HOUSE FILE 2560
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 634)

(As Amended and Passed by the House March 7, 2024)
* = Language Stricken by the House

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Name of the seizing law enforcement agency.

b. Description of the seized property.

c. Location where the seizure occurred.

d. Date and circumstances of the seizure.

e. Location where the property is being stored and present custodian.

f. Name and contact information of owner.

g. Name and contact information of possible innocent owner claimant.

h. Name and contact information of any lienholder.

i. The type and quantity of the controlled substance involved.

j. Other relevant information.

k. If the property is a conveyance, the report shall include all of the following:

(1) Make, model, serial number, and year of the conveyance.

(2) Name and contact information of person in whose name the conveyance is registered.

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

1. Title to the property subject to forfeiture vests with the state when the court issues a forfeiture judgment and relates back to the date when the state seized or restrained the property.

2. Title to substitute assets vests when the court issues an order forfeiting substitute assets.

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

1. If a defendant in a criminal matter is represented by a public defender or appointed counsel if indigent, that attorney shall represent the defendant in the forfeiture proceeding.

2. If the defendant or an innocent owner claimant engages in pro se representation in the forfeiture proceeding, the court may exercise discretion applying the rules of pleading, practice, evidence, and procedure.

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

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

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

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

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

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

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

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

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

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

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

a. As a separate hearing.

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

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

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

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

a. The seizure was invalid.

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

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

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

8. This section does not apply to contraband.

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

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

a. A description of the property seized.

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

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

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

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

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

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

a. With the initial charging instrument.

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

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

d. Another time in the court's discretion.

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

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

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

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

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

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

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

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

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

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

some issues and have the court determine remaining issues.

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

a. A plea agreement.

b. A diversion agreement.

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

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

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

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

a. Abandoned the property.

b. Fled the jurisdiction.

c. Was deported by the United States.

d. Died.

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

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

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

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

a. As a separate hearing.

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

or other pretrial hearing.

c. At trial.

d. Upon conviction.

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

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

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

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

b. The extent to which the defendant participated in the crime.

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

d. Whether the crime was completed or attempted.

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

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

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

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

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

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

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

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

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

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

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

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

a. That the interest is invalid.

b. That the interest resulted from a fraudulent conveyance.

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

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

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

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

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

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

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

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

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

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

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

b. Facts or evidence supporting the claim.

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

d. The relief sought by the claimant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The defendant intentionally dissipated the property.

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

3. The defendant substantially diminished the value of property.

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

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

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

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

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

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

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

disposition of the property upon the issuance of the order.

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

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

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

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

2. Post-judgment interest.

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

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

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

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

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

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

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

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

a. The property is no longer needed as evidence.

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

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

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

a. Pay restitution to the victim of the crime.

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

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

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

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

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

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

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

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

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

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

a. The general fund of the state.

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

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

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

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

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

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

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

Sec. 36. NEW SECTION. **809B.36 Limitation on federal adoption.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. A speed detection jamming device sold, operated, or possessed in violation of subsection 1 may be seized by a peace officer and is subject to forfeiture as provided by chapter 809 ~~or 809A~~.

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

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

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

state in violation of an order of impoundment or immobilization is a serious misdemeanor. A motor vehicle which is subject to an order of impoundment or immobilization that is operated on a street or highway in this state in violation of the order shall be seized and forfeited to the state under chapters 809 and ~~809A~~ 809B.

10. Once the period of impoundment or immobilization has expired, the owner of the motor vehicle shall have thirty days to claim the motor vehicle and pay all fees and charges imposed under this section. If the owner or the owner's designee has not claimed the vehicle and paid all fees and charges imposed under this section within seven days from the date of expiration of the period, the clerk shall send written notification to the motor vehicle owner, at the owner's last known address, notifying the owner of the date of expiration of the period of impoundment or immobilization and of the period in which the motor vehicle must be claimed. If the motor vehicle owner fails to claim the motor vehicle and pay all fees and charges imposed within the thirty-day period, the motor vehicle shall be forfeited to the state under chapters 809 and ~~809A~~ 809B.

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

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

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

7. Specimens obtained pursuant to warrants issued under

this section are not subject to disposition under section 808.9 or chapter 809 ~~or 809A~~.

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

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

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

7. Specimens obtained pursuant to warrants issued under this section are not subject to disposition under section 808.9 or chapter 809 or ~~809A~~ 809B.

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

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

e. Ordering the forfeiture of any property subject to forfeiture under chapter ~~809A~~ 809B, pursuant to the provisions and procedures of that chapter.

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

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

has been determined to be in jeopardy.

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

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

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

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

4. Except as provided in ~~section 809A.17, subsection 5, paragraph "b"~~ chapter 809B, a court that issues an order or that enters a judgment of conviction described in subsection 2 and that finds the subject of the order or conviction to be in possession of any firearm, offensive weapon, or ammunition shall order that such firearm, offensive weapon, or ammunition be sold or transferred by a date certain to the custody of a qualified person in this state, as determined by the court. The qualified person must be able to lawfully possess such firearm, offensive weapon, or ammunition in this state. If the court is unable to identify a qualified person to receive such firearm, offensive weapon, or ammunition, the court shall order that the firearm, offensive weapon, or ammunition be transferred by a date certain to the county sheriff or a local law enforcement agency designated by the court for safekeeping until a qualified person is identified to receive the firearm, offensive weapon, or ammunition, until such order is no longer in effect, until such conviction is vacated, or until the person's rights have been restored in accordance with section 724.27. If the firearm, offensive weapon, or ammunition is to be transferred to the sheriff's office or a local law enforcement agency, the court shall assess the person the reasonable cost of storing the firearm, offensive weapon, or ammunition, payable to the county sheriff or the local law

enforcement agency.

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

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

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

809.12A Appeals.

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

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

809.15 Combining proceedings.

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

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

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