

**House File 2560 - Reprinted**

HOUSE FILE 2560

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 634)

(As Amended and Passed by the House March 7, 2024)

**A BILL FOR**

1 An Act relating to the forfeiture of property for criminal  
2 offenses and repealing civil forfeiture.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 809B.1 Short title.

2 This chapter shall be known and may be cited as the "Iowa  
3 *Criminal Forfeiture Process Act*".

4 Sec. 2. NEW SECTION. 809B.2 Applicability.

5 This chapter applies only to the seizure and forfeiture  
6 of property used in and derived directly from a violation of  
7 chapter 124, subchapter IV.

8 Sec. 3. NEW SECTION. 809B.3 Definitions.

9 The terms defined in this section have the following  
10 meanings in this chapter:

11 1. "Abandoned property" means personal property to which  
12 a possessor relinquishes all rights to ownership or control.  
13 "Abandoned property" does not include real property.

14 2. "Actual knowledge" means direct and clear awareness of  
15 information, a fact, or a condition.

16 3. "Contraband" means goods that, in themselves, are  
17 unlawful to possess, including scheduled drugs without a lawful  
18 prescription and a firearm that is illegal to possess.

19 4. "Conveyance" means a device used for transportation.  
20 "Conveyance" includes a motor vehicle, trailer, snowmobile,  
21 airplane, vessel, or any equipment attached to one of these  
22 devices. "Conveyance" does not include property that is stolen  
23 in violation of the law.

24 5. "Convicted" or "conviction" includes a finding of guilt,  
25 a plea of guilty, deferred judgment, deferred or suspended  
26 sentence, adjudication of delinquency, or circumstances where  
27 a person is not charged with a criminal offense that is a  
28 serious or aggravated misdemeanor or felony related to the  
29 action for forfeiture based in whole or in part on the person's  
30 cooperation in providing information regarding the criminal  
31 activity of another person.

32 6. "Innocent owner" means an owner, co-owner, defendant's  
33 heir, or a person who regularly uses property subject to  
34 forfeiture who does not have actual knowledge of the use of  
35 the property in a crime that authorizes the forfeiture of the

1 property. "*Innocent owner*" does not include the defendant or a  
2 secured interest holder.

3 7. "*Instrumentality*" means property otherwise lawful to  
4 possess that is used in a crime that authorizes the forfeiture  
5 of property. "*Instrumentality*" includes land, buildings,  
6 containers, conveyances, equipment, materials, products, tools,  
7 computers, computer software, telecommunications devices,  
8 firearms, ammunition, and ammunition-and-firearm accessories.

9 8. "*Law enforcement agency*" means any nonfederal police  
10 force, or other local, county, or state agency that has the  
11 authority under state law to engage in seizure and forfeiture.

12 9. "*Proceeds*" means United States currency, currency of  
13 another nation, digital currency, cryptocurrency, securities,  
14 negotiable instruments, or other means of exchange obtained  
15 from the sale of property or contraband.

16 10. "*Prosecuting authority*" means a municipal attorney,  
17 solicitor, district attorney, county attorney, attorney  
18 general, or other government official legally authorized to  
19 prosecute crime.

20 11. "*Public defender*" means any office of the state public  
21 defender.

22 12. "*Real property*" means land and anything growing on,  
23 attached to, or erected on the land including a building. "*Real*  
24 *property*" includes immovable property, real estate, and realty.

25 13. "*Secured interest holder*" means a person who is a  
26 secured creditor, mortgagee, lienholder, or other person  
27 who has a valid claim, security interest, mortgage, lien,  
28 leasehold, or other interest in the property subject to  
29 forfeiture. "*Secured interest holder*" does not include the  
30 defendant or an innocent owner.

31 Sec. 4. NEW SECTION. 809B.4 Forfeiture disfavored —  
32 purpose of chapter.

33 Forfeiture is disfavored in this state. This chapter's  
34 purpose is to deter criminal activity by reducing criminal  
35 activity economic incentives, confiscate property used in the

1 violation of the law, and protect the due process rights of  
2 property owners.

3 Sec. 5. NEW SECTION. 809B.5 Jurisdiction.

4 1. There shall be no civil forfeiture under this chapter.

5 2. The court that has jurisdiction in the related criminal  
6 matter shall have jurisdiction over the forfeiture proceeding.

7 3. The forfeiture proceeding shall be part of the trial  
8 of the related crime. The proceeding shall follow a finding  
9 of the defendant's guilt or be conducted at the court's  
10 discretion. The forfeiture proceeding shall be conducted by  
11 the court without a jury.

12 4. If an initial court bounds over or transfers the  
13 prosecution of the criminal case to another court, the initial  
14 court shall transfer the forfeiture action along with the  
15 criminal case to the other court.

16 5. At the initial court's discretion, the initial court  
17 may postpone hearing and bound over a motion to another court  
18 in the interests of justice and efficient use of judicial  
19 resources.

20 Sec. 6. NEW SECTION. 809B.6 Seizure of personal property  
21 with process.

22 At the request of the state, a court may issue an ex parte  
23 order to attach, seize, or secure personal property for which  
24 forfeiture is sought and to provide for the custody of the  
25 personal property.

26 Sec. 7. NEW SECTION. 809B.7 Seizure of personal property  
27 without process.

28 Personal property may be seized, as part of a lawful search,  
29 without a court order if the personal property subject to  
30 forfeiture is seized incident to a lawful arrest, the state has  
31 probable cause to believe the delay caused by the necessity of  
32 obtaining process would result in the removal or destruction of  
33 the personal property that is forfeitable under this chapter,  
34 or the personal property is the subject of a prior and valid  
35 judgment of forfeiture in favor of the state.

1     Sec. 8. NEW SECTION.   **809B.8 Seizure or restraint of real**  
2 **property with process.**

3     1. Real property shall not be seized or restrained without  
4 a court order.

5     2. A court shall not issue an order unless the defendant and  
6 any other person with a known interest in the property receive  
7 proper notice and are given an opportunity for a contested  
8 hearing to determine the existence of probable cause for the  
9 seizure.

10    3. Notice may be made by publication if personal service has  
11 not been realized after reasonable attempts.

12    4. This section does not prohibit the state from seeking  
13 a lis pendens or restraining order to hinder the sale or  
14 destruction of real property. However, if the state obtains a  
15 lis pendens or restraining order, the state shall notify the  
16 defendant and any other person with a known interest in the  
17 property within thirty days.

18    5. Application, filing, issuance, execution, and return of  
19 any order are subject to state law and court rules.

20    Sec. 9. NEW SECTION.   **809B.9 Stolen property and contraband.**

21    1. No property right exists in stolen property or  
22 contraband. Stolen property and contraband are subject to  
23 seizure.

24    2. Stolen property shall be returned to the innocent owner,  
25 and contraband shall be disposed of according to state law.

26    3. Notwithstanding subsection 2, the court may impose  
27 reasonable conditions on the release of stolen property and  
28 the disposal of contraband, including the use of photographic  
29 evidence, to preserve the property for later use as evidence in  
30 proceedings under this chapter.

31    Sec. 10. NEW SECTION.   **809B.10 Storing seized property and**  
32 **depositing seized currency.**

33    1. The seizing law enforcement agency is responsible for  
34 providing adequate storage, security, and maintenance for all  
35 assets in law enforcement agency custody unless another law

1 enforcement agency agrees to accept the responsibility. The  
2 commander of a multijurisdictional task force may assign the  
3 responsibility to one agency.

4 2. The seizing law enforcement agency shall deposit seized  
5 currency in an interest-bearing account pending the exhaustion  
6 of appeals or receiving an order from the court to return or  
7 disburse the seized currency.

8 3. Notwithstanding subsection 2, the seizing law  
9 enforcement agency may take reasonable actions, including the  
10 use of photography, to preserve currency for later use as  
11 evidence in proceedings under this chapter.

12 Sec. 11. NEW SECTION. **809B.11 Receipt.**

13 1. When property is seized, the law enforcement officer  
14 shall give an itemized receipt to the person possessing the  
15 property at the time of the seizure.

16 2. The receipt shall be numbered for future reference and  
17 constitutes notice of seizure.

18 3. If the person possessing the property is not present, the  
19 seizing officer shall leave a receipt in the place where the  
20 property was found, if possible.

21 Sec. 12. NEW SECTION. **809B.12 Property exempt from seizure  
22 and forfeiture.**

23 1. United States currency totaling two hundred dollars or  
24 less is exempt from seizure and forfeiture, excluding marked  
25 currency used in the controlled buy of a controlled substance.

26 2. A motor vehicle worth two thousand dollars or less in  
27 market value is exempt from seizure and forfeiture.

28 3. The prosecuting authority shall advise the publications  
29 that law enforcement agencies may use to establish the value of  
30 a motor vehicle in the prosecuting authority's jurisdiction.  
31 The valuation publications may include nationally known and  
32 relied on pricing guides.

33 4. The prosecuting authority may establish on a  
34 case-by-case basis higher values in the interests of justice  
35 and efficient use of governmental resources. The higher

1 values shall be based on the prosecuting authority's exclusive  
2 determination of:

3     *a.* The type and number of occurrences of offenses that  
4 include the seizure of property.

5     *b.* The average value of seized property less the costs to  
6 seize and forfeit such property.

7     Sec. 13. NEW SECTION. **809B.13 Waivers permitted and**  
8 **prohibited.**

9     1. A person from whom property is seized may relinquish the  
10 person's rights, interests, and title in the seized property by  
11 knowingly and voluntarily executing a waiver that is agreed to  
12 by the prosecuting authority.

13     2. The waiver is subject to a claim by a secured interest  
14 holder, innocent owner, or other person entitled to notice  
15 under section 809B.17. A claimant may consent to some issues  
16 and have the court determine remaining issues.

17     3. A law enforcement officer, other than the prosecuting  
18 authority, shall not request, induce, or require a person to  
19 relinquish, for purpose of forfeiture, the person's rights,  
20 interests, or title in the seized property.

21     4. A document resulting from efforts by a law enforcement  
22 officer, other than the prosecuting authority, which purports  
23 to relinquish a person's rights, interests, and title in seized  
24 property is void and is inadmissible in court.

25     Sec. 14. NEW SECTION. **809B.14 Initial reporting.**

26     1. A law enforcement agency making a seizure shall within  
27 ten days submit a report to the appropriate prosecuting agency.

28     2. For purpose of reporting, if the seizure of property is  
29 accomplished because of coordinated efforts by more than one  
30 law enforcement agency, the law enforcement agency initiating  
31 the investigation is considered to be the law enforcement  
32 agency making the seizure.

33     3. The report shall provide the following information with  
34 respect to the property seized:

35     *a.* Name of the seizing law enforcement agency.

- 1     *b.* Description of the seized property.
- 2     *c.* Location where the seizure occurred.
- 3     *d.* Date and circumstances of the seizure.
- 4     *e.* Location where the property is being stored and present  
5 custodian.
- 6     *f.* Name and contact information of owner.
- 7     *g.* Name and contact information of possible innocent owner  
8 claimant.
- 9     *h.* Name and contact information of any lienholder.
- 10    *i.* The type and quantity of the controlled substance  
11 involved.
- 12    *j.* Other relevant information.
- 13    *k.* If the property is a conveyance, the report shall include  
14 all of the following:
  - 15       (1) Make, model, serial number, and year of the conveyance.
  - 16       (2) Name and contact information of person in whose name the  
17 conveyance is registered.

18     Sec. 15. NEW SECTION. **809B.15 Title to property.**

- 19     1. Title to the property subject to forfeiture vests with  
20 the state when the court issues a forfeiture judgment and  
21 relates back to the date when the state seized or restrained  
22 the property.
- 23     2. Title to substitute assets vests when the court issues an  
24 order forfeiting substitute assets.

25     Sec. 16. NEW SECTION. **809B.16 Counsel.**

- 26     1. If a defendant in a criminal matter is represented by a  
27 public defender or appointed counsel if indigent, that attorney  
28 shall represent the defendant in the forfeiture proceeding.
- 29     2. If the defendant or an innocent owner claimant engages  
30 in pro se representation in the forfeiture proceeding, the  
31 court may exercise discretion applying the rules of pleading,  
32 practice, evidence, and procedure.

33     Sec. 17. NEW SECTION. **809B.17 Notice to other known owners.**

- 34     1. The prosecuting authority shall perform a reasonable  
35 search of relevant records, including vehicle registrations,



1 property records, and other public records, to identify any  
2 person, other than the defendant, known to have an interest in  
3 the property subject to forfeiture.

4 2. The prosecuting authority shall give notice to any person  
5 identified to have an interest in the property subject to  
6 forfeiture who is not charged or indicted. The notice shall  
7 include the seizure receipt number given pursuant to section  
8 809B.11. Notice may be made by publication if personal service  
9 has not been realized after reasonable attempts.

10 3. The following language substantially and conspicuously  
11 shall appear in the notice:

12 WARNING: You may lose the right to be heard in court if  
13 you do not file promptly a simple statement of interest or  
14 ownership. You do not have to pay a filing fee to file your  
15 notice.

16 4. If the prosecuting authority does not serve notice by  
17 personal service or publication on any persons appearing to  
18 have an interest in the property and the extension period has  
19 expired, the prosecuting authority or court shall order the  
20 return of the property to a person with a valid interest in  
21 the property who makes a request. Contraband shall not be  
22 returned.

23 Sec. 18. NEW SECTION. 809B.18 Prompt post-seizure hearing.

24 1. Following seizure, a defendant or any other person  
25 with an interest in the property has a right to a prompt  
26 post-seizure hearing.

27 2. A person with an interest in the property may motion the  
28 court for a hearing.

29 3. Upon motion, the court may hold a prompt post-seizure  
30 hearing at any of the following:

31 a. As a separate hearing.

32 b. At the same time as a probable cause determination, an  
33 arraignment hearing, a suppression hearing, an omnibus hearing,  
34 or other pretrial hearing.

35 c. At any other time at the court's discretion.

1 4. A party, by agreement or for good cause, may move for one  
2 extension of the hearing date. The motion may be supported by  
3 affidavits or other submissions.

4 5. The court shall order the return of property if the court  
5 finds by a preponderance of the evidence any of the following:

6 a. The seizure was invalid.

7 b. A criminal charge has not been filed and no extension of  
8 the filing period is available.

9 6. At the court's discretion, the court may order the return  
10 of sufficient funds to the defendant, not needed as evidence,  
11 for the defendant to obtain counsel of choice but less than the  
12 total amount seized.

13 7. Notwithstanding subsections 5 and 6, the court may impose  
14 reasonable conditions on the return of the property, including  
15 the use of photographic evidence, to preserve the property for  
16 later use as evidence in proceedings under this chapter.

17 8. This section does not apply to contraband.

18 Sec. 19. NEW SECTION. **809B.19 Notice of proposed**  
19 **forfeiture.**

20 1. In a case in which the state seeks forfeiture of  
21 property, the prosecuting authority shall file with the court  
22 a notice of proposed forfeiture. The notice of proposed  
23 forfeiture shall be a separate document. The notice of  
24 proposed forfeiture must include the following information:

25 a. A description of the property seized.

26 b. The time, date, and place of the seizure.

27 c. The seizure receipt number given pursuant to section  
28 809B.11.

29 d. A description of how the property was used in or derived  
30 from the alleged crime.

31 2. The prosecuting authority may allege, in the notice of  
32 proposed forfeiture, the forfeiture of property as a process  
33 after the conviction of the crime for which the defendant is  
34 charged or as part of sentencing consideration.

35 3. The notice shall not be read to the jury.

1 4. The prosecuting authority shall serve the notice at one  
2 of the following times:

3 a. With the initial charging instrument.

4 b. Separately but not later than ninety days after the  
5 presentment of the charging instrument for a misdemeanor.

6 c. The earlier of ninety days after presentment to a grand  
7 jury or one hundred days after an arrest for a felony.

8 d. Another time in the court's discretion.

9 5. At the court's discretion, the court may allow the  
10 prosecuting authority to amend the notice as required in the  
11 interest of justice.

12 6. The court shall order the return of the property to the  
13 owner if the prosecuting authority does not file a charging  
14 instrument, the period of an extension expires, or the court  
15 does not grant an extension.

16 Sec. 20. NEW SECTION. 809B.20 **Discovery.**

17 Discovery related to the forfeiture proceeding is subject to  
18 the rules of criminal procedure.

19 Sec. 21. NEW SECTION. 809B.21 **Trial — conviction required**  
20 **and standard of proof.**

21 1. Property may be forfeited if all of the following are  
22 true:

23 a. The defendant has been convicted of a violation of  
24 section 124.401.

25 b. The state establishes by a preponderance of the evidence  
26 the property is an instrumentality of or proceeds derived  
27 directly from a violation of a crime listed in section 809B.2.

28 2. After the defendant's conviction, the court has the  
29 discretion to hold the forfeiture proceeding as soon as  
30 practicable, including concurrent with sentencing.

31 3. Except as required by section 809B.12, this chapter does  
32 not prevent property from being forfeited by consent order  
33 approved by the court, provided that secured interest holders,  
34 innocent owners, or others entitled to notice under section  
35 809B.17, consent to the forfeiture. A claimant may consent to

1 some issues and have the court determine remaining issues.

2 4. The consent order may reflect any of the following:

3 a. A plea agreement.

4 b. A diversion agreement.

5 c. A grant of immunity or reduced punishment, with or  
6 without the filing of a criminal charge, in exchange for  
7 testifying or assisting a law enforcement investigation or  
8 prosecution.

9 5. The court may use the consent agreement to transfer  
10 title to the property to the state and dispose of the property  
11 according to section 809B.33.

12 Sec. 22. NEW SECTION. **809B.22 Exceptions to the conviction**  
13 **requirement.**

14 1. The court may waive the conviction requirement in section  
15 809B.21 and grant title to the property to the state if the  
16 prosecuting authority files a motion no fewer than ninety days  
17 after seizure and shows by a preponderance of the evidence that  
18 the defendant, before conviction, did any of the following:

19 a. Abandoned the property.

20 b. Fled the jurisdiction.

21 c. Was deported by the United States.

22 d. Died.

23 2. The defendant's death does not preclude the defendant's  
24 heir or legatee from filing a claim for the seized property as  
25 an innocent owner under section 809B.25.

26 Sec. 23. NEW SECTION. **809B.23 Proportionality.**

27 1. The defendant may motion the court to determine whether  
28 the forfeiture is unconstitutionally excessive under the  
29 Constitution of the State of Iowa or the Constitution of the  
30 United States.

31 2. At the court's discretion, the court may hold a  
32 proportionality hearing at any of the following times:

33 a. As a separate hearing.

34 b. At the same time as a probable cause determination, an  
35 arraignment hearing, a suppression hearing, an omnibus hearing,

1 or other pretrial hearing.

2 *c.* At trial.

3 *d.* Upon conviction.

4 3. The defendant has the burden of establishing that the  
5 forfeiture is unconstitutionally excessive by a preponderance  
6 of the evidence at a hearing conducted by the court without a  
7 jury.

8 4. At a hearing prior to conviction, the court first  
9 shall determine, by a preponderance of the evidence, if the  
10 prosecuting attorney will secure a conviction. The court  
11 then shall determine if the forfeiture is unconstitutionally  
12 excessive.

13 5. At any hearing, the court may consider all relevant  
14 factors to determine if the forfeiture is unconstitutionally  
15 excessive including all of the following:

16 *a.* The seriousness of the crime and its impact on the  
17 community, including the duration of the activity, use of a  
18 firearm, and harm caused by the defendant.

19 *b.* The extent to which the defendant participated in the  
20 crime.

21 *c.* The extent to which the property was integral to  
22 facilitating the crime.

23 *d.* Whether the crime was completed or attempted.

24 *e.* The sentence or fine to be imposed for committing the  
25 crime.

26 *f.* The hardship to the defendant if the forfeiture of a  
27 motor vehicle would deprive the defendant of the defendant's  
28 livelihood.

29 *g.* An unjust hardship to the defendant's family if the  
30 property is forfeited.

31 6. In determining the value of the instrumentality subject  
32 to forfeiture, the court may consider all relevant factors  
33 related to the fair market value of the property, including  
34 information in any publication advised by the prosecuting  
35 authority pursuant to section 809B.12, subsection 3.

1 7. The court shall not consider the benefit or value of the  
2 property to the state in determining whether the forfeiture is  
3 unconstitutionally excessive.

4 Sec. 24. NEW SECTION. **809B.24 Secured interest holder.**

5 1. Property encumbered by a security interest shall not be  
6 forfeited.

7 2. The prosecuting authority summarily shall return  
8 property to a secured interest holder up to the value of the  
9 interest. Contraband shall not be returned.

10 3. If the property is not summarily returned, the secured  
11 interest holder may motion the court at any time before the  
12 court enters judgment in the criminal prosecution or grants the  
13 motion in section 809B.22. The motion may include the seizure  
14 receipt number given pursuant to section 809B.11, if available.

15 4. The court shall hear the motion within thirty days after  
16 filing or at the court's discretion. The hearing shall be held  
17 without a jury. The court may consolidate the hearing on the  
18 motion with any other hearing before the court in the case.

19 5. The secured interest holder shall allege the validity of  
20 the security interest, mortgage, lien, leasehold, lease, rental  
21 agreement, or other agreement.

22 6. If the prosecuting authority seeks to proceed, the  
23 prosecuting authority shall prove by a preponderance of the  
24 evidence any of the following:

25 *a.* That the interest is invalid.

26 *b.* That the interest resulted from a fraudulent conveyance.

27 *c.* That the interest was created by a purchase made on  
28 behalf of the defendant, held through a trust, or otherwise  
29 acquired for the benefit of the defendant.

30 *d.* That the secured interest holder consented to the use of  
31 the property in the crime for which the defendant is charged.

32 7. If the state fails to meet its burden in subsection  
33 6, the court shall order the state to relinquish claims to  
34 the property, up to the value of the interest, and return the  
35 interest to the secured interest holder.

1 8. Notwithstanding subsection 7, the court may impose  
2 reasonable conditions on the return of the property, including  
3 the use of photographic evidence to preserve the property for  
4 later use as evidence in proceedings under this chapter.

5 Sec. 25. NEW SECTION. 809B.25 Innocent owner.

6 1. Property of an innocent owner shall not be forfeited.

7 2. The prosecuting authority summarily shall return  
8 property to an innocent owner. Contraband shall not be  
9 returned.

10 3. If the property is not summarily returned, an innocent  
11 owner claimant may motion the court at any time before the  
12 court enters judgment in the criminal prosecution or grants the  
13 motion in section 809B.22.

14 4. The court shall hear the innocent owner claimant's motion  
15 within thirty days after filing or at the court's discretion.  
16 The hearing shall be held without a jury. The court may  
17 consolidate the hearing on the claimant's motion with any other  
18 hearing before the court in the case.

19 5. The innocent owner claimant may motion the court  
20 by filing a statement that provides all of the following  
21 information:

22 a. The claimant's interest in or regular use of the  
23 property.

24 b. Facts or evidence supporting the claim.

25 c. An affirmation of the validity of interest or regular use  
26 of the property.

27 d. The relief sought by the claimant.

28 e. The seizure receipt number given pursuant to section  
29 809B.11, if available.

30 6. The filing fee for the claimant's motion under this  
31 section is waived.

32 7. If the prosecuting authority seeks to proceed, the  
33 prosecuting authority shall prove by a preponderance of the  
34 evidence that the claimant is not an innocent owner because of  
35 any of the following:

1     *a.* The claimant's interest in the property is invalid.

2     *b.* The claimant was not a bona fide purchaser without notice  
3 of any defect in title and for valuable consideration.

4     *c.* The claimant was willfully blind to the crime for which  
5 the defendant is charged.

6     *d.* The claimant did not regularly use the property as the  
7 claimant claimed.

8     *e.* The claimant had actual knowledge and the claimant did  
9 not take reasonable steps to prevent the use of the property  
10 in the crime for which the defendant is charged. The claimant  
11 is not required to take steps the claimant reasonably believes  
12 would subject the claimant to physical danger.

13     8. If the prosecuting authority fails to meet the burden in  
14 subsection 7, the court shall order the state to relinquish all  
15 claims and return the property to the innocent owner.

16     9. Notwithstanding subsection 8, the court may impose  
17 reasonable conditions on the return of the property, including  
18 the use of photographic evidence, to preserve the property for  
19 later use as evidence in proceedings under this chapter.

20     10. Information in the claimant's statement in subsection 5  
21 shall not be used as evidence in the underlying criminal case.

22     11. This section shall not prohibit the claimant from  
23 providing information to any party or testifying in any trial  
24 as to facts the claimant knows.

25     12. The defendant or convicted offender may invoke the right  
26 against self-incrimination or the marital privilege during the  
27 forfeiture proceeding. The trier of fact may draw an adverse  
28 inference from the invocation of the right or privilege.

29     Sec. 26. NEW SECTION. **809B.26 Judgment.**

30     1. If the prosecuting authority fails to meet the burden in  
31 the criminal or forfeiture proceeding, the court shall enter  
32 judgment dismissing the forfeiture proceeding and ordering  
33 the return of property to the rightful owner. If the owner's  
34 possession of the property is illegal, the court shall dispose  
35 of the property pursuant to section 809B.33.



1 2. If the prosecuting authority meets the burden in the  
2 criminal and forfeiture proceeding, the court shall enter  
3 judgment forfeiting the property.

4 3. A court may enter judgment following a hearing,  
5 pursuant to a stipulation or plea agreement, or at the court's  
6 discretion.

7 Sec. 27. NEW SECTION. 809B.27 **Substitution of assets.**

8 Upon the prosecuting authority's motion following conviction  
9 or at the court's discretion, the court may order the  
10 forfeiture of substitute property owned solely by the defendant  
11 up to the value of property that is beyond the court's  
12 jurisdiction or cannot be located through due diligence, only  
13 if the state proves by a preponderance of the evidence that any  
14 of the following occurred:

15 1. The defendant intentionally dissipated the property.

16 2. The defendant transferred, sold, or deposited property  
17 with a third party to avoid forfeiture.

18 3. The defendant substantially diminished the value of  
19 property.

20 4. The defendant commingled property with other property  
21 that cannot be divided without difficulty.

22 Sec. 28. NEW SECTION. 809B.28 **No additional remedies.**

23 The state shall not seek personal money judgments or other  
24 remedies related to the forfeiture of property not provided for  
25 in this chapter.

26 Sec. 29. NEW SECTION. 809B.29 **No joint and several  
27 liability.**

28 A defendant is not jointly and severally liable for  
29 forfeiture awards owed by other defendants. When ownership is  
30 unclear, a court may order each defendant to forfeit property  
31 on a pro rata basis or by another means the court finds  
32 equitable.

33 Sec. 30. NEW SECTION. 809B.30 **Appeals.**

34 1. A party to forfeiture proceeding, other than the  
35 defendant, may appeal the court's order concerning the

1 disposition of the property upon the issuance of the order.

2 2. The defendant may appeal the court's decision regarding  
3 the seizure or forfeiture of property following final judgment  
4 in the forfeiture proceeding.

5 Sec. 31. NEW SECTION. 809B.31 **Attorney fees.**

6 In any proceeding in which a property owner's claim prevails  
7 by recovering at least half, by value, of the property or  
8 currency claimed, the court shall order the seizing law  
9 enforcement agency or prosecuting authority at fault to pay all  
10 of the following:

11 1. Reasonable attorney fees and other litigation costs  
12 incurred by the claimant.

13 2. Post-judgment interest.

14 3. In cases involving currency, other negotiable  
15 instruments, or the proceeds of an interlocutory sale, any  
16 interest actually paid from the date of seizure.

17 Sec. 32. NEW SECTION. 809B.32 **Return of property, damages,**  
18 **and costs.**

19 1. If the court orders the return of property, the law  
20 enforcement agency that holds the property shall return the  
21 property to the rightful owner within a reasonable period not  
22 to exceed five days after the date of the order.

23 2. The rightful owner shall not be subject to any expenses  
24 related to towing, storage, or preservation of the property.

25 3. The law enforcement agency that holds the property is  
26 responsible for any damages, storage fees, and related costs  
27 applicable to property returned under this section.

28 Sec. 33. NEW SECTION. 809B.33 **Disposition of property and**  
29 **proceeds.**

30 1. At any time when contraband is no longer needed as  
31 evidence, the court may order the contraband be sold or  
32 destroyed according to state law.

33 2. Except as required by sections 809B.24 and 809B.25, the  
34 court may order property be sold at any time when:

35 a. The property is no longer needed as evidence.

1     *b.* Abandoned property or property seized from a defendant  
2 who died, was deported, or fled the jurisdiction is no longer  
3 needed as evidence.

4     3. If the forfeiture is granted, the court shall order the  
5 sale of forfeited property other than seized currency.

6     4. When all forfeited property is reduced to proceeds,  
7 the court may order, upon exhaustion of all appeals or at its  
8 discretion, the distribution of forfeited proceeds to do any  
9 of the following:

10    *a.* Pay restitution to the victim of the crime.

11    *b.* Satisfy recorded liens, mortgages, or filed security  
12 interests in the forfeited property.

13    *c.* Pay reasonable costs for the towing, storage,  
14 maintenance, repairs, advertising, sale, and other operating  
15 costs related to the forfeited property.

16    *d.* Reimburse the seizing law enforcement agency for  
17 nonpersonnel operating costs, including controlled-drug buy  
18 money, related to the investigation of the crime.

19    *e.* Reimburse the prosecuting authority, public defender,  
20 or court-appointed attorney for nonpersonnel court costs,  
21 including filing fees, subpoenas, court reporters, and  
22 transcripts.

23     5. After disbursements under subsection 4, the court may  
24 reimburse actual costs of up to one hundred thousand dollars by  
25 ordering the disbursements of:

26    *a.* Up to fifty percent of remaining funds to reimburse the  
27 seizing law enforcement agency for the salaries, benefits, and  
28 overtime pay of uniformed personnel expended in the seizure of  
29 the property and investigation of the crime.

30    *b.* Up to twenty-five percent of the remaining funds to  
31 reimburse the prosecuting authority for the salaries, benefits,  
32 and overtime pay expended in the prosecution of the crime and  
33 forfeiture proceeding.

34    *c.* Up to twenty-five percent of the remaining funds to  
35 reimburse the public defense or the fund to pay court-appointed

1 counsel for the salaries, benefits, and overtime pay expended  
2 in the defense of the criminal defendant and forfeiture  
3 proceeding.

4 6. After disbursements under subsections 4 and 5, the  
5 court may order the remaining funds be disbursed to any of the  
6 following:

7 a. The general fund of the state.

8 b. The department of public safety to supplement existing  
9 statewide grants to law enforcement agencies for the purchases  
10 of equipment.

11 c. The prosecuting agency for uses other than reimbursement  
12 of salaries, benefits, and overtime pay of personnel associated  
13 with the criminal prosecution of the case.

14 d. To the public defender for uses other than reimbursement  
15 of salaries, benefits, and overtime pay of personnel associated  
16 with the criminal defense of the case.

17 Sec. 34. NEW SECTION. 809B.34 Sale restrictions.

18 A law enforcement agency shall not sell forfeited property  
19 directly or indirectly to any employee of the law enforcement  
20 agency, to a person related to an employee of the law  
21 enforcement agency within the third degree of consanguinity or  
22 affinity, or to another law enforcement agency.

23 Sec. 35. NEW SECTION. 809B.35 Preemption.

24 This chapter preempts laws by township, municipal, county  
25 and other governments in the state which regulate civil and  
26 criminal forfeiture.

27 Sec. 36. NEW SECTION. 809B.36 Limitation on federal  
28 adoption.

29 1. A law enforcement agency shall not transfer or offer for  
30 adoption property, seized under state law, to a federal agency  
31 for the purpose of forfeiture under 18 U.S.C. ch. 46, or other  
32 federal law.

33 2. Subsection 1 shall only apply to a seizure by law  
34 enforcement agency pursuant to a law enforcement agency  
35 authority under state law and without involvement of the

1 federal government. Subsection 1 shall not be construed to  
2 limit a law enforcement agency from participating in joint task  
3 forces with the federal government.

4 3. A law enforcement agency shall not accept payment of any  
5 kind or distribution of forfeiture proceeds from the federal  
6 government. All such forfeiture proceeds shall be directed to  
7 the general fund of the state.

8 Sec. 37. NEW SECTION. **809B.37 Limitation on state and**  
9 **federal joint task forces.**

10 1. Except as allowed for in subsection 2, a joint task force  
11 of a law enforcement agency and a federal agency shall transfer  
12 seized property to the prosecuting authority for forfeiture  
13 under this chapter.

14 2. The joint task force may transfer seized property to  
15 the United States department of justice for forfeiture under  
16 federal law if the seized property includes United States  
17 currency that exceeds twenty-five thousand dollars.

18 3. A law enforcement agency shall not accept payment  
19 or distribution of any kind from the federal government if  
20 the federal government requires seized property less than  
21 twenty-five thousand dollars to be transferred to the federal  
22 government for forfeiture under federal law.

23 4. Subsections 1 and 2 shall not be construed to prohibit  
24 the federal government, acting alone, from seizing property and  
25 seeking forfeiture under federal law.

26 Sec. 38. NEW SECTION. **809B.38 Guidance.**

27 1. A prosecuting authority, after consulting with the  
28 responsible United States attorney, shall establish guidelines  
29 for joint task forces and multijurisdictional collaboration in  
30 the prosecuting authority's jurisdiction. The guidelines shall  
31 be consistent with federal safeguards to ensure that activities  
32 are conducted in compliance with the United States department  
33 of justice policies.

34 2. The department of public safety may offer training on  
35 seizure and forfeiture under this chapter.

1 Sec. 39. Section 80.39, subsection 1, Code 2024, is amended  
2 to read as follows:

3 1. Personal property, except for motor vehicles subject to  
4 sale pursuant to [section 321.89](#), and seizable property subject  
5 to disposition pursuant to [chapter 809](#) ~~or 809A~~, which personal  
6 property is found or seized by, turned in to, or otherwise  
7 lawfully comes into the possession of the department or a local  
8 law enforcement agency and which the department or agency does  
9 not own, shall be disposed of pursuant to [this section](#). If by  
10 examining the property the owner or lawful custodian of the  
11 property is known or can be readily ascertained, the department  
12 or agency shall notify the owner or custodian by certified mail  
13 directed to the owner's or custodian's last known address, as  
14 to the location of the property. If the identity or address of  
15 the owner cannot be determined, notice by one publication in a  
16 newspaper of general circulation in the area where the property  
17 was found is sufficient notice. A published notice may contain  
18 multiple items.

19 Sec. 40. Section 123.9, subsection 7, Code 2024, is amended  
20 by striking the subsection.

21 Sec. 41. Section 321.232, subsection 3, Code 2024, is  
22 amended to read as follows:

23 3. A speed detection jamming device sold, operated, or  
24 possessed in violation of [subsection 1](#) may be seized by a peace  
25 officer and is subject to forfeiture as provided by [chapter 809](#)  
26 ~~or 809A~~.

27 Sec. 42. Section 321J.4B, subsections 6, 9, and 10, Code  
28 2024, are amended to read as follows:

29 6. Upon conviction of the defendant for a second  
30 or subsequent violation of [subsection 2](#), paragraph "a",  
31 subparagraph (2), the court shall order, if the convicted  
32 person is the owner of the motor vehicle used in the commission  
33 of the offense, that that motor vehicle be seized and forfeited  
34 to the state pursuant to [chapters 809](#) and ~~809A~~ [809B](#).

35 9. Operating a motor vehicle on a street or highway in this

1 state in violation of an order of impoundment or immobilization  
2 is a serious misdemeanor. A motor vehicle which is subject to  
3 an order of impoundment or immobilization that is operated on a  
4 street or highway in this state in violation of the order shall  
5 be seized and forfeited to the state under [chapters 809](#) and  
6 [809A](#) [809B](#).

7 10. Once the period of impoundment or immobilization has  
8 expired, the owner of the motor vehicle shall have thirty  
9 days to claim the motor vehicle and pay all fees and charges  
10 imposed under [this section](#). If the owner or the owner's  
11 designee has not claimed the vehicle and paid all fees and  
12 charges imposed under [this section](#) within seven days from the  
13 date of expiration of the period, the clerk shall send written  
14 notification to the motor vehicle owner, at the owner's last  
15 known address, notifying the owner of the date of expiration of  
16 the period of impoundment or immobilization and of the period  
17 in which the motor vehicle must be claimed. If the motor  
18 vehicle owner fails to claim the motor vehicle and pay all fees  
19 and charges imposed within the thirty-day period, the motor  
20 vehicle shall be forfeited to the state under [chapters 809](#) and  
21 [809A](#) [809B](#).

22 Sec. 43. Section 321J.4B, subsection 12, paragraph a,  
23 subparagraph (2), Code 2024, is amended to read as follows:

24 (2) The holder of a security interest in a vehicle which  
25 is impounded or immobilized pursuant to [this section](#) or  
26 forfeited in the manner provided in chapters 809 and ~~809A~~  
27 [809B](#) shall be notified of the impoundment, immobilization,  
28 or forfeiture within seventy-two hours of the seizure of the  
29 vehicle and shall have the right to claim the motor vehicle  
30 without payment of any fees or surcharges unless the value of  
31 the vehicle exceeds the value of the security interest held by  
32 the creditor.

33 Sec. 44. Section 321J.10, subsection 7, Code 2024, is  
34 amended to read as follows:

35 7. Specimens obtained pursuant to warrants issued under

1 this section are not subject to disposition under [section 808.9](#)  
2 or [chapter 809](#) or ~~809A~~.

3 Sec. 45. Section 455B.103, subsection 4, paragraph d,  
4 subparagraph (2), Code 2024, is amended to read as follows:

5 (2) In a reasonable manner, and any property seized shall be  
6 treated in accordance with the provisions of [chapters 808](#), and  
7 [809](#), ~~and 809A~~.

8 Sec. 46. Section 462A.14D, subsection 7, Code 2024, is  
9 amended to read as follows:

10 7. Specimens obtained pursuant to warrants issued under  
11 this section are not subject to disposition under [section 808.9](#)  
12 or [chapter 809](#) or ~~809A~~ [809B](#).

13 Sec. 47. Section 706A.3, subsection 3, paragraphs d and e,  
14 Code 2024, are amended to read as follows:

15 d. Ordering the payment of all reasonable costs and expenses  
16 of the investigation and prosecution of any violation, civil  
17 or criminal, including reasonable attorney fees in the trial  
18 and appellate courts. Such payments received by the state,  
19 by judgment, settlement, or otherwise, shall be considered  
20 forfeited property and disposed of pursuant to ~~section 809A~~.  
21 [chapter 809B](#).

22 e. Ordering the forfeiture of any property subject to  
23 forfeiture under ~~chapter 809A~~ [809B](#), pursuant to the provisions  
24 and procedures of that chapter.

25 Sec. 48. Section 706A.3, subsection 4, Code 2024, is amended  
26 to read as follows:

27 4. Relief under [subsection 3](#), paragraphs "e", "f", and  
28 "g", shall not be granted in civil proceedings instituted  
29 by an aggrieved person unless the prosecuting attorney has  
30 instituted the proceedings or intervened. In any action under  
31 this section brought by the state or in which the state has  
32 intervened, the state may employ any of the powers of seizure  
33 and restraint of property as are provided for forfeiture  
34 actions under ~~chapter 809A~~ [809B](#), or as are provided for the  
35 collection of taxes payable and past due, and whose collection



1 has been determined to be in jeopardy.

2 Sec. 49. Section 706B.2, subsection 4, Code 2024, is amended  
3 to read as follows:

4 4. A person who is found guilty of a violation under this  
5 section also may be charged with violations of [chapter 706A](#),  
6 ~~and property involved in a violation under [this chapter](#) is~~  
7 ~~subject to forfeiture under [chapter 809A](#).~~

8 Sec. 50. Section 715A.8, subsection 6, Code 2024, is amended  
9 by striking the subsection.

10 Sec. 51. Section 724.26, subsection 4, Code 2024, is amended  
11 to read as follows:

12 4. Except as provided in ~~[section 809A.17, subsection 5,](#)~~  
13 ~~paragraph "b"~~ [chapter 809B](#), a court that issues an order or  
14 that enters a judgment of conviction described in subsection  
15 2 and that finds the subject of the order or conviction to be  
16 in possession of any firearm, offensive weapon, or ammunition  
17 shall order that such firearm, offensive weapon, or ammunition  
18 be sold or transferred by a date certain to the custody of a  
19 qualified person in this state, as determined by the court.  
20 The qualified person must be able to lawfully possess such  
21 firearm, offensive weapon, or ammunition in this state. If  
22 the court is unable to identify a qualified person to receive  
23 such firearm, offensive weapon, or ammunition, the court  
24 shall order that the firearm, offensive weapon, or ammunition  
25 be transferred by a date certain to the county sheriff or  
26 a local law enforcement agency designated by the court for  
27 safekeeping until a qualified person is identified to receive  
28 the firearm, offensive weapon, or ammunition, until such order  
29 is no longer in effect, until such conviction is vacated, or  
30 until the person's rights have been restored in accordance  
31 with [section 724.27](#). If the firearm, offensive weapon, or  
32 ammunition is to be transferred to the sheriff's office or a  
33 local law enforcement agency, the court shall assess the person  
34 the reasonable cost of storing the firearm, offensive weapon,  
35 or ammunition, payable to the county sheriff or the local law

1 enforcement agency.

2 Sec. 52. Section 809.5, subsection 1, paragraph f,  
3 subparagraph (1), Code 2024, is amended to read as follows:

4 (1) If the aggregate fair market value of the property is  
5 greater than five hundred dollars, forfeiture proceedings shall  
6 be initiated pursuant to the provisions of chapter 809A 809B.  
7 If the court does not order the property forfeited to the state  
8 in the forfeiture proceedings pursuant to chapter 809A 809B,  
9 the seizing agency shall become the owner of the property and  
10 may dispose of it in any reasonable manner.

11 Sec. 53. Section 809.12A, Code 2024, is amended to read as  
12 follows:

13 **809.12A Appeals.**

14 An appeal from a denial of an application for the return  
15 of seized property or from an order for the return of seized  
16 property shall be made within thirty days after the entry of  
17 a judgment order. The appellant, other than the state, shall  
18 post a bond of a reasonable amount as the court may fix and  
19 approve, conditioned to pay all costs of the proceedings if the  
20 appellant is unsuccessful on appeal. The appellant, other than  
21 the state, may be required to post a supersedeas bond or other  
22 security, as the court finds to be reasonable, in order to stay  
23 the operation of a forfeiture order under ~~section 809A.16~~  
24 chapter 809B.

25 Sec. 54. Section 809.15, Code 2024, is amended to read as  
26 follows:

27 **809.15 Combining proceedings.**

28 In cases involving seized property and property subject to  
29 forfeiture pursuant to ~~section 809A.4~~ chapter 809B, the court  
30 may order that the proceedings be combined for purposes of this  
31 chapter.

32 Sec. 55. REPEAL. Section 716A.7, Code 2024, is repealed.

33 Sec. 56. REPEAL. Chapter 809A, Code 2024, is repealed.