809A.14 In personam proceedings.

1. A judicial in personam forfeiture proceeding brought by a prosecuting attorney pursuant to an in personam civil action alleging conduct giving rise to forfeiture is subject to the provisions of this section. If a forfeiture is authorized by this chapter, it shall be ordered by the court in the in personam action. This action shall be in addition to or in lieu of in rem forfeiture procedures.

2. The court, on application of the prosecuting attorney, may enter any order authorized by section 809A.12, or any other appropriate order to protect the state's interest in property forfeited or subject to forfeiture.

3. The court may issue a temporary restraining order on application of the prosecuting attorney, if the state demonstrates both of the following:

a. Probable cause exists to believe that in the event of a final judgment, the property involved would be subject to forfeiture under this chapter.

b. Provision of notice would jeopardize the availability of the property for forfeiture.

4. Notice of the issuance of a temporary restraining order and an opportunity for a hearing shall be given to persons known to have an interest in the property. A hearing shall be held at the earliest possible date in accordance with **rule of civil procedure 1.1507**, and shall be limited to the following issues:

a. Whether a probability exists that the state will prevail on the issue of forfeiture.

b. Whether the failure to enter the order will result in the property being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture.

c. Whether the need to preserve the availability of property outweighs the hardship on any owner or interest holder against whom the order is to be entered.

5. On a determination that a person committed conduct giving rise to forfeiture under this chapter, the court shall do both of the following:

a. Enter a judgment of forfeiture of the property found to be subject to forfeiture described in the complaint.

b. Authorize the prosecuting attorney or designee or any law enforcement officer to seize all property ordered forfeited which was not previously seized or is not under seizure.

6. Except as provided in section 809A.12, a person claiming an interest in property subject to forfeiture under this chapter shall not intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

7. Following the entry of an in personam forfeiture order, the prosecuting attorney may proceed with an in rem action to resolve the remaining interests in the property. The following procedures shall apply:

a. The prosecuting attorney shall give notice of pending forfeiture, in the manner provided in section 809A.8, to all owners and interest holders who have not previously been given notice.

b. An owner of or interest holder in property that has been ordered forfeited and whose claim is not precluded may file a claim as described in section 809A.11, within thirty days after initial notice of pending forfeiture or after notice under paragraph "*a*", whichever is earlier.

c. If the state does not recognize the claimed exemption, the prosecuting attorney shall file a complaint and the court shall hold an in rem forfeiture hearing as provided for in section 809A.13.

d. In accordance with the findings made at the hearing, the court may amend the order of forfeiture if it determines that any claimant has properly petitioned for recognition of exemption under section 809A.11 and that the prosecuting attorney has not shown, by clear and convincing evidence, that the claimant does not have an interest in the property which is exempt under the provisions of section 809A.5.

96 Acts, ch 1133, §14; 2003 Acts, ch 108, §119; 2017 Acts, ch 114, §11, 15

Referred to in §809A.4, 809A.8, 809A.12

2017 amendment to subsection 7, paragraph d, applies to forfeiture proceedings that begin on or after July 1, 2017; 2017 Acts, ch 114, §15