be forfeited after a conviction deemed to be a felony according to the following procedure:

- (1) A separate complaint shall be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use.
- (2) If the person arrested is acquitted, the court shall dismiss the complaint against any property seized pursuant to the preceding subdivisions and order the property returned to the persons legally entitled to it.

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(3) If after conviction the court finds that the property, or any part thereof, was used in any violation as specified in the complaint, it shall order that the property unlawfully used be sold, destroyed, or disposed of by the appropriate state agency in the following manner:

(a) The appropriate agency and prosecuting agency that handled the forfeiture may retain the property for official use but shall not use any motor vehicle required to be registered pursuant to chapter 168A until title is properly transferred pursuant to chapter 168A;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Require the commissioner of administration to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the federal drug enforcement administration.

Any property retained pursuant to clause (3)(a) of this subdivision shall be used only in the performance of official duties of the appropriate agency, and shall not be used for any other purpose. All proceeds from property retained under clause (3)(a) of this subdivision which is later sold shall be disbursed as provided in clause (4) of this subdivision.

(4) One-third of the proceeds from the sale of forfeited property, after payment of seizure, storage, and sale expenses and satisfaction of valid liens against the property, shall be forwarded to the state drug abuse authority for distribution of half of the net proceeds among licensed hospitals and licensed drug treatment facilities of this state for the care and treatment of patients with drug related physical and psychological disorders, and licensed drug analysis centers. The remaining half two-thirds of net proceeds shall be returned to the appropriate state agency shared equally between the agencies prosecuting the forfeiture proceeding and investigating the offense involved in the forfeiture, except that if the forfeiture proceeding was prosecuted by a county attorney whose position is not full time as provided in section 388.21, the prosecutor's share of net proceeds shall be forwarded to the county board.

Sec. 5. Minnesota Statutes 1982, section 152.19, subdivision 8, is amended to read:

Subd. 8. The failure, upon demand by the appropriate state agency, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

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Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective August 1, 1984, and apply to crimes committed on or after that date.

Approved May 2, 1984

CHAPTER 625 — S.F.No. 1561

An act relating to crimes; providing for forfeitures of conveyances, containers, weapons used, and contraband property when utilized in the commission of designated offenses; proposing new law coded in Minnesota Statutes, chapter 609.

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

Section 1. [609.531] FORFEITURES.

Subdivision 1. DEFINITIONS. For the purpose of this section, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation in connection with a designated offense and includes, but is not limited to, motor vehicles, trailers, snowmobiles, airplanes, and vessels. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Primary container" means a fundamental receptacle other than a conveyance device used to store or transport property.

(c) "Weapon used" means weapons used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

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

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

(f) "Appropriate agency" means either the bureau of criminal apprehension, Minnesota state patrol, county sheriffs and their deputies, or city police departments.

(g) "Designated offense" includes:

(1) For weapons used: any violation of chapter 609;

(2) For all other purposes: violation of, or an attempt or conspiracy to violate, sections 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2; 609.342; 609.343; 609.344; 609.345; 609.42; 609.425; 609.466; 609.485;

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