

## **APPENDIX 3**

**Papers from State Representative Andrew Dawkins' Files  
Related to 1989 Minn. HF 159**

**Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Correspondence Between Rep. Dawkins and Deborah K. McKinght,  
Analyst with the Minnesota House of Representatives Research Department.

She had prime responsibility for drafting HF 159 as Introduced

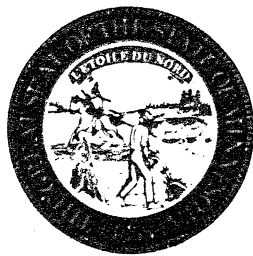
2 Items

Andy Dawkins

District 65A  
Ramsey County

**Committees:**

Economic Development and Housing  
Education  
Metropolitan Affairs  
Regulated Industries



# Minnesota House of Representatives

Robert Vanasek, Speaker

February 22, 1989

TO: Ms. Deb McKnight, House Research  
FROM: Rep. Andy Dawkins *AD*  
Re: H.F. 159 -- and my meeting with:

Chuck Parsons, Esq.  
Moss & Barnett  
347-0300  
(representing Bar Association's Real Estate Section)

Mr. Parsons strongly believes that current forfeiture law MS609.5311 Subd. 3(e) covers the contract for deed situation my bill is addressing.

To make it crystal clear he suggests adding the following sentence to the end of Subd. 3(e):

"A bona fide security interest includes the interest of a seller under a contract for deed."

I want to trust his judgment but I have some reservations. First, I read the immediately preceding subdivision, 609.5311 Subd. 3(d) to define an owner as the contract for deed vendor and that the vendor must have some involvement in the criminality before the property can be forfeited. Mr. Parsons believes that "owner" includes the vendee and that all we need to trigger forfeiture is to have the vendee be part of the criminal enterprise. Thus, the state would acquire the property through forfeiture and then simply step into the shoes of the vendee and have to pay off the vendor as a person with a bona fide security interest.

I think that Ramsey County Attorney Tom Foley shares my reservation -- which is why he couldn't bring a forfeiture against the Bar-B-Q King Restaurant on University Avenue -- because the "owner" was a vendor in California who had no knowledge of the criminal enterprise taking place on the premises.

Check with Tom Foley or his assistant, John Wodele, as to how they interpret current forfeiture law.

If Parsons is right, terrific, let's do a delete-everything amendment that simply keeps the unlawful detainer, landlord/tenant provisions and adds the one sentence that Mr. Parsons suggest to cover the contract for deed situation.



Ms. Deb McKnight  
February 22, 1989  
Page 2

If Parsons is wrong, let's try to improve upon his suggestions and do what it takes to make current forfeiture law cover contract for deeds.

Also, will we need to have some mechanism that makes the vendee a tenant and evictable with an unlawful detainer? by whom?

Mr. Parsons would be more than happy to discuss this further with you.

Thanks a lot, Deb.

AD:BF

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## Minnesota House of Representatives

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February 23, 1989

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TO: Representative Andy Dawkins

FROM: Deborah K. McKnight, Legislative Analyst 

RE: Questions on H.F. 159

You asked me to answer various questions related to H.F.159. Here are responses for those I have had time to address.

Recording contracts for deed. The law requiring recording contracts for deed is still in effect and was even strengthened in 1988 with more penalties for failure to record.

Contraband. You asked the effect of adding the word "contraband" to the forfeiture law in section 6 of the bill. For purposes of the forfeiture law, contraband is defined to mean anything whose possession is unlawful under Minnesota law. Thus, section 6 provides that any property used in manufacturing, etc. contraband is subject to forfeiture. At the hearing Emily or prosecutors may be able to give you examples of contraband connected with controlled substances that might be covered by this section.

Section 8 Housing. The enclosed federal regulation on eviction from Section 8 housing appears to allow you bill to operate in Section 8 housing.

Residential rental property. My initial thought on whether a dormitory or nursing home is "residential rental property" under state law is, No. In these situations the student or nursing home resident is apparently a licensee, because they are contracting for space or care, not renting a specific property. If I learn anything different either by the first hearing or the time the bill is voted on, I will let you know.

Rent Owed After Eviction. A law student is researching the question whether, when a lease terminates for cause (cause here being illegal use of the property), the tenant remains liable for rent over the remaining lease period. I will get the answer to you when it is available.

Impairment of Contracts. I took a very cursory look at file memos on case law on this issue. My initial impression is that as applied to existing leases and contracts for deed, the bill is arguably constitutional, but could be challenged.

A recent U.S. Supreme Court case on the subject used a four part test when considering the constitutionality of applying a law to existing contracts:

- Is there a contract?
- Is there a substantial impairment of the contract?
- Is there a significant and legitimate public purpose for the legislation?

- Is the legislation reasonable and necessary to the fulfillment of the public purpose? Energy Reserves Group v. Kansas Power and Light, 459 U.S. 400 (1983).

Applying these questions to your bill, I would say:

- Clearly a lease or contract for deed is a contract.
- Preventing the parties from using or allowing the property to be used for drug offenses should not be deemed an impairment of the contract.
- Working on the social problem of drug crimes should qualify as a "significant and legitimate public purpose" for the legislation. This is especially true because case law indicates that the Court's concern in this part of the test is that a law be addressing a broad social issue, not the advancement of one small group or occupation's economic self-interest.
- Whether forfeiture of the property is "reasonable and necessary" to fulfil the public purpose of combatting drugs is the element of the test that might open the bill to constitutional challenge. To my knowledge, a properly drafted forfeiture statute is constitutional. One potentially open question about H.F. 159 is that it applies where contraband or controlled substances are seized, even where no conviction occurs. This is an issue for you to be aware of, but I do not think it means the bill clearly violates the constitutional ban on impairment of contracts. It might raise separate due process issues that someone with greater knowledge of forfeiture laws in general could comment on.

Please let me know if you have questions about this. I will not be attending the hearing Friday, so I will provide Emily with copies of this memo and your amendment.

# Research Department

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## Minnesota House of Representatives

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Lung-Fai Wong

TO: Representative Andy Dawkins

FROM: Deborah K. McKnight, Legislative Analyst 

RE: More Questions on H.F. 159

You asked whether a tenant still owes rent after being evicted for cause. My research assistant did not find a Minnesota case on this. According to Schoshinski's American Law of Landlord and Tenant, the general rule is that the obligation to pay rent ends after for cause eviction. If that is not the result you want, it would be best to amend your bill.

The research assistant also did not find any authority contrary to our first impression that a dormitory or nursing home is not a residential rental property. The legal concept of residential rental property must include some estate in land or at least in a specific space (Apt. X). Dormitory contracts and nursing home arrangements do not involve any such estate or specific place. Further, persons are removed from dormitories or nursing homes for reasons other than expiration of lease, breach of lease, or nonpayment of rent (e.g., dropping out of school or becoming too ill for a board and care establishment).

Let me know if you have further questions.

DKM/jb

[49 FR 12241, Mar. 29, 1984]

§ 882.214 Adjustment of allowance for utilities and other services.

(a) *Annual review.* At least annually, the PHA shall determine whether there has been a substantial change in utility rates or other charge of general applicability, and whether an adjustment is required in the Allowance of Utilities and Other Services by reason of such changes or because of errors in the original determination. If the PHA determines that an adjustment should be made, the PHA shall establish a schedule of adjustments taking into account size and type of dwelling units and other pertinent factors and shall furnish HUD with a copy of the adjusted schedule.

(b) *Adjustments in payments under Contracts in effect.* The PHA shall determine the amounts of adjustments to be made in the amount of rent to be paid by affected Families and the amount of housing assistance payments and shall notify the Owners and Families accordingly.

(c) *Effect on Fair Market Rents.* If the PHA finds that utility cost changes are causing substantial difficulties in leasing Decent, Safe and Sanitary housing within the existing Fair Market Rent limitations, the PHA shall furnish appropriate documentation to HUD with a request for consideration of the need for a change in the Fair Market Rents.

§ 882.215 Assisted tenancy.

(a) *Term of Lease.* (1) The term of the Lease shall begin on a date stated in the Lease, and shall continue until:

- (i) A termination of the Lease by the Owner in accordance with paragraph (c) of this section,
- (ii) A termination of the Lease by the Family in accordance with the Lease or by mutual agreement during the term of the Lease, or
- (iii) A termination of the Contract by the PHA.

(2) The term of the Lease shall begin at least one year prior to the end of the remaining term of the ACC. The Contract and the Lease shall end upon termination of the ACC.

(3) During the term of the Lease, the Contract Rent shall be subject to

adjustment in accordance with § 882.108, and the Tenant Rent shall be subject to change in accordance with HUD regulations and requirements.

(4) The Owner may offer the Family a new Lease for execution by the Family after approval by the PHA in accordance with § 882.209(k), for a term beginning at any time after the first year of the term of the Lease. The Owner shall give the tenant written notice of the offer, with copy to the PHA, at least sixty days before the proposed commencement date of the new Lease term. The offer may specify a reasonable time limit for acceptance by the Family.

(5) The Lease shall permit a termination of the Lease by the Family without cause, at any time after the first year of the term of the Lease, on not more than sixty days written notice by the Family to the Owner [with copy to the PHA].

(b) *Housing Assistance Payments Contract.* (1) The Contract for a unit shall be in a form prescribed by HUD.

(2) The term of the Contract shall begin on the first day of the term of the Lease and shall end on the last day of the term of the Lease.

(c) *Termination of tenancy (for Leases entered into on or after October 1, 1981).* (1) The Owner shall not terminate the tenancy except for:

- (i) Serious or repeated violation of the terms and conditions of the Lease;
- (ii) Violation of Federal, State, or local law which imposes obligations on the tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or
- (iii) Other good cause.

(2) The following are some examples of "other good cause" for termination of tenancy by the Owner: Failure by the Family to accept the offer of a new Lease in accordance with paragraph (a)(4) of this section; a Family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property; criminal activity by Family members involving crimes of physical violence to persons or property; the Owner's desire to utilize the unit for personal or family use or for a purpose other than use as

*Sec. 8 rental regs o.k. thru February 21, 1989*

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

1989 Minn. HF 159 As Introduced

01/11/89

[ REVISOR ] CMR/JD 89-0446

Introduced by Dawkins, Clark, Krueger,  
Marsh, Kelly  
January 23, 1989  
Referred to Committee on JUDICIARY

H.F. No. 159

Companion S.F. No. \_\_\_\_\_

Reproduced by PHILLIPS LEGISLATIVE SERVICE

1                                   A bill for an act

2           relating to crimes; providing for termination,  
3           cancellation, and forfeiture of real estate interests  
4           related to contraband or controlled substance  
5           seizures; amending Minnesota Statutes 1988, sections  
6           559.21, by adding a subdivision; 566.02; 609.531;  
7           609.5311, subdivisions 2 and 3; proposing coding for  
8           new law in Minnesota Statutes, chapters 566 and 609.

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

10        Section 1. Minnesota Statutes 1988, section 559.21, is  
11   amended by adding a subdivision to read:

12        Subd. 9. [CONTRABAND OR CONTROLLED SUBSTANCE SEIZURE.] A  
13   seizure under section 8, subdivision 2, for which there is not a  
14   defense under section 8, subdivision 3, is a default in the  
15   conditions of a contract for deed.

16        Sec. 2. Minnesota Statutes 1988, section 559.21, is being  
17   amended by adding a subdivision to read:

18        Subd. 10. [NOTICE.] Contract for deed vendors regulated  
19   under section 8 shall give written notice to vendees of the  
20   provision in subdivision 9. Failure to give such notice is not  
21   a defense under section 8, subdivision 3.

22        Sec. 3. Minnesota Statutes 1988, section 566.02, is  
23   amended to read:

24        566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
25   FINE.]

26        When any person has made unlawful or forcible entry into  
27   lands or tenements, and detains the same, or, having peaceably

1 entered, unlawfully detains the same, the person entitled to the  
2 premises may recover possession thereof in the manner  
3 hereinafter provided. A seizure under section 8, subdivision 1,  
4 for which there is not a defense under section 8, subdivision 3,  
5 constitutes unlawful detention by the tenant.

6 Sec. 4. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
7 shall give written notice to tenants of the provision relating  
8 to seizures in section 566.02. Failure to give such notice is  
9 not a defense under section 8, subdivision 3.

10 Sec. 5. Minnesota Statutes 1988, section 609.531, is  
11 amended to read:

12 609.531 [FORFEITURES.]

13 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
14 609.531 to ~~609.5316~~ 609.5317, the following terms have the  
15 meanings given them.

16 (a) "Conveyance device" means a device used for  
17 transportation and includes, but is not limited to, a motor  
18 vehicle, trailer, snowmobile, airplane, and vessel and any  
19 equipment attached to it. The term "conveyance device" does not  
20 include property which is, in fact, itself stolen or taken in  
21 violation of the law.

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

25 (c) "Property" means property as defined in section 609.52,  
26 subdivision 1, clause (1). <sup>§</sup>

27 (d) "Contraband" means property which is illegal to possess  
28 under Minnesota law.

29 (e) "Appropriate agency" means the bureau of criminal  
30 apprehension, the Minnesota state patrol, a county sheriff's  
31 department, or a city or airport police department.

32 (f) "Designated offense" includes:

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

34 (2) For all other purposes: a felony violation of, or a  
35 felony-level attempt or conspiracy to violate, section 609.185;  
36 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;



1 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
2 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
3 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
4 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
5 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
6 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
7 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
8 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
9 609.88; 609.89; or 617.246.

10 (g) "Controlled substance" has the meaning given in section  
11 152.01, subdivision 4.

12 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
13 609.5317 must be liberally construed to carry out the following  
14 remedial purposes:

15 (1) to enforce the law;

16 (2) to deter crime;

17 (3) to reduce the economic incentive to engage in criminal  
18 enterprise;

19 (4) to increase the pecuniary loss resulting from the  
20 detection of criminal activity; and

21 (5) to forfeit property unlawfully used or acquired and  
22 divert the property to law enforcement purposes.

23 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
24 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
25 appropriate agency upon process issued by any court having  
26 jurisdiction over the property. Property may be seized without  
27 process if:

28 (1) the seizure is incident to a lawful arrest or a lawful  
29 search;

30 (2) the property subject to seizure has been the subject of  
31 a prior judgment in favor of the state in a criminal injunction  
32 or forfeiture proceeding under this chapter; or

33 (3) the appropriate agency has probable cause to believe  
34 that the delay occasioned by the necessity to obtain process  
35 would result in the removal or destruction of the property and  
36 that:

1 (i) the property was used or is intended to be used in  
2 commission of a felony; or

3 (ii) the property is dangerous to health or safety.

4 If property is seized without process under clause (3),  
5 subclause (i), the county attorney must institute a forfeiture  
6 action under section 609.5313 as soon as is reasonably possible.

7 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
8 OF SEIZED PROPERTY.] All right, title, and interest in property  
9 subject to forfeiture under sections 609.531 to  
10 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
11 commission of the act or omission giving rise to the  
12 forfeiture. Any property seized under sections 609.531 to  
13 609.5316 is not subject to replevin, but is deemed to be in the  
14 custody of the appropriate agency subject to the orders and  
15 decrees of the court having jurisdiction over the forfeiture  
16 proceedings. When property is so seized, the appropriate agency  
17 may:

18 (1) place the property under seal;

19 (2) remove the property to a place designated by it;

20 (3) in the case of controlled substances, require the state  
21 board of pharmacy to take custody of the property and remove it  
22 to an appropriate location for disposition in accordance with  
23 law; and

24 (4) take other steps reasonable and necessary to secure the  
25 property and prevent waste.

26 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
27 property that has been seized under sections 609.531 to ~~609.5316~~  
28 609.5317 seeks possession of the property before the forfeiture  
29 action is determined, the owner may, subject to the approval of  
30 the appropriate agency, give security or post bond payable to  
31 the appropriate agency in an amount equal to the retail value of  
32 the seized property. On posting the security or bond, the  
33 seized property must be returned to the owner and the forfeiture  
34 action shall proceed against the security as if it were the  
35 seized property. This subdivision does not apply to contraband  
36 property.

1 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
2 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
3 in rem action and is independent of any criminal prosecution,  
4 except as provided in this subdivision. The appropriate agency  
5 handling the forfeiture has the benefit of the evidentiary  
6 presumption of section 609.5314, subdivision 1, but otherwise  
7 bears the burden of proving the act or omission giving rise to  
8 the forfeiture by clear and convincing evidence, except that in  
9 cases arising under section 609.5312, the designated offense may  
10 only be established by a felony level criminal conviction.

11 (b) A court may not issue an order of forfeiture under  
12 section 609.5311 while the alleged owner of the property is in  
13 custody and related criminal proceedings are pending against the  
14 alleged owner. For forfeiture of a motor vehicle, the alleged  
15 owner is the registered owner according to records of the  
16 department of public safety. For real property, the alleged  
17 owner is the owner of record. For other property, the alleged  
18 owner is the person notified by the prosecuting authority in  
19 filing the forfeiture action.

20 Sec. 6. Minnesota Statutes 1988, section 609.5311,  
21 subdivision 2, is amended to read:

22 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
23 personal, that has been used, or is intended for use, or has in  
24 any way facilitated, in whole or in part, the manufacturing,  
25 compounding, processing, delivering, importing, cultivating,  
26 exporting, transporting, or exchanging of contraband or a  
27 controlled substance that has not been lawfully manufactured,  
28 distributed, dispensed, and acquired is subject to forfeiture  
29 under this section, except as provided in subdivision 3.

30 Sec. 7. Minnesota Statutes 1988, section 609.5311,  
31 subdivision 3, is amended to read:

32 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
33 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
34 is subject to forfeiture under this section only if the retail  
35 value of the controlled substance is \$500 or more.

36 (b) Real property is subject to forfeiture under this

1 section only if the retail value of the controlled substance or  
2 contraband is \$5,000 or more.

3 (c) Property used by any person as a common carrier in the  
4 transaction of business as a common carrier is subject to  
5 forfeiture under this section only if the owner of the property  
6 is a consenting party to, or is privy to, the use or intended  
7 use of the property as described in subdivision 2.

8 (d) Property is subject to forfeiture under this section  
9 only if its owner was privy to the use or intended use described  
10 in subdivision 2, or the unlawful use or intended use of the  
11 property otherwise occurred with the owner's knowledge or  
12 consent.

13 (e) Forfeiture under this section of a conveyance device or  
14 real property encumbered by a bona fide security interest is  
15 subject to the interest of the secured party unless the secured  
16 party had knowledge of or consented to the act or omission upon  
17 which the forfeiture is based. A person claiming a security  
18 interest bears the burden of establishing that interest by clear  
19 and convincing evidence.

20 (f) Notwithstanding paragraphs (d) and (e), property is not  
21 subject to forfeiture based solely on the owner's or secured  
22 party's knowledge of the unlawful use or intended use of the  
23 property if the owner or secured party took reasonable steps to  
24 terminate use of the property by the offender.

25 Sec. 8. [609.5317] [REAL PROPERTY; SEIZURES.]

26 Subdivision 1. [RENTAL PROPERTY.] When contraband or a  
27 controlled substance manufactured, distributed, or acquired in  
28 violation of chapter 152 is seized on residential rental  
29 property incident to a lawful search or arrest, whether or not  
30 the seizure results in criminal charges or conviction, the  
31 county attorney shall notify the landlord of the property of the  
32 seizure and the applicable duties and penalties under this  
33 subdivision by certified letter, return receipt requested,  
34 within seven days of the seizure. If receipt is not returned,  
35 notice shall be given in the manner provided by law for service  
36 of summons in a civil action.

1       (a) Within 15 days after notice of the first occurrence,  
2 the landlord shall bring an unlawful detainer action against the  
3 tenant.

4       (b) Upon notice of a second occurrence, a lien shall be  
5 assessed against the property unless an unlawful detainer action  
6 has been commenced as provided in paragraph (a). The amount of  
7 the lien shall be \$3,000 unless the county attorney can show  
8 that the cost of the warrant and seizure exceeds this amount.

9       (c) Upon notice of a third occurrence, the property is  
10 subject to forfeiture under sections 609.531, 609.5311,  
11 609.5313, and 609.5315 unless an unlawful detainer action has  
12 been commenced as provided in paragraph (a).

13       Subd. 2. [CONTRACT FOR DEED.] When contraband or a  
14 controlled substance manufactured, distributed, or acquired in  
15 violation of chapter 152 is seized on a contract for deed  
16 vendee's residence incident to a lawful search or arrest,  
17 whether or not the seizure results in criminal charges or  
18 conviction, the county attorney shall notify the vendor of the  
19 contract for deed on the residence of the seizure and the  
20 applicable duties and penalties under this subdivision by  
21 certified letter, return receipt requested, within seven days of  
22 the seizure. If the receipt is not returned, notice shall be  
23 given in the manner provided by law for service of a summons in  
24 a civil action.

25       (a) Within 30 days after notice of the first occurrence,  
26 the vendor shall serve a termination notice upon the vendee.  
27 The notice must state that, notwithstanding any other law to the  
28 contrary, the contract will terminate upon receipt of the notice.

29       (b) Upon notice of a second occurrence, a lien shall be  
30 assessed against the property unless a termination notice has  
31 been served as provided in paragraph (a). The amount of the  
32 lien shall be \$3,000 unless the county attorney can show that  
33 the cost of the warrant and seizure exceeds this amount.

34       (c) Upon notice of a third occurrence, the property is  
35 subject to forfeiture under sections 609.531, 609.5311,  
36 609.5313, and 609.5315 unless a termination notice has been

1 served as provided in paragraph (a).

2 Subd. 3. [DEFENSE.] It is a defense against a proceeding  
3 under subdivision 1, paragraph (a), or subdivision 2, paragraph  
4 (a), that the tenant or vendee had no knowledge of the presence  
5 of the controlled substance and could not prevent it being  
6 brought onto the property.

7 It is a defense against a proceeding under subdivision 1,  
8 paragraph (b) or (c), or 2, paragraph (b) or (c), that the  
9 landlord or vendor made every reasonable attempt to evict a  
10 tenant or terminate a contract for deed under subdivision 1 or  
11 2, or that the landlord or vendor did not receive notice of the  
12 seizure.

13 Subd. 4. [LIMITATIONS.] This section shall not apply if  
14 the retail value of the contraband or controlled substance is  
15 less than \$5,000.

16 Sec. 9. [EFFECTIVE DATE.]

17 Sections 1 and 3 are effective on January 1, 1990.

18 Sections 2 and 4 are effective on November 1, 1989.

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Items From House Committee March 2,6, 1989  
This Committee Reported out a Delete All Amendment Which is Item #8

9 Items

\_\_\_\_\_ moves to amend the delete-everything  
amendment to H.F. 159 as follows:

Page 7, line 1, after "assigned" delete the comma and insert  
"and not previously exercised, or if the county attorney requests an  
assignment and the landlord makes an assignment,"

Page 7, line 8, before "controlled" insert "contraband or"

①



\_\_\_\_\_ moves to amend the delete-everything amendment to H.F. 159 as follows:

Page 6, line 17, delete "couny" and insert "county"

Page 6, line 21, after "landlord" insert "who chooses to assign the right to bring an unlawful detainer action"

Page 6, line 22, delete "the post writ of restitution" and insert "all"

Page 6, line 22, after "duties" insert "including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution,"

Page 6, line 29, after "attorney" insert "in writing on a form prepared by the county attorney"

Page 6, line 30, after "tenant." insert "Should the landlord choose to assign the right to bring an unlawful detainer action, such assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution."

2

\_\_\_\_\_ moves to amend the delete-everything amendment to H.F. 159 as follows:

Page 7, line 1, after "assigned" delete the comma and insert "and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment,"

Page 7, line 8, before "controlled" insert "contraband or"

3

\_\_\_\_\_ moves to amend the delete-everything amendment to H.F. 159 as follows:

Page 6, line 17, delete "councy" and insert "county"

Page 6, line 21, after "landlord" insert "who chooses to assign the right to bring an unlawful detainer action"

Page 6, line 22, delete. "the post writ of restitution" and insert "all"

Page 6, line 22, after "duties" insert "including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution,"

Page 6, line 29, after "attorney" insert "in writing on a form prepared by the county attorney"

Page 6, line 30, after "tenant." insert "Should the landlord choose to assign the right to bring an unlawful detainer action, such assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution."

4

\_\_\_\_\_ moves to amend the delete-everything amendment to H.F. 159 as follows:

Page 7, line 1, after "assigned" delete the comma and insert "and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment,"

Page 7, line 8, before "controlled" insert "contraband or"

5

\_\_\_\_\_ moves to amend the delete-everything amendment to H.F. 159 as follows:

Page 6, line 17, delete "counncy" and insert "county"

Page 6, line 21, after "landlord" insert "who chooses to assign the right to bring an unlawful detainer action"

Page 6, line 22, delete "the post writ of restitution" and insert "all"

Page 6, line 22, after "duties" insert "including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution,"

Page 6, line 29, after "attorney" insert "in writing on a form prepared by the county attorney"

Page 6, line 30, after "tenant." insert "Should the landlord choose to assign the right to bring an unlawful detainer action, such assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution."

6

Orenstein moves to amend H.F. 159, the  
delete everything amendment, as follows:

Page 1, line 16, after "notice" add  
"does not subject the landlord to criminal or  
civil liability and"

Page 6, line 35, ~~before the~~ deletes  
"has been" and insert "was"

Page 6, line 36, before the period add  
"as provided in paragraph (b)"

(7)

With last  
Amendments  
handwritten in  
Comm. amendments

1 \_\_\_\_\_ moves to amend H. F. 159, as follows:  
2 Delete everything after the enacting clause and insert:  
3 "Section 1. Minnesota Statutes 1988, section 566.02, is  
4 amended to read:  
5 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
6 FINE.]

7

7 When any person has made unlawful or forcible entry into  
8 lands or tenements, and detains the same, or, having peaceably  
9 entered, unlawfully detains the same, the person entitled to the  
10 premises may recover possession thereof in the manner  
11 hereinafter provided. A seizure under section 6, subdivision 1,  
12 for which there is not a defense under section 6, subdivision 3,  
13 constitutes unlawful detention by the tenant.

X

14 Sec. 2. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
15 shall give written notice to tenants of the provision relating  
16 to seizures in section 566.02. Failure to give such notice is  
17 not a defense under section 6, subdivision 3.

Does not subject LL  
to crim  
or  
Civ  
libe  
and

X

18 Sec. 3. Minnesota Statutes 1988, section 609.531, is  
19 amended to read:

20 609.531 [FORFEITURES.]

21 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
22 609.531 to ~~609.5316~~ 609.5317, the following terms have the  
23 meanings given them.

24 (a) "Conveyance device" means a device used for

1 transportation and includes, but is not limited to, a motor  
2 vehicle, trailer, snowmobile, airplane, and vessel and any  
3 equipment attached to it. The term "conveyance device" does not  
4 include property which is, in fact, itself stolen or taken in  
5 violation of the law.

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

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

11 (d) "Contraband" means property which is illegal to possess  
12 under Minnesota law.

13 (e) "Appropriate agency" means the bureau of criminal  
14 apprehension, the Minnesota state patrol, a county sheriff's  
15 department, or a city or airport police department.

16 (f) "Designated offense" includes:

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

18 (2) For all other purposes: a felony violation of, or a  
19 felony-level attempt or conspiracy to violate, section 609.185;  
20 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;  
21 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
22 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
23 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
24 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
25 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
26 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
27 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
28 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
29 609.88; 609.89; or 617.246.

30 (g) "Controlled substance" has the meaning given in section  
31 152.01, subdivision 4.

32 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
33 609.5317 must be liberally construed to carry out the following  
34 remedial purposes:

35 (1) to enforce the law;

36 (2) to deter crime;



1 (3) to reduce the economic incentive to engage in criminal  
2 enterprise;

3 (4) to increase the pecuniary loss resulting from the  
4 detection of criminal activity; and

5 (5) to forfeit property unlawfully used or acquired and  
6 divert the property to law enforcement purposes.

7 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
8 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
9 appropriate agency upon process issued by any court having  
10 jurisdiction over the property. Property may be seized without  
11 process if:

12 (1) the seizure is incident to a lawful arrest or a lawful  
13 search;

14 (2) the property subject to seizure has been the subject of  
15 a prior judgment in favor of the state in a criminal injunction  
16 or forfeiture proceeding under this chapter; or

17 (3) the appropriate agency has probable cause to believe  
18 that the delay occasioned by the necessity to obtain process  
19 would result in the removal or destruction of the property and  
20 that:

21 (i) the property was used or is intended to be used in  
22 commission of a felony; or

23 (ii) the property is dangerous to health or safety.

24 If property is seized without process under clause (3),  
25 subclause (i), the county attorney must institute a forfeiture  
26 action under section 609.5313 as soon as is reasonably possible.

27 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
28 OF SEIZED PROPERTY.] All right, title, and interest in property  
29 subject to forfeiture under sections 609.531 to  
30 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
31 commission of the act or omission giving rise to the  
32 forfeiture. Any property seized under sections 609.531 to  
33 609.5316 is not subject to replevin, but is deemed to be in the  
34 custody of the appropriate agency subject to the orders and  
35 decrees of the court having jurisdiction over the forfeiture  
36 proceedings. When property is so seized, the appropriate agency

1 may:

- 2 (1) place the property under seal;
- 3 (2) remove the property to a place designated by it;
- 4 (3) in the case of controlled substances, require the state  
5 board of pharmacy to take custody of the property and remove it  
6 to an appropriate location for disposition in accordance with  
7 law; and
- 8 (4) take other steps reasonable and necessary to secure the  
9 property and prevent waste.

10 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
11 property that has been seized under sections 609.531 to ~~609.5316~~  
12 ~~609.5317~~ seeks possession of the property before the forfeiture  
13 action is determined, the owner may, subject to the approval of  
14 the appropriate agency, give security or post bond payable to  
15 the appropriate agency in an amount equal to the retail value of  
16 the seized property. On posting the security or bond, the  
17 seized property must be returned to the owner and the forfeiture  
18 action shall proceed against the security as if it were the  
19 seized property. This subdivision does not apply to contraband  
20 property.

21 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
22 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
23 in rem action and is independent of any criminal prosecution,  
24 except as provided in this subdivision. The appropriate agency  
25 handling the forfeiture has the benefit of the evidentiary  
26 presumption of section 609.5314, subdivision 1, but otherwise  
27 bears the burden of proving the act or omission giving rise to  
28 the forfeiture by clear and convincing evidence, except that in  
29 cases arising under section 609.5312, the designated offense may  
30 only be established by a felony level criminal conviction.

31 (b) A court may not issue an order of forfeiture under  
32 section 609.5311 while the alleged owner of the property is in  
33 custody and related criminal proceedings are pending against the  
34 alleged owner. For forfeiture of a motor vehicle, the alleged  
35 owner is the registered owner according to records of the  
36 department of public safety. For real property, the alleged

1 owner is the owner of record. For other property, the alleged  
2 owner is the person notified by the prosecuting authority in  
3 filing the forfeiture action.

4 Sec. 4. Minnesota Statutes 1988, section 609.5311,  
5 subdivision 2, is amended to read:

6 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
7 personal, that has been used, or is intended for use, or has in  
8 any way facilitated, in whole or in part, the manufacturing,  
9 compounding, processing, delivering, importing, cultivating,  
10 exporting, transporting, or exchanging of contraband or a  
11 controlled substance that has not been lawfully manufactured,  
12 distributed, dispensed, and acquired is subject to forfeiture  
13 under this section, except as provided in subdivision 3.

14 Sec. 5. Minnesota Statutes 1988, section 609.5311,  
15 subdivision 3, is amended to read:

16 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
17 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
18 is subject to forfeiture under this section only if the retail  
19 value of the controlled substance is \$500 or more.

20 (b) Real property is subject to forfeiture under this  
21 section only if the retail value of the controlled substance or  
22 contraband is \$5,000 or more.

23 (c) Property used by any person as a common carrier in the  
24 transaction of business as a common carrier is subject to  
25 forfeiture under this section only if the owner of the property  
26 is a consenting party to, or is privy to, the use or intended  
27 use of the property as described in subdivision 2.

28 (d) Property is subject to forfeiture under this section  
29 only if its owner was privy to the use or intended use described  
30 in subdivision 2, or the unlawful use or intended use of the  
31 property otherwise occurred with the owner's knowledge or  
32 consent.

33 (e) Forfeiture under this section of a conveyance device or  
34 real property encumbered by a bona fide security interest is  
35 subject to the interest of the secured party unless the secured  
36 party had knowledge of or consented to the act or omission upon

1 which the forfeiture is based. A person claiming a security  
2 interest bears the burden of establishing that interest by clear  
3 and convincing evidence.

4 (f) Notwithstanding paragraphs (d) and (e), property is not  
5 subject to forfeiture based solely on the owner's or secured  
6 party's knowledge of the unlawful use or intended use of the  
7 property if the owner or secured party took reasonable steps to  
8 terminate use of the property by the offender.

START  
↓

9 Sec. 6. [609.5317] [REAL PROPERTY; SEIZURES.]

10 Subdivision 1. [RENTAL PROPERTY.] (a) When contraband or a  
11 controlled substance manufactured, distributed, or acquired in  
12 violation of chapter 152 is seized on residential rental  
13 property incident to a lawful search or arrest, whether or not  
14 the seizure results in criminal charges or conviction, the  
15 county attorney shall give the notice required by this  
16 subdivision to (1) the landlord of the property or the fee owner  
17 identified in the records of the county assessor, and (2) the  
18 agent authorized by the owner to accept service pursuant to  
19 section 504.22. The notice shall state what has been seized and  
20 specify the applicable duties and penalties under this  
21 subdivision. The notice shall state that the landlord retains  
22 ~~the writ of restriction~~ <sup>all</sup> rights and duties, and that the  
23 landlord may contact the county attorney if threatened by the  
24 tenant. Notice shall be sent by certified letter, return  
25 receipt requested, within 30 days of the seizure. If receipt is  
26 not returned, notice shall be given in the manner provided by  
27 law for service of summons in a civil action.

no right to bring an unlawful detainer action  
who chooses to assign the right to bring an unlawful detainer action  
including removal of a tenant's personal property follows the writ of restriction and delivery to the Sheriff for execution

28 (b) Within 15 days after notice of the first occurrence,  
29 the landlord shall bring, or assign to the county attorney, the  
30 right to bring, an unlawful detainer action against the tenant.

in writing on a form prepared by the County Attorney

31 (c) Upon notice of a second occurrence involving the same  
32 tenant, the property is subject to forfeiture under sections  
33 609.531, 609.5311, 609.5313, and 609.5315, unless an unlawful  
34 detainer action has been commenced as provided in paragraph (b)  
35 or the right to bring an unlawful detainer action <sup>was</sup> ~~has been~~  
36 assigned to the county attorney. <sup>as provided in para. (b).</sup> If the right has been

assignment shall be limited to those rights and duties up to and including delivery of the writ of restriction to the Sheriff for execution.

*and not previously exercised of IF The County attorney requests an assignment and The landlord makes an assignment*

1 assigned the county attorney may bring an unlawful detainer  
2 action rather than an action for forfeiture.

3 Subd. 2. [ADDITIONAL REMEDIES.] Nothing in subdivision 1  
4 prevents the county attorney from proceeding under section  
5 609.5311 whenever that section applies.

6 Subd. 3. [DEFENSES.] It is a defense against a proceeding  
7 under subdivision 1, paragraph (b) that the tenant had no  
8 knowledge of the presence of the <sup>contraband or</sup> controlled substance or could  
9 not prevent its being brought onto the property.

10 It is a defense against a proceeding under subdivision 1,  
11 paragraph (c) that the landlord made every reasonable attempt to  
12 evict a tenant or to assign the county attorney the right to  
13 bring an unlawful detainer action against the tenant, or that  
14 the landlord did not receive notice of the seizure.

15 Subd. 4. [LIMITATIONS.] This section shall not apply if  
16 the retail value of the contraband or controlled substance is  
17 less than \$5,000.

18 Sec. 7. [EFFECTIVE DATE; APPLICATION.]

19 Sections 1, 3, 4, 5, and 6 are effective on October 1, 1989  
20 and apply to seizures of contraband or controlled substances  
21 occurring on or after that date.

22 On or before September 1, 1989 landlords shall give notice  
23 to tenants of residential rental property under an existing  
24 lease or periodic rent agreement, that section 1 will become  
25 effective October 1, 1989.

26 All residential rental property leases or periodic rent  
27 agreements entered on or after September 1, 1989 must include  
28 the notice to the tenant required by section 2."

29 Delete the title and insert:

30 "A bill for an act  
31 relating to crimes; providing for termination,  
32 cancellation, and forfeiture of real estate interests  
33 related to contraband or controlled substance  
34 seizures; amending Minnesota Statutes 1988, sections  
35 566.02; 609.531; 609.5311, subdivisions 2 and 3;  
36 proposing coding for new law in Minnesota Statutes,  
37 chapters 566 and 609."

As passed  
by subcommittee  
on unanimous  
vote

1 \_\_\_\_\_ moves to amend H. F. 159, as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 1988, section 566.02, is  
4 amended to read:

5 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
6 FINE.]

7 When any person has made unlawful or forcible entry into  
8 lands or tenements, and detains the same, or, having peaceably  
9 entered, unlawfully detains the same, the person entitled to the  
10 premises may recover possession thereof in the manner  
11 hereinafter provided. A seizure under section 6, subdivision 1,  
12 for which there is not a defense under section 6, subdivision 3,  
13 constitutes unlawful detention by the tenant.

14 Sec. 2. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
15 shall give written notice to tenants of the provision relating  
16 to seizures in section 566.02. Failure to give such notice does  
17 not subject the landlord to criminal or civil liability and is  
18 not a defense under section 6, subdivision 3.

19 Sec. 3. Minnesota Statutes 1988, section 609.531, is  
20 amended to read:

21 609.531 [FORFEITURES.]

22 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
23 609.531 to ~~609-5316~~ 609.5317, the following terms have the  
24 meanings given them.

8

1 (a) "Conveyance device" means a device used for  
2 transportation and includes, but is not limited to, a motor  
3 vehicle, trailer, snowmobile, airplane, and vessel and any  
4 equipment attached to it. The term "conveyance device" does not  
5 include property which is, in fact, itself stolen or taken in  
6 violation of the law.

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

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

12 (d) "Contraband" means property which is illegal to possess  
13 under Minnesota law.

14 (e) "Appropriate agency" means the bureau of criminal  
15 apprehension, the Minnesota state patrol, a county sheriff's  
16 department, or a city or airport police department.

17 (f) "Designated offense" includes:

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

19 (2) For all other purposes: a felony violation of, or a  
20 felony-level attempt or conspiracy to violate, section 609.185;  
21 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;  
22 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
23 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
24 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
25 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
26 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
27 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
28 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
29 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
30 609.88; 609.89; or 617.246.

31 (g) "Controlled substance" has the meaning given in section  
32 152.01, subdivision 4.

33 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
34 609.5317 must be liberally construed to carry out the following  
35 remedial purposes:

36 (1) to enforce the law;

- 1 (2) to deter crime;
- 2 (3) to reduce the economic incentive to engage in criminal
- 3 enterprise;
- 4 (4) to increase the pecuniary loss resulting from the
- 5 detection of criminal activity; and
- 6 (5) to forfeit property unlawfully used or acquired and
- 7 divert the property to law enforcement purposes.

8 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
9 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
10 appropriate agency upon process issued by any court having  
11 jurisdiction over the property. Property may be seized without  
12 process if:

- 13 (1) the seizure is incident to a lawful arrest or a lawful
- 14 search;
- 15 (2) the property subject to seizure has been the subject of
- 16 a prior judgment in favor of the state in a criminal injunction
- 17 or forfeiture proceeding under this chapter; or
- 18 (3) the appropriate agency has probable cause to believe
- 19 that the delay occasioned by the necessity to obtain process
- 20 would result in the removal or destruction of the property and
- 21 that:
  - 22 (i) the property was used or is intended to be used in
  - 23 commission of a felony; or
  - 24 (ii) the property is dangerous to health or safety.

25 If property is seized without process under clause (3),  
26 subclause (i), the county attorney must institute a forfeiture  
27 action under section 609.5313 as soon as is reasonably possible.

28 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
29 OF SEIZED PROPERTY.] All right, title, and interest in property  
30 subject to forfeiture under sections 609.531 to  
31 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
32 commission of the act or omission giving rise to the  
33 forfeiture. Any property seized under sections 609.531 to  
34 609.5316 is not subject to replevin, but is deemed to be in the  
35 custody of the appropriate agency subject to the orders and  
36 decrees of the court having jurisdiction over the forfeiture



1 proceedings. When property is so seized, the appropriate agency  
2 may:

- 3 (1) place the property under seal;
- 4 (2) remove the property to a place designated by it;
- 5 (3) in the case of controlled substances, require the state  
6 board of pharmacy to take custody of the property and remove it  
7 to an appropriate location for disposition in accordance with  
8 law; and
- 9 (4) take other steps reasonable and necessary to secure the  
10 property and prevent waste.

11 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
12 property that has been seized under sections 609.531 to ~~609.5316~~  
13 609.5317 seeks possession of the property before the forfeiture  
14 action is determined, the owner may, subject to the approval of  
15 the appropriate agency, give security or post bond payable to  
16 the appropriate agency in an amount equal to the retail value of  
17 the seized property. On posting the security or bond, the  
18 seized property must be returned to the owner and the forfeiture  
19 action shall proceed against the security as if it were the  
20 seized property. This subdivision does not apply to contraband  
21 property.

22 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
23 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
24 in rem action and is independent of any criminal prosecution,  
25 except as provided in this subdivision. The appropriate agency  
26 handling the forfeiture has the benefit of the evidentiary  
27 presumption of section 609.5314, subdivision 1, but otherwise  
28 bears the burden of proving the act or omission giving rise to  
29 the forfeiture by clear and convincing evidence, except that in  
30 cases arising under section 609.5312, the designated offense may  
31 only be established by a felony level criminal conviction.

32 (b) A court may not issue an order of forfeiture under  
33 section 609.5311 while the alleged owner of the property is in  
34 custody and related criminal proceedings are pending against the  
35 alleged owner. For forfeiture of a motor vehicle, the alleged  
36 owner is the registered owner according to records of the

1 department of public safety. For real property, the alleged  
2 owner is the owner of record. For other property, the alleged  
3 owner is the person notified by the prosecuting authority in  
4 filing the forfeiture action.

5 Sec. 4. Minnesota Statutes 1988, section 609.5311,  
6 subdivision 2, is amended to read:

7 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
8 personal, that has been used, or is intended for use, or has in  
9 any way facilitated, in whole or in part, the manufacturing,  
10 compounding, processing, delivering, importing, cultivating,  
11 exporting, transporting, or exchanging of contraband or a  
12 controlled substance that has not been lawfully manufactured,  
13 distributed, dispensed, and acquired is subject to forfeiture  
14 under this section, except as provided in subdivision 3.

15 Sec. 5. Minnesota Statutes 1988, section 609.5311,  
16 subdivision 3, is amended to read:

17 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
18 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
19 is subject to forfeiture under this section only if the retail  
20 value of the controlled substance is \$500 or more.

21 (b) Real property is subject to forfeiture under this  
22 section only if the retail value of the controlled substance or  
23 contraband is \$5,000 or more.

24 (c) Property used by any person as a common carrier in the  
25 transaction of business as a common carrier is subject to  
26 forfeiture under this section only if the owner of the property  
27 is a consenting party to, or is privy to, the use or intended  
28 use of the property as described in subdivision 2.

29 (d) Property is subject to forfeiture under this section  
30 only if its owner was privy to the use or intended use described  
31 in subdivision 2, or the unlawful use or intended use of the  
32 property otherwise occurred with the owner's knowledge or  
33 consent.

34 (e) Forfeiture under this section of a conveyance device or  
35 real property encumbered by a bona fide security interest is  
36 subject to the interest of the secured party unless the secured

1 party had knowledge of or consented to the act or omission upon  
2 which the forfeiture is based. A person claiming a security  
3 interest bears the burden of establishing that interest by clear  
4 and convincing evidence.

5 (f) Notwithstanding paragraphs (d) and (e), property is not  
6 subject to forfeiture based solely on the owner's or secured  
7 party's knowledge of the unlawful use or intended use of the  
8 property if the owner or secured party took reasonable steps to  
9 terminate use of the property by the offender.

10 Sec. 6. [609.5317] [REAL PROPERTY; SEIZURES.]

11 Subdivision 1. [RENTAL PROPERTY.] (a) When contraband or a  
12 controlled substance manufactured, distributed, or acquired in  
13 violation of chapter 152 is seized on residential rental  
14 property incident to a lawful search or arrest, whether or not  
15 the seizure results in criminal charges or conviction, the  
16 county attorney shall give the notice required by this  
17 subdivision to (1) the landlord of the property or the fee owner  
18 identified in the records of the county assessor, and (2) the  
19 agent authorized by the owner to accept service pursuant to  
20 section 504.22. The notice shall state what has been seized and  
21 specify the applicable duties and penalties under this  
22 subdivision. The notice shall state that the landlord who  
23 chooses to assign the right to bring an unlawful detainer action  
24 retains all rights and duties, including removal of a tenant's  
25 personal property following issuance of the writ of restitution  
26 and delivery of the writ to the sheriff for execution. The  
27 notice shall also state that the landlord may contact the county  
28 attorney if threatened by the tenant. Notice shall be sent by  
29 certified letter, return receipt requested, within 30 days of  
30 the seizure. If receipt is not returned, notice shall be given  
31 in the manner provided by law for service of summons in a civil  
32 action.

33 (b) Within 15 days after notice of the first occurrence,  
34 the landlord shall bring, or assign to the county attorney  
35 writing on a form prepared by the county attorney the right to  
36 bring, an unlawful detainer action against the tenant. Should

*of the county in which the real property is located*

1 the landlord choose to assign the right to bring an unlawful  
 2 detainer action, the assignment shall be limited to those rights  
 3 and duties up to and including delivery of the writ of  
 4 restitution to the sheriff for execution.

5 (c) Upon notice of a second occurrence involving the same  
 6 tenant, the property is subject to forfeiture under sections  
 7 609.531, 609.5311, 609.5313, and 609.5315, unless an unlawful  
 8 detainer action has been commenced as provided in paragraph (b)  
 9 or the right to bring an unlawful detainer action was assigned  
 10 to the county attorney as provided in paragraph (b). If the  
 11 right has been assigned and not previously exercised, or if the  
 12 county attorney requests an assignment and the landlord makes an  
 13 assignment, the county attorney may bring an unlawful detainer  
 14 action rather than an action for forfeiture.

15 Subd. 2. [ADDITIONAL REMEDIES.] Nothing in subdivision 1  
 16 prevents the county attorney from proceeding under section  
 17 609.5311 whenever that section applies.

18 Subd. 3. [DEFENSES.] It is a defense against a proceeding  
 19 under subdivision 1, paragraph (b) that the tenant had no  
 20 knowledge <sup>OR offense to know</sup> of the presence of the contraband or controlled  
 21 substance or could not prevent its being brought onto the  
 22 property.

23 It is a defense against a proceeding under subdivision 1,  
 24 paragraph (c) that the landlord made every reasonable attempt to  
 25 evict a tenant or to assign the county attorney the right to  
 26 bring an unlawful detainer action against the tenant, or that  
 27 the landlord did not receive notice of the seizure.

28 Subd. 4. [LIMITATIONS.] This section shall not apply if  
 29 the retail value of the contraband or controlled substance is  
 30 less than \$5,000.

31 Sec. 7. [EFFECTIVE DATE; APPLICATION.]

32 Sections 1, 3, 4, 5, and 6 are effective on October 1, 1989  
 33 and apply to seizures of contraband or controlled substances  
 34 occurring on or after that date.

35 On or before September 1, 1989 landlords shall give notice  
 36 to tenants of residential rental property under an existing

1 lease or periodic rent agreement, that section 1 will become  
2 effective October 1, 1989.

3 All residential rental property leases or periodic rent  
4 agreements entered on or after September 1, 1989 must include  
5 the notice to the tenant required by section 2."

6 Delete the title and insert:

7 "A bill for an act  
8 relating to crimes; providing for termination,  
9 cancellation, and forfeiture of real estate interests  
10 related to contraband or controlled substance  
11 seizures; amending Minnesota Statutes 1988, sections  
12 566.02; 609.531; 609.5311, subdivisions 2 and 3;  
13 proposing coding for new law in Minnesota Statutes,  
14 chapters 566 and 609."

H. F. 159, Delete Everything Amendment S.F.  
SUBJECT Drug and contraband seizures  
AUTHORS: Dawkins, Clark, Krueger, Marsh, Kelly  
COMMITTEE: Criminal Justice Division  
ANALYST: Deborah K. McKnight, 296-5056 DATE: 3/2/89

---

House File 159 requires county attorneys to notify residential landlords whenever contraband or illegal controlled substances with a retail value of \$5,000 or more are seized on the landlord's rental property incident to a lawful search or arrest. This notice must be sent whether or not the seizure results in criminal charges or a conviction.

Within 15 days of receiving this notice, the landlord must begin an eviction action against the tenant, or assign the county attorney the right to evict. If the landlord fails to do either of these and there is a second seizure of contraband or illegal drugs on the rental property, the landlord's property will be subject to forfeiture. Alternatively, the county attorney may bring an eviction action.

House File 159 provides two defenses:

- (1) tenants who had no knowledge of the presence of the illegal drugs or could not prevent them being brought onto the property have a defense against eviction; and
- (2) landlords are not subject to forfeiture sanctions if they made every reasonable attempt to (a) evict a tenant or (b) assign that right to the county attorney, or did not receive notice of the seizure.

The eviction and forfeiture remedies become available October 1, 1989. On or before September 1, 1989, landlords must inform existing tenants and must insert notice in new leases that the new law will take effect October 1.

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Correspondence from Rep. Dawkins to Senator Don Moe, the Senate Author of the Companion Bill (which didn't go far because HF 159 was used as the vehicle)

The first item gives details of what happened in the House Judiciary Committee during its consideration of HF 159.

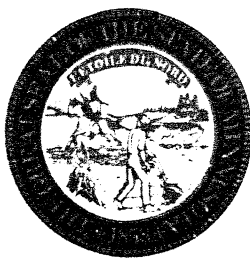
3 Items

**Andy Dawkins**

District 65A  
Ramsey County

**Committees:**

Economic Development and Housing  
Education  
Metropolitan Affairs  
Regulated Industries



# Minnesota House of Representatives

Robert Vanasek, Speaker

April 3, 1989

TO: Sen. Don Moe  
FROM: Rep. Andy Dawkins *AD*  
Re: H.F. 159 (Responsibility in Property Ownership)

The bill passed the House Judiciary Committee on March 31, 1989.

It is heading to the House floor with the language reflected in the attached House Subcommittee Report plus one additional amendment put on in the full committee:

Page 7, line 30, delete "\$5,000" and insert "the amount specified in section 609.5311, subdivision 3(b)"

I would appreciate hearing from you or Mike as to your plans for Senate action.

AD:BF

att.



HOUSE SUBCOMMITTEE REPORT

SUBCOMMITTEE ACTION TAKEN March 7, , 19 89

TO: Rep. Randy Kelly , Chairman

Committee on JUDICIARY

FROM: Rep. Howard Orenstein , Chairman of the

Subcommittee on Civil Law ,

to which was referred H.F. No. 159 ,

A bill for an act

relating to crimes; providing for termination, cancellation,  
and forfeiture of real estate interests related to contraband  
or controlled substance seizures;

Reports the same back with the recommendation that the bill be amended as follows: H.F.159, the delete everything amendment dated 3/6/89 as follows:

Page 7, Line 20, after "knowledge" insert "or reason to know"

Page 6, line 34, after "attorney" insert "of the county in which  
the real property is located"

And when so amended that the bill as amended be recommended to pass and  
re-referred to full committee

Howard Orenstein  
Chairman

Subcommittee on Civil Law

1 \_\_\_\_\_ moves to amend H. F. 159, as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 1988, section 566.02, is  
4 amended to read:

5 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
6 FINE.]

7 When any person has made unlawful or forcible entry into  
8 lands or tenements, and detains the same, or, having peaceably  
9 entered, unlawfully detains the same, the person entitled to the  
10 premises may recover possession thereof in the manner  
11 hereinafter provided. A seizure under section 6, subdivision 1,  
12 for which there is not a defense under section 6, subdivision 3,  
13 constitutes unlawful detention by the tenant.

14 Sec. 2. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
15 shall give written notice to tenants of the provision relating  
16 to seizures in section 566.02. Failure to give such notice does  
17 not subject the landlord to criminal or civil liability and is  
18 not a defense under section 6, subdivision 3.

19 Sec. 3. Minnesota Statutes 1988, section 609.531, is  
20 amended to read:

21 609.531 [FORFEITURES.]

22 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
23 609.531 to ~~609-5316~~ 609.5317, the following terms have the  
24 meanings given them.

1 (a) "Conveyance device" means a device used for  
2 transportation and includes, but is not limited to, a motor  
3 vehicle, trailer, snowmobile, airplane, and vessel and any  
4 equipment attached to it. The term "conveyance device" does not  
5 include property which is, in fact, itself stolen or taken in  
6 violation of the law.

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

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

12 (d) "Contraband" means property which is illegal to possess  
13 under Minnesota law.

14 (e) "Appropriate agency" means the bureau of criminal  
15 apprehension, the Minnesota state patrol, a county sheriff's  
16 department, or a city or airport police department.

17 (f) "Designated offense" includes:

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

19 (2) For all other purposes: a felony violation of, or a  
20 felony-level attempt or conspiracy to violate, section 609.185;  
21 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;  
22 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
23 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
24 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
25 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
26 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
27 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
28 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
29 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
30 609.88; 609.89; or 617.246.

31 (g) "Controlled substance" has the meaning given in section  
32 152.01, subdivision 4.

33 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
34 609.5317 must be liberally construed to carry out the following  
35 remedial purposes:

36 (1) to enforce the law;

1 (2) to deter crime;  
2 (3) to reduce the economic incentive to engage in criminal  
3 enterprise;

4 (4) to increase the pecuniary loss resulting from the  
5 detection of criminal activity; and

6 (5) to forfeit property unlawfully used or acquired and  
7 divert the property to law enforcement purposes.

8 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
9 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
10 appropriate agency upon process issued by any court having  
11 jurisdiction over the property. Property may be seized without  
12 process if:

13 (1) the seizure is incident to a lawful arrest or a lawful  
14 search;

15 (2) the property subject to seizure has been the subject of  
16 a prior judgment in favor of the state in a criminal injunction  
17 or forfeiture proceeding under this chapter; or

18 (3) the appropriate agency has probable cause to believe  
19 that the delay occasioned by the necessity to obtain process  
20 would result in the removal or destruction of the property and  
21 that:

22 (i) the property was used or is intended to be used in  
23 commission of a felony; or

24 (ii) the property is dangerous to health or safety.

25 If property is seized without process under clause (3),  
26 subclause (i), the county attorney must institute a forfeiture  
27 action under section 609.5313 as soon as is reasonably possible.

28 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
29 OF SEIZED PROPERTY.] All right, title, and interest in property  
30 subject to forfeiture under sections 609.531 to  
31 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
32 commission of the act or omission giving rise to the  
33 forfeiture. Any property seized under sections 609.531 to  
34 609.5316 is not subject to replevin, but is deemed to be in the  
35 custody of the appropriate agency subject to the orders and  
36 decrees of the court having jurisdiction over the forfeiture

1 proceedings. When property is so seized, the appropriate agency  
2 may:

- 3 (1) place the property under seal;
- 4 (2) remove the property to a place designated by it;
- 5 (3) in the case of controlled substances, require the state  
6 board of pharmacy to take custody of the property and remove it  
7 to an appropriate location for disposition in accordance with  
8 law; and
- 9 (4) take other steps reasonable and necessary to secure the  
10 property and prevent waste.

11 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
12 property that has been seized under sections 609.531 to ~~609.5316~~  
13 609.5317 seeks possession of the property before the forfeiture  
14 action is determined, the owner may, subject to the approval of  
15 the appropriate agency, give security or post bond payable to  
16 the appropriate agency in an amount equal to the retail value of  
17 the seized property. On posting the security or bond, the  
18 seized property must be returned to the owner and the forfeiture  
19 action shall proceed against the security as if it were the  
20 seized property. This subdivision does not apply to contraband  
21 property.

22 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
23 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
24 in rem action and is independent of any criminal prosecution,  
25 except as provided in this subdivision. The appropriate agency  
26 handling the forfeiture has the benefit of the evidentiary  
27 presumption of section 609.5314, subdivision 1, but otherwise  
28 bears the burden of proving the act or omission giving rise to  
29 the forfeiture by clear and convincing evidence, except that in  
30 cases arising under section 609.5312, the designated offense may  
31 only be established by a felony level criminal conviction.

32 (b) A court may not issue an order of forfeiture under  
33 section 609.5311 while the alleged owner of the property is in  
34 custody and related criminal proceedings are pending against the  
35 alleged owner. For forfeiture of a motor vehicle, the alleged  
36 owner is the registered owner according to records of the

1 department of public safety. For real property, the alleged  
2 owner is the owner of record. For other property, the alleged  
3 owner is the person notified by the prosecuting authority in  
4 filing the forfeiture action.

5 Sec. 4. Minnesota Statutes 1988, section 609.5311,  
6 subdivision 2, is amended to read:

7 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
8 personal, that has been used, or is intended for use, or has in  
9 any way facilitated, in whole or in part, the manufacturing,  
10 compounding, processing, delivering, importing, cultivating,  
11 exporting, transporting, or exchanging of contraband or a  
12 controlled substance that has not been lawfully manufactured,  
13 distributed, dispensed, and acquired is subject to forfeiture  
14 under this section, except as provided in subdivision 3.

15 Sec. 5. Minnesota Statutes 1988, section 609.5311,  
16 subdivision 3, is amended to read:

17 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
18 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
19 is subject to forfeiture under this section only if the retail  
20 value of the controlled substance is \$500 or more.

21 (b) Real property is subject to forfeiture under this  
22 section only if the retail value of the controlled substance or  
23 contraband is \$5,000 or more.

24 (c) Property used by any person as a common carrier in the  
25 transaction of business as a common carrier is subject to  
26 forfeiture under this section only if the owner of the property  
27 is a consenting party to, or is privy to, the use or intended  
28 use of the property as described in subdivision 2.

29 (d) Property is subject to forfeiture under this section  
30 only if its owner was privy to the use or intended use described  
31 in subdivision 2, or the unlawful use or intended use of the  
32 property otherwise occurred with the owner's knowledge or  
33 consent.

34 (e) Forfeiture under this section of a conveyance device or  
35 real property encumbered by a bona fide security interest is  
36 subject to the interest of the secured party unless the secured

1 party had knowledge of or consented to the act or omission upon  
2 which the forfeiture is based. A person claiming a security  
3 interest bears the burden of establishing that interest by clear  
4 and convincing evidence.

5 (f) Notwithstanding paragraphs (d) and (e), property is not  
6 subject to forfeiture based solely on the owner's or secured  
7 party's knowledge of the unlawful use or intended use of the  
8 property if the owner or secured party took reasonable steps to  
9 terminate use of the property by the offender.

10 Sec. 6. [609.5317] [REAL PROPERTY; SEIZURES.]

11 Subdivision 1. [RENTAL PROPERTY.] (a) When contraband or a  
12 controlled substance manufactured, distributed, or acquired in  
13 violation of chapter 152 is seized on residential rental  
14 property incident to a lawful search or arrest, whether or not  
15 the seizure results in criminal charges or conviction, the  
16 county attorney shall give the notice required by this  
17 subdivision to (1) the landlord of the property or the fee owner  
18 identified in the records of the county assessor, and (2) the  
19 agent authorized by the owner to accept service pursuant to  
20 section 504.22. The notice shall state what has been seized and  
21 specify the applicable duties and penalties under this  
22 subdivision. The notice shall state that the landlord who  
23 chooses to assign the right to bring an unlawful detainer action  
24 retains all rights and duties, including removal of a tenant's  
25 personal property following issuance of the writ of restitution  
26 and delivery of the writ to the sheriff for execution. The  
27 notice shall also state that the landlord may contact the county  
28 attorney if threatened by the tenant. Notice shall be sent by  
29 certified letter, return receipt requested, within 30 days of  
30 the seizure. If receipt is not returned, notice shall be given  
31 in the manner provided by law for service of summons in a civil  
32 action.

33 (b) Within 15 days after notice of the first occurrence,  
34 the landlord shall bring, or assign to the county attorney in  
35 writing on a form prepared by the county attorney the right to  
36 bring, an unlawful detainer action against the tenant. Should

1 the landlord choose to assign the right to bring an unlawful  
2 detainer action, the assignment shall be limited to those rights  
3 and duties up to and including delivery of the writ of  
4 restitution to the sheriff for execution.

5 (c) Upon notice of a second occurrence involving the same  
6 tenant, the property is subject to forfeiture under sections  
7 609.531, 609.5311, 609.5313, and 609.5315, unless an unlawful  
8 detainer action has been commenced as provided in paragraph (b)  
9 or the right to bring an unlawful detainer action was assigned  
10 to the county attorney as provided in paragraph (b). If the  
11 right has been assigned and not previously exercised, or if the  
12 county attorney requests an assignment and the landlord makes an  
13 assignment, the county attorney may bring an unlawful detainer  
14 action rather than an action for forfeiture.

15 Subd. 2. [ADDITIONAL REMEDIES.] Nothing in subdivision 1  
16 prevents the county attorney from proceeding under section  
17 609.5311 whenever that section applies.

18 Subd. 3. [DEFENSES.] It is a defense against a proceeding  
19 under subdivision 1, paragraph (b) that the tenant had no  
20 knowledge of the presence of the contraband or controlled  
21 substance or could not prevent its being brought onto the  
22 property.

23 It is a defense against a proceeding under subdivision 1,  
24 paragraph (c) that the landlord made every reasonable attempt to  
25 evict a tenant or to assign the county attorney the right to  
26 bring an unlawful detainer action against the tenant, or that  
27 the landlord did not receive notice of the seizure.

28 Subd. 4. [LIMITATIONS.] This section shall not apply if  
29 the retail value of the contraband or controlled substance is  
30 less than \$5,000.

31 Sec. 7. [EFFECTIVE DATE; APPLICATION.]

32 Sections 1, 3, 4, 5, and 6 are effective on October 1, 1989  
33 and apply to seizures of contraband or controlled substances  
34 occurring on or after that date.

35 On or before September 1, 1989 landlords shall give notice  
36 to tenants of residential rental property under an existing



1 lease or periodic rent agreement, that section 1 will become  
2 effective October 1, 1989.

3 All residential rental property leases or periodic rent  
4 agreements entered on or after September 1, 1989 must include  
5 the notice to the tenant required by section 2."

6 Delete the title and insert:

7 "A bill for an act

8 relating to crimes; providing for termination,  
9 cancellation, and forfeiture of real estate interests  
10 related to contraband or controlled substance  
11 seizures; amending Minnesota Statutes 1988, sections  
12 566.02; 609.531; 609.5311, subdivisions 2 and 3;  
13 proposing coding for new law in Minnesota Statutes,  
14 chapters 566 and 609."

Introduced by Dawkins, Clark, Krueger,  
Marsh, Kelly  
January 23, 1989  
Referred to Committee on JUDICIARY

H.F. No. 159  
Companion S.F. No. \_\_\_\_\_

Reproduced by PHILLIPS LEGISLATIVE SERVICE

1 A bill for an act

2 relating to crimes; providing for termination,  
3 cancellation, and forfeiture of real estate interests  
4 related to contraband or controlled substance  
5 seizures; amending Minnesota Statutes 1988, sections  
6 559.21, by adding a subdivision; 566.02; 609.531;  
7 609.5311, subdivisions 2 and 3; proposing coding for  
8 new law in Minnesota Statutes, chapters 566 and 609.

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

10 Section 1. Minnesota Statutes 1988, section 559.21, is  
11 amended by adding a subdivision to read:

12 Subd. 9. [CONTRABAND OR CONTROLLED SUBSTANCE SEIZURE.] A  
13 seizure under section 8, subdivision 2, for which there is not a  
14 defense under section 8, subdivision 3, is a default in the  
15 conditions of a contract for deed.

16 Sec. 2. Minnesota Statutes 1988, section 559.21, is being  
17 amended by adding a subdivision to read:

18 Subd. 10. [NOTICE.] Contract for deed vendors regulated  
19 under section 8 shall give written notice to vendees of the  
20 provision in subdivision 9. Failure to give such notice is not  
21 a defense under section 8, subdivision 3.

22 Sec. 3. Minnesota Statutes 1988, section 566.02, is  
23 amended to read:

24 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
25 FINE.]

26 When any person has made unlawful or forcible entry into  
27 lands or tenements, and detains the same, or, having peaceably

1 entered, unlawfully detains the same, the person entitled to the  
2 premises may recover possession thereof in the manner  
3 hereinafter provided. A seizure under section 8, subdivision 1,  
4 for which there is not a defense under section 8, subdivision 3,  
5 constitutes unlawful detention by the tenant.

6 Sec. 4. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
7 shall give written notice to tenants of the provision relating  
8 to seizures in section 566.02. Failure to give such notice is  
9 not a defense under section 8, subdivision 3.

10 Sec. 5. Minnesota Statutes 1988, section 609.531, is  
11 amended to read:

12 609.531 [FORFEITURES.]

13 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
14 609.531 to ~~609.5316~~ 609.5317, the following terms have the  
15 meanings given them.

16 (a) "Conveyance device" means a device used for  
17 transportation and includes, but is not limited to, a motor  
18 vehicle, trailer, snowmobile, airplane, and vessel and any  
19 equipment attached to it. The term "conveyance device" does not  
20 include property which is, in fact, itself stolen or taken in  
21 violation of the law.

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

25 (c) "Property" means property as defined in section 609.52,  
26 subdivision 1, clause (1). †

27 (d) "Contraband" means property which is illegal to possess  
28 under Minnesota law.

29 (e) "Appropriate agency" means the bureau of criminal  
30 apprehension, the Minnesota state patrol, a county sheriff's  
31 department, or a city or airport police department.

32 (f) "Designated offense" includes:

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

34 (2) For all other purposes: a felony violation of, or a  
35 felony-level attempt or conspiracy to violate, section 609.185;  
36 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;

1 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
2 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
3 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
4 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
5 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
6 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
7 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
8 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
9 609.88; 609.89; or 617.246.

10 (g) "Controlled substance" has the meaning given in section  
11 152.01, subdivision 4.

12 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
13 609.5317 must be liberally construed to carry out the following  
14 remedial purposes:

15 (1) to enforce the law;

16 (2) to deter crime;

17 (3) to reduce the economic incentive to engage in criminal  
18 enterprise;

19 (4) to increase the pecuniary loss resulting from the  
20 detection of criminal activity; and

21 (5) to forfeit property unlawfully used or acquired and  
22 divert the property to law enforcement purposes.

23 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
24 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
25 appropriate agency upon process issued by any court having  
26 jurisdiction over the property. Property may be seized without  
27 process if:

28 (1) the seizure is incident to a lawful arrest or a lawful  
29 search;

30 (2) the property subject to seizure has been the subject of  
31 a prior judgment in favor of the state in a criminal injunction  
32 or forfeiture proceeding under this chapter; or

33 (3) the appropriate agency has probable cause to believe  
34 that the delay occasioned by the necessity to obtain process  
35 would result in the removal or destruction of the property and  
36 that:

1 (i) the property was used or is intended to be used in  
2 commission of a felony; or

3 (ii) the property is dangerous to health or safety.

4 If property is seized without process under clause (3),  
5 subclause (i), the county attorney must institute a forfeiture  
6 action under section 609.5313 as soon as is reasonably possible.

7 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
8 OF SEIZED PROPERTY.] All right, title, and interest in property  
9 subject to forfeiture under sections 609.531 to  
10 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
11 commission of the act or omission giving rise to the  
12 forfeiture. Any property seized under sections 609.531 to  
13 609.5316 is not subject to replevin, but is deemed to be in the  
14 custody of the appropriate agency subject to the orders and  
15 decrees of the court having jurisdiction over the forfeiture  
16 proceedings. When property is so seized, the appropriate agency  
17 may:

18 (1) place the property under seal;

19 (2) remove the property to a place designated by it;

20 (3) in the case of controlled substances, require the state  
21 board of pharmacy to take custody of the property and remove it  
22 to an appropriate location for disposition in accordance with  
23 law; and

24 (4) take other steps reasonable and necessary to secure the  
25 property and prevent waste.

26 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
27 property that has been seized under sections 609.531 to ~~609.5316~~  
28 609.5317 seeks possession of the property before the forfeiture  
29 action is determined, the owner may, subject to the approval of  
30 the appropriate agency, give security or post bond payable to  
31 the appropriate agency in an amount equal to the retail value of  
32 the seized property. On posting the security or bond, the  
33 seized property must be returned to the owner and the forfeiture  
34 action shall proceed against the security as if it were the  
35 seized property. This subdivision does not apply to contraband  
36 property.

1 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
2 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
3 in rem action and is independent of any criminal prosecution,  
4 except as provided in this subdivision. The appropriate agency  
5 handling the forfeiture has the benefit of the evidentiary  
6 presumption of section 609.5314, subdivision 1, but otherwise  
7 bears the burden of proving the act or omission giving rise to  
8 the forfeiture by clear and convincing evidence, except that in  
9 cases arising under section 609.5312, the designated offense may  
10 only be established by a felony level criminal conviction.

11 (b) A court may not issue an order of forfeiture under  
12 section 609.5311 while the alleged owner of the property is in  
13 custody and related criminal proceedings are pending against the  
14 alleged owner. For forfeiture of a motor vehicle, the alleged  
15 owner is the registered owner according to records of the  
16 department of public safety. For real property, the alleged  
17 owner is the owner of record. For other property, the alleged  
18 owner is the person notified by the prosecuting authority in  
19 filing the forfeiture action.

20 Sec. 6. Minnesota Statutes 1988, section 609.5311,  
21 subdivision 2, is amended to read:

22 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
23 personal, that has been used, or is intended for use, or has in  
24 any way facilitated, in whole or in part, the manufacturing,  
25 compounding, processing, delivering, importing, cultivating,  
26 exporting, transporting, or exchanging of contraband or a  
27 controlled substance that has not been lawfully manufactured,  
28 distributed, dispensed, and acquired is subject to forfeiture  
29 under this section, except as provided in subdivision 3.

30 Sec. 7. Minnesota Statutes 1988, section 609.5311,  
31 subdivision 3, is amended to read:

32 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
33 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
34 is subject to forfeiture under this section only if the retail  
35 value of the controlled substance is \$500 or more.

36 (b) Real property is subject to forfeiture under this

1 section only if the retail value of the controlled substance or  
2 contraband is \$5,000 or more.

3 (c) Property used by any person as a common carrier in the  
4 transaction of business as a common carrier is subject to  
5 forfeiture under this section only if the owner of the property  
6 is a consenting party to, or is privy to, the use or intended  
7 use of the property as described in subdivision 2.

8 (d) Property is subject to forfeiture under this section  
9 only if its owner was privy to the use or intended use described  
10 in subdivision 2, or the unlawful use or intended use of the  
11 property otherwise occurred with the owner's knowledge or  
12 consent.

13 (e) Forfeiture under this section of a conveyance device or  
14 real property encumbered by a bona fide security interest is  
15 subject to the interest of the secured party unless the secured  
16 party had knowledge of or consented to the act or omission upon  
17 which the forfeiture is based. A person claiming a security  
18 interest bears the burden of establishing that interest by clear  
19 and convincing evidence.

20 (f) Notwithstanding paragraphs (d) and (e), property is not  
21 subject to forfeiture based solely on the owner's or secured  
22 party's knowledge of the unlawful use or intended use of the  
23 property if the owner or secured party took reasonable steps to  
24 terminate use of the property by the offender.

25 Sec. 8. [609.5317] [REAL PROPERTY; SEIZURES.]

26 Subdivision 1. [RENTAL PROPERTY.] When contraband or a  
27 controlled substance manufactured, distributed, or acquired in  
28 violation of chapter 152 is seized on residential rental  
29 property incident to a lawful search or arrest, whether or not  
30 the seizure results in criminal charges or conviction, the  
31 county attorney shall notify the landlord of the property of the  
32 seizure and the applicable duties and penalties under this  
33 subdivision by certified letter, return receipt requested,  
34 within seven days of the seizure. If receipt is not returned,  
35 notice shall be given in the manner provided by law for service  
36 of summons in a civil action.

1       (a) Within 15 days after notice of the first occurrence,  
2 the landlord shall bring an unlawful detainer action against the  
3 tenant.

4       (b) Upon notice of a second occurrence, a lien shall be  
5 assessed against the property unless an unlawful detainer action  
6 has been commenced as provided in paragraph (a). The amount of  
7 the lien shall be \$3,000 unless the county attorney can show  
8 that the cost of the warrant and seizure exceeds this amount.

9       (c) Upon notice of a third occurrence, the property is  
10 subject to forfeiture under sections 609.531, 609.5311,  
11 609.5313, and 609.5315 unless an unlawful detainer action has  
12 been commenced as provided in paragraph (a).

13       Subd. 2. [CONTRACT FOR DEED.] When contraband or a  
14 controlled substance manufactured, distributed, or acquired in  
15 violation of chapter 152 is seized on a contract for deed  
16 vendee's residence incident to a lawful search or arrest,  
17 whether or not the seizure results in criminal charges or  
18 conviction, the county attorney shall notify the vendor of the  
19 contract for deed on the residence of the seizure and the  
20 applicable duties and penalties under this subdivision by  
21 certified letter, return receipt requested, within seven days of  
22 the seizure. If the receipt is not returned, notice shall be  
23 given in the manner provided by law for service of a summons in  
24 a civil action.

25       (a) Within 30 days after notice of the first occurrence,  
26 the vendor shall serve a termination notice upon the vendee.  
27 The notice must state that, notwithstanding any other law to the  
28 contrary, the contract will terminate upon receipt of the notice.

29       (b) Upon notice of a second occurrence, a lien shall be  
30 assessed against the property unless a termination notice has  
31 been served as provided in paragraph (a). The amount of the  
32 lien shall be \$3,000 unless the county attorney can show that  
33 the cost of the warrant and seizure exceeds this amount.

34       (c) Upon notice of a third occurrence, the property is  
35 subject to forfeiture under sections 609.531, 609.5311,  
36 609.5313, and 609.5315 unless a termination notice has been



1 served as provided in paragraph (a).

2 Subd. 3. [DEFENSE.] It is a defense against a proceeding  
3 under subdivision 1, paragraph (a), or subdivision 2, paragraph  
4 (a), that the tenant or vendee had no knowledge of the presence  
5 of the controlled substance and could not prevent it being  
6 brought onto the property.

7 It is a defense against a proceeding under subdivision 1,  
8 paragraph (b) or (c), or 2, paragraph (b) or (c), that the  
9 landlord or vendor made every reasonable attempt to evict a  
10 tenant or terminate a contract for deed under subdivision 1 or  
11 2, or that the landlord or vendor did not receive notice of the  
12 seizure.

13 Subd. 4. [LIMITATIONS.] This section shall not apply if  
14 the retail value of the contraband or controlled substance is  
15 less than \$5,000.

16 Sec. 9. [EFFECTIVE DATE.]

17 Sections 1 and 3 are effective on January 1, 1990.

18 Sections 2 and 4 are effective on November 1, 1989.

**Andy Dawkins**

District 65A  
Ramsey County

**Committees:**

Economic Development and Housing  
Education  
Metropolitan Affairs  
Regulated Industries



# Minnesota House of Representatives

Robert Vanasek, Speaker

April 17, 1989

TO: Sen. Don Moe

FROM: Rep. Andy Dawkins

Re: S.F. 330/H.F. 159

2

I assume you will be starting with the House language, H.F. 159 First Engrossment, as passed by the full House on April 13.

I do have two suggestions for improvements:

First: On page 8, line 1, after "3." insert "(b)." The language immediately preceding this change was an amendment added by Rep. Randy Kelly to key our monetary amount to whatever is the monetary amount for real property forfeitures. Under current law the amount is \$5,000, but the omnibus crime bill, if passed this year, will reduce that amount to \$1,000. When Rep. Kelly made the amendment he meant "subdivision 3(b)" not just "subdivision 3".

Second, I have attached as "Exhibit A" language that could be added as a separate section to the bill. This is similar to language I originally intended to include in the bill, but as I circulated the bill for comments I heard from Rep. Richard Jefferson that he was going to be introducing this type of language as a separate bill -- so I didn't want to steal his thunder. He has been waiting too patiently for the Hennpin County Attorney to prepare legislation for him. I talked to him on April 14 and he said, "Go ahead; add it to your bill."

Our legislation can stand on its own without the additional language. We create a cause of action to bring an eviction proceeding in our section 1. Our cause of action is triggered by a police seizure of contraband. What the additional language would do is create a cause of action for an eviction proceeding based on the landlord's having evidence of drug dealing. In that case the landlord would proceed under the existing unlawful detainer laws and not under the modified procedures set up in our bill.

I do think it's worthy of inclusion; if you do as well, I suggest inserting it as a new section between our sections 6 and 7, then renumber section 7 accordingly.

As for other information you may need for your Senate hearing:

1. I can provide you with witnesses if you desire. My suggestion would be Mr. John Wodele, Ramsey County Attorney's Office. If you want the neighborhood need perspective, then I suggest Ms. Dawn Goldschmidt or Mr. Nick Davis from the St. Paul Anti-Crack Coalition. Landlords like this bill as well. Mr. James Sorbel from the Multi-Housing Association could testify. A good police officer would be Mr. Nils Nelson, St. Paul Narcotics. Here are phone numbers:

Mr. John Wodele: (W) 298-4421

Ms. Dawn Goldschmidt: (W) 771-1152; (H) 222-8746

Mr. Nick Davis: (W) 227-5199; (H) 293-1158

Mr. James Sorbel: (W) 927-8602

Mr. Nils Nelson: (W) 292-3755; (H) 646-5426

2. I have attached letters of support from the City of Minneapolis, the Minnesota Police and Peace Officers Association and the Legislative Committee of the Minnesota County Attorneys Association. The St. Paul City Council and the Ramsey County Attorney's Office support the bill. The Minnesota State Bar Association has reviewed the language to make sure it is mechanically correct.

3. I could provide you with props such as crack raid maps, news articles, etc.

4. Finally, if you have any questions on how it works, please call.

AD:BF  
(4/17/89)

" Exhibit A "

Minn. Stat. §504.18 amended to add a subdivision:

Covenants of lessee or licensee

Subd. 1a (1) In every lease or license of residential premises, whether in writing or parol, the lessee or licensee covenants that the premises, common area or curtilage shall not be used to manufacture, sell, give away, barter, deliver, exchange or distribute, or possess with intent to manufacture, sell, give away, barter, deliver, exchange or distribute, a controlled substance defined in Section 152.01 Subd. 4.

(2) Any breach of the covenant created by Subd. 1a (1) of this section voids the lessee's or licensee's right to possession of the residential premises. All other provisions of the lease or license, including but not limited to the obligation to pay rent, shall remain in effect until the lease is terminated by the terms of the lease or operation of law.

(3) The parties to a lease or license of residential premises may not waive or modify the covenant imposed by this subdivision.

OFFICE OF CITY COORDINATOR  
STATE LEGISLATIVE LIAISON OFFICE  
325M CITY HALL  
MINNEAPOLIS, MN 55415

(612) 348-2552

MENTOR C. DUKE "ADDICKS, JR.  
STATE LEGISLATIVE LIAISON

348-2507

ANDREA HART-KAJER  
ASSISTANT STATE LEGISLATIVE LIAISON

348-2480

JEFFREY VANWYCHEN  
INTERGOVERNMENTAL POLICY ANALYST

348-2801

minneapolis

city of lakes

March 21, 1989

Representative Andy Dawkins  
Room 371, State Office Building  
St. Paul, MN 55155

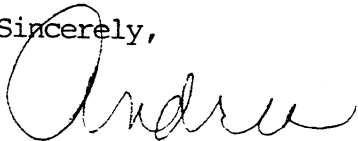
Dear Representative Dawkins:

On Friday, March 17, 1989, the Minneapolis City Council passed the enclosed resolutions regarding H.F. 159, Drug and Contraband Seizures, and H.F. 160, Prostitution. The City Council designated these bills an "E" priority which means the City endorses this legislation but does not lobby the bill. H.F. 136, Neighborhood Organization Suits, the City took no position and H.F. 163, Controlled Substance Offenses, was designated "receive and file" because the City is already supporting H.F. 164, McLaughlin, which lays out the same concepts.

If you have further questions with regard to the City's position on the proposed legislation, please contact me.

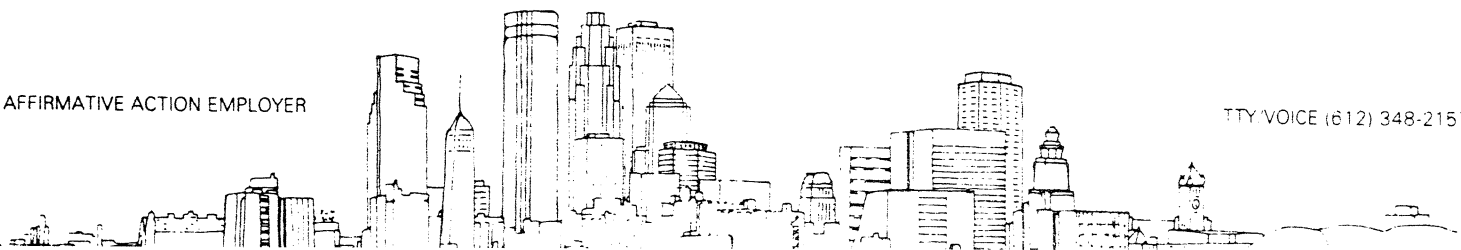
Good luck in your efforts.

Sincerely,



Andrea Hart Kajer  
Assistant State Legislative Liaison

AHK:ph





# Minnesota Police & Peace Officers Association

Official Publication: *THE MINNESOTA POLICE JOURNAL*

Capitol Office Building

Suite 207

525 Park Street

St. Paul, Minnesota 55103

612/291-1119

MINNESOTA WATS Phone: 1-800-862-2001



FOUNDED IN 1922  
Over 6,000 Members Strong

EXECUTIVE DIRECTOR  
DENNIS J. FLAHERTY

March 3, 1989

Representative Andy Dawkins  
Room 371 State Office Building  
St. Paul, MN 55155

Dear Representative Dawkins,

I would like to take this opportunity to go on record supporting legislation that you have introduced providing for termination, cancellation, and forfeiture of real estate interests related to drug seizures. I refer to H.F. 159, which we feel would be very effective in stabilizing the increase we are experiencing in the number of "crack" and "drug houses" operated throughout our State.

It is an interesting concept and one that actually could be very effective.

We applaud your endeavors in this area, and extend our support to you with this legislation.

Sincerely,

William Gillespie  
President

by

Dennis J. Flaherty  
Executive Director

DJF/jk

# MINNESOTA COUNTY ATTORNEYS ASSOCIATION

40 North Milton Street, Suite 200 • St. Paul, Minnesota 55104 • (612) 227-7493

March 20, 1989

Representative Andy Dawkins  
Room 371  
State Office Building  
St. Paul, MN 55155

Dear Representative Dawkins:

Thank you for coming to our legislative committee meeting on Friday. The legislative committee, in our later MCAA Board meeting, recommended that the Association support your H.F. 159. The Board chose not to take any action on your bill, which leaves the MCAA with no position on H.F. 159.

Please call if you have any questions.

Sincerely

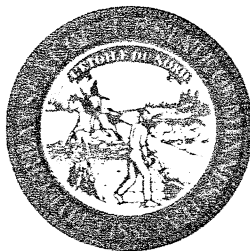


William Jeronimus  
Staff Attorney

Rep. Andy Dawkins

District 65A

Ramsey County



# Minnesota House of Representatives

Robert Vanasek, Speaker

VICE CHAIR, ECONOMIC DEVELOPMENT COMMITTEE, COMMUNITY STABILIZATION AND DEVELOPMENT DIVISION  
COMMITTEES: FINANCIAL INSTITUTIONS AND HOUSING; GOVERNMENTAL OPERATIONS; REGULATED INDUSTRIES

May 4, 1989

TO: Sen. Don Moe  
Mr. Michael Norton

FROM: Rep. Andy Dawkins

Re: H.F. 159/S.F. 330

③

As you know, the language we added to this bill at the Senate Judiciary hearing was supplied by the Hennepin County Attorney's Office via Rep. Richard Jefferson.

With reference to the last four words of Section 1, subd. 2 in the unofficial engrossment ("or operation of law"), it was my opinion that those words had the effect of ending a tenant's obligation to pay rent once a judge ordered an eviction, and this is what I stated on the record.

However, subsequent to the hearing, several lawyers from the Legal Aid Society advised me that it is unsettled law in Minnesota (i.e., no court cases or statutes) as to whether an eviction terminates the obligation to pay rent. In addition, they expressed concern as to whether a tenant who vacates the premises simply upon notice from a landlord (without court action) would still be obligated for the rent.

In addition, as discussed at the Senate hearing, there is some ambiguity as to what "acting under his or her control" means.

Based on these concerns, they suggest the unofficial engrossment be amended to clearly state our intent that (1) a tenant who is evicted, or otherwise vacates the premises based upon a notice from the landlord, is no longer responsible for the rent and that (2) "acting under his or her control" does not include a tenant who has a child or relative living with them (under his or her control) but unbeknownst to the tenant is a drug dealer.

As soon as the Senate File passes the Senate floor, or sooner, please let me know whether you agree with me that we should have a conference committee to tighten up the language with respect to these problems.

AD:BF

*Copy of  
proposed  
amendment  
attached*



1 \_\_\_\_\_ moves to amend H.F. 159, the  
2 unofficial engrossment, UEH0159-1, as follows:

3 Page 1, line 23, delete "All"

4 Page 1, delete lines 24 through 27, and insert "It is a  
5 defense to a proceeding for possession under this section  
6 that the tenant had no knowlege or reason to know of the  
7 activity under subdivision 1, or could not prevent the  
8 activity from occurring on the premises. Nothing herein  
9 shall modify the tenant's obligation for rent under section  
10 504.02."

1 \_\_\_\_\_ moves to amend H.F. 159, the  
2 unofficial engrossment, UEH0159-1, as follows:

3 Page 1, line 23, delete "All"

4 Page 1, delete lines 24 through 27, and insert "It is a  
5 defense to a proceeding for possession under this section  
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7 activity under subdivision 1, or could not prevent the  
8 activity from occurring on the premises. Nothing herein  
9 shall modify the tenant's obligation for rent under section  
10 504.02."

# unofficial engrossment

1 A bill for an act

2 relating to crimes; providing for termination,  
3 cancellation, and forfeiture of real estate interests  
4 related to contraband or controlled substance  
5 seizures; amending Minnesota Statutes 1988, sections  
6 566.02; 609.531; 609.5311, subdivisions 2 and 3;  
7 proposing coding for new law in Minnesota Statutes,  
8 chapters 504; 566; and 609.

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

10 Section 1. [504.181] [COVENANT OF LESSEE NOT TO ALLOW  
11 DRUGS.]

12 Subdivision 1. [COVENANT NOT TO SELL DRUGS OR ALLOW DRUG  
13 SALES.] In every lease or license of residential premises,  
14 whether in writing or parol, the lessee or licensee covenants  
15 that the premises, common area, and curtilage will not be used  
16 by the lessee or licensee or others acting under his or her  
17 control to manufacture, sell, give away, barter, deliver,  
18 exchange, distribute, or possess with intent to manufacture,  
19 sell, give away, barter, deliver, exchange, or distribute a  
20 controlled substance in violation of chapter 152.

21 Subd. 2. [BREACH VOIDS RIGHT TO POSSESSION.] A breach of  
22 the covenant created by subdivision 1 voids the lessee's or  
23 licensee's right to possession of the residential premises. All  
24 other provisions of the lease or license, including but not  
25 limited to the obligation to pay rent, remain in effect until  
26 the lease is terminated by the terms of the lease or operation  
27 of law.

1 Subd. 3. [WAIVER NOT ALLOWED.] The parties to a lease or  
2 license of residential premises may not waive or modify the  
3 covenant imposed by this section.

4 Sec. 2. Minnesota Statutes 1988, section 566.02, is  
5 amended to read:

6 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
7 FINE.]

8 When any person has made unlawful or forcible entry into  
9 lands or tenements, and detains the same, or, having peaceably  
10 entered, unlawfully detains the same, the person entitled to the  
11 premises may recover possession thereof in the manner  
12 hereinafter provided. A seizure under section 7, subdivision 1,  
13 for which there is not a defense under section 7, subdivision 3,  
14 constitutes unlawful detention by the tenant.

15 Sec. 3. [566.021] [NOTICE OF SEIZURE PROVISION.]

16 Landlords shall give written notice to tenants of the  
17 provision relating to seizures in section 566.02. Failure to  
18 give such notice does not subject the landlord to criminal or  
19 civil liability and is not a defense under section 7,  
20 subdivision 3.

21 Sec. 4. Minnesota Statutes 1988, section 609.531, is  
22 amended to read:

23 609.531 [FORFEITURES.]

24 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
25 609.531 to ~~609.5316~~ 609.5317, the following terms have the  
26 meanings given them.

27 (a) "Conveyance device" means a device used for  
28 transportation and includes, but is not limited to, a motor  
29 vehicle, trailer, snowmobile, airplane, and vessel and any  
30 equipment attached to it. The term "conveyance device" does not  
31 include property which is, in fact, itself stolen or taken in  
32 violation of the law.

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

36 (c) "Property" means property as defined in section 609.52,

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

March 1989 House Judiciary Committee Debate on HF 159

Not a transcript but rather Rep. Dawkins's notes to himself in preparation for his  
presentation of the bill plus three related items

4 Items

RESPONS. Presentation

This bill is designed to deal with 5 aspects of the crack house problem.

- ① The many LL's who have told me they need a course of action to evict drug dealing tenants,
- ② The many T's who have told me they live in a multiple dwelling unit and have to put up with a neighbor down the hall who is dealing drugs,
- ③ The many right leaders who have told me they need some leverage to get absentee LL's to evict T's operating a crack house,
- ④ The "constructive possession" problem when there's a crack house raid and drugs are found, but no charges or convictions ensue -
  - This bill addresses that problem from the civil side, rather than crim. side of the law, and gives the police reason to execute warrants even if no criminal charges may result,
- and ⑤ Society's need to keep crack dealers on the run

So the bill provides a way to notify LL's of the problem, gives LL's something they can do about the problem, and provides some consequences if they don't take action

(Responsibility in Prop. Ownership)

The bill includes a similar scenario for CD's (Some debate here which describes Co

I will walk thru the bill w/ the amendments included:

CD's

§ 1 on page 1:

Contraband seizure

→ \$5,000 or more (p. 8, line 15)

→ w/ no d. (p. 8, lines 2-6)

= CD default

§ 2 on page 1:

→ Vendors/sellers to give written notice of law change  
(also see amendment p. 2)

→ failure to give notice ≠ d. to default

LL's

§ 3 on page 1 and top of p. 2:

Contraband seizure

→ \$500 or more (p. 8, line 15)

→ w/ no d. (p. 8, lines 7-12)

= unlawful detention/breach of lease

§ 4 on page 2:

→ LL's to give notice of law change (See amendment p. 2)

→ failure to give notice ≠ d. to lease breach

§§ 5, 6 & 7 on pages 2-6:

→ refers to a new forfeiture law subd. (created on p. 6)

→ and adds "Contraband" to go along with

Controlled substances as grounds for forfeiture

§ 8, starting on page 6 is the guts of the bill

Subd. 1: Rental Prop. Procedure

① when c' bond or c. substance is seized pursuant to lawful search or arrest (regardless whether crim charges or conviction ensue)

② then city/cty notifies LL/fee owner by RR mail, or if no receipt returned, then by same manner as if S & C

Notifies of: seizure

: duty to assign eviction proceeding to city/cty

: potential consequences if don't

p. 7 top

③ then LL has 15 days to assign UD c/a to city/cty (see amendment p. 1, lines 2 & 3)

p. 7 (4-8)

④ if 2<sup>nd</sup> occurrence involving same tenant (amendment p. 1, lines 4 & 5)

and LL has failed to previously assign the UD c/a then city/cty liens LL's prop for \$3,000 or costs of warrant & seizure, whichever is greater

p. 7 (9-12)

⑤ if 3<sup>rd</sup> occurrence involving same tenant (amendment p. 1, lines ~~10 and 11~~ 10 and 11)

and LL has still failed to assign UD c/a then prop subject to forfeiture



Amendment  
p. 1

Subd. 1a : Crime to threaten CC not to bring <sup>assign</sup> UD

(15-27)

5 yr, \$10,000 felony

p. 7  
lines 13  
et seq.

Subd 2 : CD Procedure

① C's bene or C. substance seizure  
(prement to legal stand or arrest)  
(regardless of crim. charges/conviction)

② City city notice to vendor/seller  
(RR or SEC)  
(seizure/debt/consequences)

p. 7 (25-28)

③ w/in 30 days vendor must serve term notice  
[→ which by other law sets up CCIT relationship]

p. 7 (29-33)

④ If 2<sup>nd</sup> occurrence w/ same vendee/purchaser  
(amendment p. 1, lines <sup>23-24</sup> ~~23-24~~)  
and vendor failed to give the term. notice  
then city city liens prop for \$3,000 or more

p. 7 (34)  
to  
p. 8 (line 1)

⑤ If 3<sup>rd</sup> occurrence w/ same vendee/purchaser  
(amendment p. 7, lines <sup>3-4</sup> ~~3-4~~)  
and vendor has still failed to send term notice  
then prop. subject to forfeiture

p. 8 top Section 5, Subd. 3 : Defenses

lines 2-6 : D for T or vendor/purchaser :

No knowledge of presence

and/

Couldst prevent it

lines 7-12 : A for LL or vendor/seller :

Every reasonable attempt to assign the  
Rt. to exist or to term the X

or

Never rec'd notice of seizure/duties

8 Section 5, Subd. 4 : \$5,000 requirement.  
(3-15)

→ Effective dates / applicability dates / notice dates

Amendment p. 2 :

Sept. 1 LL give notice of lease change eff. Oct 1  
Vendor " " " CA " " " "

Oct. 1 : Seizures after this date give grounds

After Sept : All new Cases or CA's  
include these law changes

Some additional thoughts / potential amendments:

② ~~debate~~ Debate over CD forfeiture provisions

Amendment  
p. 2  
lines 6-8

① ~~Amendment~~ Amendment to make clear that this leg. has no effect on previous leg. allowing forfeiture on 1<sup>st</sup> occurrence under some circumstances

③ Possible fallback positions:

→ only future losses & CD's

→ elim CD / keep LIT & 1<sup>st</sup>

④ Change vendor to seller  
vendor to purchaser

1 A bill for an act

2 relating to crimes; providing for termination,  
3 cancellation, and forfeiture of real estate interests  
4 related to contraband or controlled substance  
5 seizures; amending Minnesota Statutes 1988, sections  
6 559.21, by adding a subdivision; 566.02; 609.531;  
7 609.5311, subdivisions 2 and 3; proposing coding for  
8 new law in Minnesota Statutes, chapters 566 and 609.

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

10 Section 1. Minnesota Statutes 1988, section 559.21, is  
11 amended by adding a subdivision to read:

12 Subd. 9. [CONTRABAND OR CONTROLLED SUBSTANCE SEIZURE.] A  
13 seizure under section 8, subdivision 2, for which there is not a  
14 defense under section 8, subdivision 3, is a default in the  
15 conditions of a contract for deed.

16 Sec. 2. Minnesota Statutes 1988, section 559.21, is being  
17 amended by adding a subdivision to read:

18 Subd. 10. [NOTICE.] Contract for deed vendors regulated  
19 under section 8 shall give written notice to vendees of the  
20 provision in subdivision 9. Failure to give such notice is not  
21 a defense under section 8, subdivision 3.

22 Sec. 3. Minnesota Statutes 1988, section 566.02, is  
23 amended to read:

24 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
25 FINE.]

26 When any person has made unlawful or forcible entry into  
27 lands or tenements, and detains the same, or, having peaceably

②

By whom?  
See 1/1/84

*FRANK GREEN SARKISZAK*

*Concerns*  
① CD term. notice & corrective action not applicable  
② fee owners in occupancy not covered - but perhaps on general under basic forfeiture statute  
③ what of life estates & remainder interests  
④ impairment of contracts problem - Can we amend a X by stat.?  
(or a lease)

③

1 A bill for an act  
2 relating to crimes; providing for termination,  
3 cancellation, and forfeiture of real estate interests  
4 related to contraband or controlled substance  
5 seizures; amending Minnesota Statutes 1988, sections  
6 559.21, by adding a subdivision; 566.02; 609.531;  
7 609.5311, subdivisions 2 and 3; proposing coding for  
8 new law in Minnesota Statutes, chapters 566 and 609.

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

10 Section 1. Minnesota Statutes 1988, section 559.21, is  
11 amended by adding a subdivision to read:

12 Subd. 9. [CONTRABAND OR CONTROLLED SUBSTANCE SEIZURE.] A  
13 seizure under section 8, subdivision 2, for which there is not a  
14 defense under section 8, subdivision 3, is a default in the  
15 conditions of a contract for deed.

16 Sec. 2. Minnesota Statutes 1988, section 559.21, is being  
17 amended by adding a subdivision to read:

18 Subd. 10. [NOTICE.] Contract for deed vendors regulated  
19 under section 8 shall give written notice to vendees of the  
20 provision in subdivision 9. Failure to give such notice is not  
21 a defense under section 8, subdivision 3.

*By when?  
See infra*

22 Sec. 3. Minnesota Statutes 1988, section 566.02, is  
23 amended to read:

24 566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
25 FINE.]

26 When any person has made unlawful or forcible entry into  
27 lands or tenements, and detains the same, or, having peaceably

1 entered, unlawfully detains the same, the person entitled to the  
2 premises may recover possession thereof in the manner  
3 hereinafter provided. A seizure under section 8, subdivision 1,  
4 for which there is not a defense under section 8, subdivision 3,  
5 constitutes unlawful detention by the tenant.

6 Sec. 4. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
7 shall give written notice to tenants of the provision relating  
8 to seizures in section 566.02. Failure to give such notice is  
9 not a defense under section 8, subdivision 3.

*shy when*  
*See 1000*

10 Sec. 5. Minnesota Statutes 1988, section 609.531, is  
11 amended to read:

12 609.531 [FORFEITURES.]

13 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
14 609.531 to ~~609-5316~~ 609.5317, the following terms have the  
15 meanings given them.

16 (a) "Conveyance device" means a device used for  
17 transportation and includes, but is not limited to, a motor  
18 vehicle, trailer, snowmobile, airplane, and vessel and any  
19 equipment attached to it. The term "conveyance device" does not  
20 include property which is, in fact, itself stolen or taken in  
21 violation of the law.

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

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

27 (d) "Contraband"

28 means property which is illegal to possess  
29 under Minnesota law.

30 (e) "Appropriate agency" means the bureau of criminal  
31 apprehension, the Minnesota state patrol, a county sheriff's  
32 department, or a city or airport police department.

33 (f) "Designated offense" includes:

- 34 (1) For weapons used: any violation of this chapter;
- 35 (2) For all other purposes: a felony violation of, or a  
36 felony-level attempt or conspiracy to violate, section 609.185;  
609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;

1 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
 2 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
 3 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
 4 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
 5 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
 6 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
 7 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
 8 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
 9 609.88; 609.89; or 617.246.

10 (g) "Controlled substance" has the meaning given in section  
 11 152.01, subdivision 4.

12 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609-5316~~  
 13 609.5317 must be liberally construed to carry out the following  
 14 remedial purposes:

- 15 (1) to enforce the law;
- 16 (2) to deter crime;
- 17 (3) to reduce the economic incentive to engage in criminal  
 18 enterprise;
- 19 (4) to increase the pecuniary loss resulting from the  
 20 detection of criminal activity; and
- 21 (5) to forfeit property unlawfully used or acquired and  
 22 divert the property to law enforcement purposes.

23 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
 24 sections 609.531 to ~~609-5316~~ 609.5317 may be seized by the  
 25 appropriate agency upon process issued by any court having  
 26 jurisdiction over the property. Property may be seized without  
 27 process if:

- 28 (1) the seizure is incident to a lawful arrest or a lawful  
 29 search;
- 30 (2) the property subject to seizure has been the subject of  
 31 a prior judgment in favor of the state in a criminal injunction  
 32 or forfeiture proceeding under this chapter; or
- 33 (3) the appropriate agency has probable cause to believe  
 34 that the delay occasioned by the necessity to obtain process  
 35 would result in the removal or destruction of the property and  
 36 that:

1 (i) the property was used or is intended to be used in  
2 commission of a felony; or

3 (ii) the property is dangerous to health or safety.

4 If property is seized without process under clause (3),  
5 subclause (i), the county attorney must institute a forfeiture  
6 action under section 609.5313 as soon as is reasonably possible.

7 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
8 OF SEIZED PROPERTY.] All right, title, and interest in property  
9 subject to forfeiture under sections 609.531 to  
10 ~~609.5316~~ 609.5317 vests in the appropriate agency upon  
11 commission of the act or omission giving rise to the  
12 forfeiture. Any property seized under sections 609.531 to  
13 609.5316 is not subject to replevin, but is deemed to be in the  
14 custody of the appropriate agency subject to the orders and  
15 decrees of the court having jurisdiction over the forfeiture  
16 proceedings. When property is so seized, the appropriate agency  
17 may:

18 (1) place the property under seal;

19 (2) remove the property to a place designated by it;

20 (3) in the case of controlled substances, require the state  
21 board of pharmacy to take custody of the property and remove it  
22 to an appropriate location for disposition in accordance with  
23 law; and

24 (4) take other steps reasonable and necessary to secure the  
25 property and prevent waste.

26 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
27 property that has been seized under sections 609.531 to ~~609.5316~~  
28 609.5317 seeks possession of the property before the forfeiture  
29 action is determined, the owner may, subject to the approval of  
30 the appropriate agency, give security or post bond payable to  
31 the appropriate agency in an amount equal to the retail value of  
32 the seized property. On posting the security or bond, the  
33 seized property must be returned to the owner and the forfeiture  
34 action shall proceed against the security as if it were the  
35 seized property. This subdivision does not apply to contraband  
36 property.



1 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
 2 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
 3 in rem action and is independent of any criminal prosecution,  
 4 except as provided in this subdivision. The appropriate agency  
 5 handling the forfeiture has the benefit of the evidentiary  
 6 presumption of section 609.5314, subdivision 1, but otherwise  
 7 bears the burden of proving the act or omission giving rise to  
 8 the forfeiture by clear and convincing evidence, except that in  
 9 cases arising under section 609.5312, the designated offense may  
 10 only be established by a felony level criminal conviction.

11 (b) A court may not issue an order of forfeiture under  
 12 section 609.5311 while the alleged owner of the property is in  
 13 custody and related criminal proceedings are pending against the  
 14 alleged owner. For forfeiture of a motor vehicle, the alleged  
 15 owner is the registered owner according to records of the  
 16 department of public safety. For real property, the alleged  
 17 owner is the owner of record. For other property, the alleged  
 18 owner is the person notified by the prosecuting authority in  
 19 filing the forfeiture action.

20 Sec. 6. Minnesota Statutes 1988, section 609.5311,  
 21 subdivision 2, is amended to read:

22 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
 23 personal, that has been used, or is intended for use, or has in  
 24 any way facilitated, in whole or in part, the manufacturing,  
 25 compounding, processing, delivering, importing, cultivating,  
 26 exporting, transporting, or exchanging of contraband or a  
 27 controlled substance that has not been lawfully manufactured,  
 28 distributed, dispensed, and acquired is subject to forfeiture  
 29 under this section, except as provided in subdivision 3.

*This  
 in part  
 entire  
 forfeiture  
 Stat.*

30 Sec. 7. Minnesota Statutes 1988, section 609.5311,  
 31 subdivision 3, is amended to read:

32 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
 33 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
 34 is subject to forfeiture under this section only if the retail  
 35 value of the controlled substance is \$500 or more.

36 (b) Real property is subject to forfeiture under this

1 section only if the retail value of the controlled substance or  
2 contraband is \$5,000 or more.

3 (c) Property used by any person as a common carrier in the  
4 transaction of business as a common carrier is subject to  
5 forfeiture under this section only if the owner of the property  
6 is a consenting party to, or is privy to, the use or intended  
7 use of the property as described in subdivision 2.

8 (d) Property is subject to forfeiture under this section  
9 only if its owner was privy to the use or intended use described  
10 in subdivision 2, or the unlawful use or intended use of the  
11 property otherwise occurred with the owner's knowledge or  
12 consent.

13 (e) Forfeiture under this section of a conveyance device or  
14 real property encumbered by a bona fide security interest is  
15 subject to the interest of the secured party unless the secured  
16 party had knowledge of or consented to the act or omission upon  
17 which the forfeiture is based. A person claiming a security  
18 interest bears the burden of establishing that interest by clear  
19 and convincing evidence.

20 (f) Notwithstanding paragraphs (d) and (e), property is not  
21 subject to forfeiture based solely on the owner's or secured  
22 party's knowledge of the unlawful use or intended use of the  
23 property if the owner or secured party took reasonable steps to  
24 terminate use of the property by the offender.

25 Sec. 8. [609.5317] [REAL PROPERTY; SEIZURES.]

26 Subdivision 1. [RENTAL PROPERTY.] When contraband or a  
27 controlled substance manufactured, distributed, or acquired in  
28 violation of chapter 152 is seized on residential rental  
29 property incident to a lawful search or arrest, whether or not  
30 the seizure results in criminal charges or conviction, the  
31 county attorney shall notify the landlord of the property of the  
32 seizure and the applicable duties and penalties under this  
33 subdivision by certified letter, return receipt requested,  
34 within seven days of the seizure. If receipt is not returned,  
35 notice shall be given in the manner provided by law for service  
36 of summons in a civil action.

1 (a) Within 15 days after notice of the first occurrence,  
2 the landlord shall <sup>assign to the city atty the LC's Rt. to</sup> bring an unlawful detainer action against the  
3 tenant.

4 (b) Upon notice of a second occurrence <sup>involving the same tenant</sup> a lien shall be  
5 <sup>The city atty shall assess a lien</sup> assessed against the property unless <sup>The Rt. to bring</sup> an unlawful detainer action  
6 has been <sup>ASSIGNED</sup> commenced as provided in paragraph (a). The amount of  
7 the lien shall be \$3,000 unless the county attorney can show  
8 that the cost of the warrant and seizure exceeds this amount.

9 (c) Upon notice of a third occurrence <sup>involving the same tenant</sup> the property is  
10 subject to forfeiture under sections 609.531, 609.5311,  
11 609.5313, and 609.5315 unless <sup>The Rt. to bring</sup> an unlawful detainer action has  
12 been <sup>assigned</sup> commenced as provided in paragraph (a).

13 Subd. 2. [CONTRACT FOR DEED.] When contraband or a  
14 controlled substance manufactured, distributed, or acquired in  
15 violation of chapter 152 is seized on a contract for deed  
16 vendee's residence incident to a lawful search or arrest,  
17 whether or not the seizure results in criminal charges or  
18 conviction, the county attorney shall notify the vendor of the  
19 contract for deed on the residence of the seizure and the  
20 applicable duties and penalties under this subdivision by  
21 certified letter, return receipt requested, within seven days of  
22 the seizure. If the receipt is not returned, notice shall be  
23 given in the manner provided by law for service of a summons in  
24 a civil action.

25 (a) Within 30 days after notice of the first occurrence,  
26 the vendor shall serve a termination notice upon the vendee.  
27 The notice must state that, notwithstanding any other law to the  
28 contrary, the contract will terminate upon receipt of the notice.

29 (b) Upon notice of a second occurrence <sup>involving the same vendee</sup> a lien shall be  
30 <sup>The city atty shall assess a lien</sup> assessed against the property unless a termination notice has  
31 been served as provided in paragraph (a). The amount of the  
32 lien shall be \$3,000 unless the county attorney can show that  
33 the cost of the warrant and seizure exceeds this amount.

34 (c) Upon notice of a third occurrence <sup>involving the same vendee</sup> the property is  
35 subject to forfeiture under sections 609.531, 609.5311,  
36 609.5313, and 609.5315 unless a termination notice has been

INSERT: FEDERAL FOR T. THREATENING LL of eviction

1 served as provided in paragraph (a).

2 Subd. 3. [DEFENSE.] It is a defense against a proceeding  
3 under subdivision 1, paragraph (a), or subdivision 2, paragraph  
4 (a), that the tenant or vendee had no knowledge of the presence  
5 of the controlled substance and could not prevent it being  
6 brought onto the property.

7 It is a defense against a proceeding under subdivision 1,  
8 paragraph (b) or (c), or <sup>Six</sup>2, paragraph (b) or (c), that the  
9 landlord or vendor made every reasonable attempt to evict a  
10 tenant or terminate a contract for deed under subdivision 1 or  
11 2, or that the landlord or vendor did not receive notice of the  
12 seizure.

13 Subd. 4. [LIMITATIONS.] This section shall not apply if  
14 the retail value of the contraband or controlled substance is  
15 less than \$5,000.

16 Sec. 9. [EFFECTIVE DATE.] *APPLICATION*

17 Sections 1, <sup>3, 5, 6, 7 and 8</sup> and 3 are effective on ~~January 1, 1989~~

18 ~~Sections 2 and 4 are effective on November 1, 1989.~~

*Oct 1, 1989  
and  
apply  
to  
Seizures  
of  
Contraband  
or  
Controlled  
Substances  
Occurring  
on or after  
That date*

*Amendment*

*By Sept 1: LL give notice of lease change  
effective Oct. 1*

*After Sept 1 all new leases include  
that language / notice*

*By Sept 1 Vendor give notice  
of CO change  
effective Oct. 1*

*After Sept 1 all new CO's  
include that lang / notice*

*ed*

④

1 \_\_\_\_\_ moves to amend H. F. 159, as follows:

*County attorney does the eviction*

2 Page 7, line 2, after "shall" insert "assign to the county  
3 attorney the landlord's right to"

4 Page 7, line 4, after "occurrence" insert "involving the  
5 same tenant"

*Clarifies that County attorney gets the lien attached*

6 Page 7, lines 4 and 5, delete "a lien shall be assessed"  
and insert "the county attorney shall assess a lien"

8 Page 7, line 9, after "occurrence" insert "involving the  
9 same tenant"

10 Page 7, after line 12, insert:

*Not strictly needed of the p.7, line 2 amendment, not part of an idea. possibly needed on 609.27*

11 "Subd. 1a. [THREAT; PENALTY.] A tenant subject to an  
12 unlawful detainer action under subdivision 1 who threatens to  
13 inflict bodily harm upon, hold in confinement, unlawfully  
14 inflict damage upon the property of, or unlawfully injure the  
15 trade, business, profession or occupation of, the tenant's  
16 landlord is guilty of a felony and may be sentenced to  
17 imprisonment for not more than five years or to payment of a  
18 fine of not more than \$10,000, or both."

19 Page 7, line 29, after "occurrence" insert "involving the  
20 same vendee"

21 Page 7, lines 29 and 30, delete "a lien shall be assessed"  
22 and insert "the county attorney shall asses a lien"

23 Page 7, line 34, after "occurrence" insert "involving the  
24 same vendee"

1 Page 8, line 16, after "DATE" insert "; APPLICATION"  
 2 Page 8, line 17, delete "and 3" and insert "3, 5, 6, 7, and  
 3 8"  
 4 Page 8, line 17, delete "January 1, 1990" and insert  
 5 "October 1, 1989 and apply to seizures of contraband or  
 6 controlled substances occurring on or after that date"  
 7 Page 8, delete line 18, and insert:  
 8 "On or before September 1, 1989 landlords shall give the  
 9 notice required by section 4 to tenants of residential rental  
 10 property under an existing lease or periodic rent agreement that  
 11 will become effective October 1, 1989.  
 12 All residential rental property leases or periodic rent  
 13 agreements entered on or after September 1, 1989 must include  
 14 the notice to the tenant required by section 4.  
 15 On or before September 1, 1989 contract for deed vendors  
 16 regulated under section 8 shall give written notice to vendees  
 17 under contracts for deed in force on that date, that beginning  
 18 October 1, 1989, the provisions of section 1 apply to their  
 19 contracts for deed.  
 20 Vendors in all contract for deed transactions regulated  
 21 under section 8 and entered on or after September 1, 1989, shall  
 22 notify the vendee that the provisions of section apply to the  
 23 contract for deed, on and after October 1, 1989."

*The effective date makes forfeitures available everywhere  
 Oct. 1, 1989 - It seemed too confusing to have one  
 date for pre-existing CDs/leases and another for new  
 CDs/leases.*

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

4/13/1989 Floor Debate on Passage of HF 159

Not a transcript but rather Rep. Dawkins's notes to himself in preparation for his  
speech on the bill

Item #2 was distributed without the handwritten notes to each representative  
before Rep. Dawkins spoke

2 Items

It's walk thru bill & s

AND PUT OUT AMENDMENTS

Plus concerns still

Use of words: LL & T

(1)

~~Maybe~~

Concern is LL's words sent to persons  
w/ mythical drug dealer profile

(and poorer folks who use cash purchase method)

~~OK as to residential only~~

(U.S.)

Strengthen discrim. laws:

(The fact that this is reality  
shows real we still have

to fight discrim. at all levels)

see p. 6

line 12 and compare  
US

566.02

which covers  
all houses

but not in's

to p. 6

line 12

residential

seizure

~~Maybe~~

<sup>crim.</sup> litigation as to perpetrators of search/arrest

(U.S.) That's the purpose of this bill:

Drugs were found period!

~~Maybe~~

LL will sent to same people, just diff. name

(U.S.) That's the rare bad apple LL  
This bill is to keep good LL's

⊙ Ask that bill be moved & delete everything amendment



- ① Read today's article - show crack raid map - some 60 warrants in 6<sup>th</sup>
- ② HF 159 designed to help many LL's - read Igo quote  
- cite prominent lobbyist request

designed to help many n'bars who have tried to get LL's  
to evict crack dealers

- ditto of T's in multiple dwelling unit

Arms fills the gap where no crim charges 'cos ~~contract~~ <sup>problem</sup> posses

- real Strick article
- City atty can still do something for n'bars

- ③ HF 159 supported by
  - LL's ✓ (multi-teny assm.)
  - City atty ✓ (Wadele - Geronimus)
  - St Paul ✓ (Lynch)
  - Neighb. orgs ✓ (testimony last week)
  - Police ✓ (Annie Flakatz here today)
  - realtors
  - PEOPLES.

OK Kelly amendment w/ Elmy

UIP  
Copy & Dist chart to cell members

**RESPONS. Presentation**

Ask that Bill be moved first, very briefly, (R) for this case:

Head testimony from St Paul Anti Crack Coalition

(Ann Touchette, Billie Leman)

Black Royal Repair Shops

(Nick Davis)

St Paul City Councilman

(Bill Wilson)

Ramsey City Atty's O.

(John Woodcock)

Floor presentation

~~St Paul Crack Map~~



ST PAUL CRACK MAP

≈ 60 warrants executed in past 6 mo's

No

Both LL's & Mayor want more ammunition to fight crack cases

Yes

This bill sets up optional alternative to criminal prosecution (when not applicable) to forfeitures (when not applicable)

Yes

The bill has been cleaned with LL's lobby (Multi-HS's, Police Officers Assn)

City Atty Assn

Police Officers Assn

Cities of St Paul & Maple

Neighborhood orgs.

AND Yes

PASSED UNANIMOUSLY OUT OF DIVISION & FULL COMM.

Then Pass out chart & Walk Thru

1 House File 159 requires county attorneys to notify residential landlords whenever contraband or illegal controlled substances with a retail value of \$5,000 or more are seized on the landlord's rental property incident to a lawful search or arrest. This notice must be sent whether or not the seizure results in criminal charges or a conviction.

2 Within 15 days of receiving this notice, the landlord must begin an eviction action against the tenant. If the landlord fails to do so and there is a second seizure of contraband or illegal drugs on the rental property, ~~the landlord's property will be subject to forfeiture.~~ <sup>or county attorney</sup> ~~the landlord's property will be subject to forfeiture.~~ <sup>0/2/0</sup> ~~which ever is greater. If illegal drugs or contraband are seized a third time and no eviction action is filed, the~~

~~Similar requirements are imposed by the bill on contract for deed vendors when contraband or illegal drugs are seized on the contract for deed vendor's residence.~~

3 House File 159 provides two defenses:  
(1) tenants and contract for deed vendors who had no knowledge of the presence of the illegal drugs and who could not prevent them being brought onto the property have a defense against eviction; and  
(2) ~~landlords and contract for deed vendors are not subject to the threatened forfeiture sanctions if they~~

# H.F. 159: How it Works

## UNLAWFUL DETAINER UNDER H.F. 159

## FORFEITURE UNDER 609.5311

*pagged to incorrect law*  
**\$5,000** worth of contraband or drugs lawfully seized from residential rental property  
*Charges waived*

*discuss the notice to evict 11-22*  
 County Attorney notifies landlord within 30 days that the seizure triggers legal right and duty to evict tenant.

County Attorney must show:  
 1. Contraband or drugs seized worth more than \$5,000  
 2. Owner had knowledge or consented to the illegal use of the property.

*J* Landlord shall begin an Unlawful Detainer Action or assign that right to the County Attorney within 15 days of notice

Landlord does nothing  
 Contraband lawfully seized from the same tenants

Judicial Proceedings legal complaint filed and notice given

*Discrimination*  
 County Attorney brings Unlawful Detainer Action

Landlord brings Unlawful Detainer Action

County Attorney may bring Unlawful Detainer Action in some circumstances

Forfeiture under 609.5311, unless landlord never received County Attorney notice or made every effort to follow County Attorney notice

*B*  
**Unlawful Detainer Action under 566.01**  
 1. Summons and complaint filed and served  
 2. Appearance within 7-14 days.  
 3. Defenses:  
 a) Tenant had no knowledge  
 b) Tenant could not prevent  
 4. Judgment entered, Writ of Restitution Issued

**Disposition**  
 If property is subject to forfeiture:  
 1. Sell and distribute proceeds  
 a) satisfaction of expenses/liens/restitution  
 b) money left is distributed 70% - 20% - 10%  
 2. Take custody and remove for disposition  
 3. Keep property for official agency use

*NEW*  
*Offense to charge to seizure for the law P. 116.5 3*

*2*

*Change Slippery Clause*

**Landlord:**  
 1. Oversees service of Writ of Restitution  
 2. Tenants can be forcibly evicted after 24 hours

### Effective Dates/Applicability Dates

- Aug. 1: Landlords notify existing tenants by Sept. 1 of change in law effective Oct 1.
- Sept. 1: All leases entered into after this date include law change.
- Oct. 1: All seizures after Oct. 1 constitutes unlawful detention of lands.

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

5/22/1989 Floor Debate on Repassage of HF 159 as Amended by the Senate-

Not a transcript but rather Rep. Dawkins's notes to himself in preparation for his  
speech on the bill

1 Item

Dawkins <sup>d</sup> moves that the House concur

in the Senate amendments to H. F. No. 159 and that the bill  
be repassed as amended by the Senate.

Bo-0

This is The anti-crack house bill

It was a one section bill when  
it left the house on 128 votes

It comes back as a 2 section bill

→ our § 1 insert

→ They add § 2 which makes it explicit that drug dealing is  
grounds to terminate a lease

1 Mr. Spear from the Committee on Judiciary, to which was  
2 referred

3 H.F. No. 159: A bill for an act relating to crimes;  
4 providing for termination, cancellation, and forfeiture of real  
5 estate interests related to contraband or controlled substance  
6 seizures; amending Minnesota Statutes 1988, sections 566.02;  
7 609.531; 609.5311, subdivisions 2 and 3; proposing coding for  
8 new law in Minnesota Statutes, chapters 566 and 609.

9 Reports the same back with the recommendation that the bill  
10 be amended as follows:

11 Page 1, after line 9, insert:

12 "Section 1. [504.181] [COVENANT OF LESSEE NOT TO ALLOW  
13 DRUGS.]

14 Subdivision 1. [COVENANT NOT TO SELL DRUGS OR ALLOW DRUG  
15 SALES.] In every lease or license of residential premises,  
16 whether in writing or parol, the lessee or licensee covenants  
17 that the premises, common area, and curtilage will not be used  
18 by the lessee or licensee or others acting under his or her  
19 control to manufacture, sell, give away, barter, deliver,  
20 exchange, distribute, or possess with intent to manufacture,  
21 sell, give away, barter, deliver, exchange, or distribute a  
22 controlled substance in violation of chapter 152.

23 Subd. 2. [BREACH VOIDS RIGHT TO POSSESSION.] A breach of  
24 the covenant created by subdivision 1 voids the lessee's or  
25 licensee's right to possession of the residential premises. All  
26 other provisions of the lease or license, including but not  
27 limited to the obligation to pay rent, remain in effect until  
28 the lease is terminated by the terms of the lease or operation  
29 of law.

30 Subd. 3. [WAIVER NOT ALLOWED.] The parties to a lease or  
31 license of residential premises may not waive or modify the  
32 covenant imposed by this section."

33 Page 1, lines 18, 19, and 25, delete "6" and insert "7"

34 Page 6, line 19, delete ", whether or not"

35 Page 6, line 20, delete everything before the comma

36 Page 6, line 25, before "The" insert "The notice is not  
37 required during an ongoing investigation."

38 Page 8, line 1, after "3" insert ", paragraph (b)"

39 Page 8, line 3, delete "1, 3, 4, 5, and 6" and insert "2,

1 4, 5, 6, and 7"

2 Page 8, line 8, delete "1" and insert "2"

3 Page 8, line 12, delete "2" and insert "3"

4 Renumber the sections in sequence

5 Amend the title as follows:

6 Page 1, line 8, after "chapters" insert "504;" and after

7 "566" insert a semicolon

8 And when so amended the bill do pass. Amendments adopted.  
9 Report adopted.

10

11

12

13

14

15

16

*Allan Spear*  
.....  
(Committee Chair)  
April 24, 1989.....  
(Date of Committee recommendation)

ADOPTED BY THE SENATE  
STATE OF MINNESOTA

APR 27 1989

*Patrick L. Flaherty*  
SECRETARY OF THE SENATE

**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Notes of Rep. Dawkins Written on Copy of 1989 HF 159 as Introduced

1 Item



→ With Amendment H 159 A 1  
 Handwritten in  
 ⊕ more changes in 9 on ink

Also see \*'s on attached page

Change vendor to seller  
 Change vendee to purchaser

1                                   A bill for an act

2           relating to crimes; providing for termination,  
 3           cancellation, and forfeiture of real estate interests  
 4           related to contraband or controlled substance  
 5           seizures; amending Minnesota Statutes 1988, sections  
 6           559.21, by adding a subdivision; 566.02; 609.531;  
 7           609.5311, subdivisions 2 and 3; proposing coding for  
 8           new law in Minnesota Statutes, chapters 566 and 609.

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

10           Section 1. Minnesota Statutes 1988, section 559.21, is  
 11           amended by adding a subdivision to read:

12           Subd. 9. [CONTRABAND OR CONTROLLED SUBSTANCE SEIZURE.] A  
 13           seizure under section 8, subdivision 2, for which there is not a  
 14           defense under section 8, subdivision 3, is a default in the  
 15           conditions of a contract for deed.

16           Sec. 2. Minnesota Statutes 1988, section 559.21, is being  
 17           amended by adding a subdivision to read:

18           Subd. 10. [NOTICE.] Contract for deed vendors regulated  
 19           under section 8 shall give written notice to vendees of the  
 20           provision in subdivision 9. Failure to give such notice is not  
 21           a defense under section 8, subdivision 3.

22           Sec. 3. Minnesota Statutes 1988, section 566.02, is  
 23           amended to read:

24           566.02 [UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO  
 25           FINE.]

26           When any person has made unlawful or forcible entry into  
 27           lands or tenements, and detains the same, or, having peaceably

1 entered, unlawfully detains the same, the person entitled to the  
 2 premises may recover possession thereof in the manner  
 3 hereinafter provided. A seizure under section 8, subdivision 1,  
 4 for which there is not a defense under section 8, subdivision 3,  
 5 constitutes unlawful detention by the tenant.

→  
 State  
 more  
 clearly  
 what's  
 in  
 reverse  
 →

6 Sec. 4. [566.021] [NOTICE OF SEIZURE PROVISION.] Landlords  
 7 shall give written notice to tenants of the provision relating  
 8 to seizures in section 566.02. Failure to give such notice is  
 9 not a defense under section 8, subdivision 3.

10 Sec. 5. Minnesota Statutes 1988, section 609.531, is  
 11 amended to read:

12 609.531 [FORFEITURES.]

13 Subdivision 1. [DEFINITIONS.] For the purpose of sections  
 14 609.531 to ~~609.5316~~ 609.5317, the following terms have the  
 15 meanings given them.

16 (a) "Conveyance device" means a device used for  
 17 transportation and includes, but is not limited to, a motor  
 18 vehicle, trailer, snowmobile, airplane, and vessel and any  
 19 equipment attached to it. The term "conveyance device" does not  
 20 include property which is, in fact, itself stolen or taken in  
 21 violation of the law.

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

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

27 (d) "Contraband" means property which is illegal to possess  
 28 under Minnesota law.

29 (e) "Appropriate agency" means the bureau of criminal  
 30 apprehension, the Minnesota state patrol, a county sheriff's  
 31 department, or a city or airport police department.

32 (f) "Designated offense" includes:

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

34 (2) For all other purposes: a felony violation of, or a  
 35 felony-level attempt or conspiracy to violate, section 609.185;  
 36 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231;

1 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2;  
2 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision  
3 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to  
4 (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e),  
5 and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487;  
6 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562;  
7 609.563; 609.582; 609.59; 609.595; 609.631; 609.671,  
8 subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86;  
9 609.88; 609.89; or 617.246.

10 (g) "Controlled substance" has the meaning given in section  
11 152.01, subdivision 4.

12 Subd. 1a. [CONSTRUCTION.] Sections 609.531 to ~~609.5316~~  
13 609.5317 must be liberally construed to carry out the following  
14 remedial purposes:

15 (1) to enforce the law;

16 (2) to deter crime;

17 (3) to reduce the economic incentive to engage in criminal  
18 enterprise;

19 (4) to increase the pecuniary loss resulting from the  
20 detection of criminal activity; and

21 (5) to forfeit property unlawfully used or acquired and  
22 divert the property to law enforcement purposes.

23 Subd. 4. [SEIZURE.] Property subject to forfeiture under  
24 sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the  
25 appropriate agency upon process issued by any court having  
26 jurisdiction over the property. Property may be seized without  
27 process if:

28 (1) the seizure is incident to a lawful arrest or a lawful  
29 search;

30 (2) the property subject to seizure has been the subject of  
31 a prior judgment in favor of the state in a criminal injunction  
32 or forfeiture proceeding under this chapter; or

33 (3) the appropriate agency has probable cause to believe  
34 that the delay occasioned by the necessity to obtain process  
35 would result in the removal or destruction of the property and  
36 that:

1 (i) the property was used or is intended to be used in  
2 commission of a felony; or

3 (ii) the property is dangerous to health or safety.

4 If property is seized without process under clause (3),  
5 subclause (i), the county attorney must institute a forfeiture  
6 action under section 609.5313 as soon as is reasonably possible.

7 Subd. 5. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY  
8 OF SEIZED PROPERTY.] All right, title, and interest in property  
9 subject to forfeiture under sections 609.531 to  
10 ~~609-5316~~ 609.5317 vests in the appropriate agency upon  
11 commission of the act or omission giving rise to the  
12 forfeiture. Any property seized under sections 609.531 to  
13 609.5316 is not subject to replevin, but is deemed to be in the  
14 custody of the appropriate agency subject to the orders and  
15 decrees of the court having jurisdiction over the forfeiture  
16 proceedings. When property is so seized, the appropriate agency  
17 may:

18 (1) place the property under seal;

19 (2) remove the property to a place designated by it;

20 (3) in the case of controlled substances, require the state  
21 board of pharmacy to take custody of the property and remove it  
22 to an appropriate location for disposition in accordance with  
23 law; and

24 (4) take other steps reasonable and necessary to secure the  
25 property and prevent waste.

26 Subd. 5a. [BOND BY OWNER FOR POSSESSION.] If the owner of  
27 property that has been seized under sections 609.531 to ~~609-5316~~  
28 609.5317 seeks possession of the property before the forfeiture  
29 action is determined, the owner may, subject to the approval of  
30 the appropriate agency, give security or post bond payable to  
31 the appropriate agency in an amount equal to the retail value of  
32 the seized property. On posting the security or bond, the  
33 seized property must be returned to the owner and the forfeiture  
34 action shall proceed against the security as if it were the  
35 seized property. This subdivision does not apply to contraband  
36 property.

1 Subd. 6a. [FORFEITURE A CIVIL PROCEDURE; CONVICTION  
2 RESULTS IN PRESUMPTION.] (a) An action for forfeiture is a civil  
3 in rem action and is independent of any criminal prosecution,  
4 except as provided in this subdivision. The appropriate agency  
5 handling the forfeiture has the benefit of the evidentiary  
6 presumption of section 609.5314, subdivision 1, but otherwise  
7 bears the burden of proving the act or omission giving rise to  
8 the forfeiture by clear and convincing evidence, except that in  
9 cases arising under section 609.5312, the designated offense may  
10 only be established by a felony level criminal conviction.

11 (b) A court may not issue an order of forfeiture under  
12 section 609.5311 while the alleged owner of the property is in  
13 custody and related criminal proceedings are pending against the  
14 alleged owner. For forfeiture of a motor vehicle, the alleged  
15 owner is the registered owner according to records of the  
16 department of public safety. For real property, the alleged  
17 owner is the owner of record. For other property, the alleged  
18 owner is the person notified by the prosecuting authority in  
19 filing the forfeiture action.

20 Sec. 6. Minnesota Statutes 1988, section 609.5311,  
21 subdivision 2, is amended to read:

22 Subd. 2. [ASSOCIATED PROPERTY.] All property, real and  
23 personal, that has been used, or is intended for use, or has in  
24 any way facilitated, in whole or in part, the manufacturing,  
25 compounding, processing, delivering, importing, cultivating,  
26 exporting, transporting, or exchanging of contraband or a  
27 controlled substance that has not been lawfully manufactured,  
28 distributed, dispensed, and acquired is subject to forfeiture  
29 under this section, except as provided in subdivision 3.

30 Sec. 7. Minnesota Statutes 1988, section 609.5311,  
31 subdivision 3, is amended to read:

32 Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY  
33 ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device  
34 is subject to forfeiture under this section only if the retail  
35 value of the controlled substance is \$500 or more.

36 (b) Real property is subject to forfeiture under this

1 section only if the retail value of the controlled substance or  
2 contraband is \$5,000 or more.

3 (c) Property used by any person as a common carrier in the  
4 transaction of business as a common carrier is subject to  
5 forfeiture under this section only if the owner of the property  
6 is a consenting party to, or is privy to, the use or intended  
7 use of the property as described in subdivision 2.

8 (d) Property is subject to forfeiture under this section  
9 only if its owner was privy to the use or intended use described  
10 in subdivision 2, or the unlawful use or intended use of the  
11 property otherwise occurred with the owner's knowledge or  
12 consent.

13 (e) Forfeiture under this section of a conveyance device or  
14 real property encumbered by a bona fide security interest is  
15 subject to the interest of the secured party unless the secured  
16 party had knowledge of or consented to the act or omission upon  
17 which the forfeiture is based. A person claiming a security  
18 interest bears the burden of establishing that interest by clear  
19 and convincing evidence.

20 (f) Notwithstanding paragraphs (d) and (e), property is not  
21 subject to forfeiture based solely on the owner's or secured  
22 party's knowledge of the unlawful use or intended use of the  
23 property if the owner or secured party took reasonable steps to  
24 terminate use of the property by the offender.

25 Sec. 8. [609.5317] [REAL PROPERTY; SEIZURES.]

26 Subdivision 1. [RENTAL PROPERTY.] When contraband or a  
27 controlled substance manufactured, distributed, or acquired in  
28 violation of chapter 152 is seized on residential rental  
29 property incident to a lawful search or arrest, whether or not  
30 the seizure results in criminal charges or conviction, the  
31 county attorney shall notify the landlord of the property of the  
32 seizure and the applicable duties and penalties under this  
33 subdivision by certified letter, return receipt requested,  
34 within seven days of the seizure. If receipt is not returned,  
35 notice shall be given in the manner provided by law for service  
36 of summons in a civil action.

Should it be assigned or bring?

1 (a) Within 15 days after notice of the first occurrence,  
2 the landlord shall <sup>Assign to the city atty. The LL's Rt to</sup> bring an unlawful detainer action against the  
3 tenant.

4 (b) Upon notice of a second occurrence <sup>involving the same tenant</sup> a lien shall be  
5 ~~assessed~~ <sup>The city atty shall assess a lien</sup> against the property <sup>for costs of the Rt to bring</sup> unless an unlawful detainer action  
6 has been <sup>assigned</sup> commenced as provided in paragraph (a). ~~The amount of~~  
7 ~~the lien shall be \$3,000 unless the county attorney can show~~  
8 ~~that the cost of the warrant and seizure exceeds this amount.~~

9 (c) Upon notice of a third occurrence <sup>involving the same tenant</sup> the property is  
10 subject to forfeiture under sections 609.531, 609.5311,  
11 609.5313, and 609.5315 unless <sup>The Rt. to bring</sup> an unlawful detainer action has  
12 been <sup>assigned</sup> commenced as provided in paragraph (a).

INSERT → CRIM PENALTY FOR TARRANT - See amendment p. 1 lines 15-22  
13 Subd. 2. [CONTRACT FOR DEED.] When contraband or a

14 controlled substance manufactured, distributed, or acquired in  
15 violation of chapter 152 is seized on a contract for deed  
16 vendee's residence incident to a lawful search or arrest,  
17 whether or not the seizure results in criminal charges or  
18 conviction, the county attorney shall notify the vendor of the  
19 contract for deed on the residence of the seizure and the  
20 applicable duties and penalties under this subdivision by  
21 certified letter, return receipt requested, within seven days of  
22 the seizure. If the receipt is not returned, notice shall be  
23 given in the manner provided by law for service of a summons in  
24 a civil action.

Rt to act as agent for vendor

25 (a) Within 30 days after notice of the first occurrence,  
26 the vendor shall <sup>assigned to the city atty the vendor's Rt. to</sup> serve a termination notice upon the vendee.  
27 The notice must state that, notwithstanding any other law to the  
28 contrary, the contract will terminate upon receipt of the notice.

Needs lang. that vendor has no Rt. of redemption

Should the assign or serve?

29 (b) Upon notice of a second occurrence <sup>involving the same vendee</sup> a lien shall be  
30 ~~assessed~~ <sup>The city atty shall assess a lien</sup> against the property <sup>for costs of warrant to seizure</sup> unless a termination notice has  
31 been <sup>assigned</sup> served as provided in paragraph (a). ~~The amount of the~~  
32 ~~lien shall be \$3,000 unless the county attorney can show that~~  
33 ~~the cost of the warrant and seizure exceeds this amount.~~

a lien for the cost of the warrant & seizure should be assessed against

34 (c) Upon notice of a third occurrence <sup>involving the same vendee</sup> the property is  
35 subject to forfeiture under sections 609.531, 609.5311,  
36 609.5313, and 609.5315 unless a termination notice has been

→ The Rt. to ~~bring~~ serve a

Proceeds to city atty

*Assignment*

1 ~~revised~~ as provided in paragraph (a).  
2 INSERT → No damage to current forfeiture law & options (See amendment p. 2 lines 6-8)  
2 Subd. 3. [DEFENSE.] It is a defense against a proceeding

3 under subdivision 1, paragraph (a), or subdivision 2, paragraph  
4 (a), that the tenant or vendee had no knowledge of the presence  
5 of the controlled substance <sup>OR</sup> and could not prevent it being  
6 brought onto the property.

*K VIP*

7 It is a defense against a proceeding under subdivision 1,  
8 paragraph (b) or (c), or 2, paragraph (b) or (c), that the  
9 landlord ~~or vendor~~ made every reasonable attempt to evict a  
10 tenant or terminate a contract for deed under subdivision 1 or  
11 2, or that the landlord or vendor did not receive notice of the  
12 seizure.

*The vendor make every reasonable attempt assign the RT to it*

*VIP*

13 Subd. 4. [LIMITATIONS.] This section shall not apply if  
14 the retail value of the contraband or controlled substance is  
15 less than \$5,000.

16 Sec. 9. [EFFECTIVE DATE.]

17 Sections 1 and 3, <sup>AND 5, 6, 7, 8</sup> are effective on ~~January 1, 1990.~~

*Oct 1, 1989 & applies to seizures on or after 10/1/89*

18 ~~Sections 2 and 4 are effective on November 1, 1989.~~

→ See amendment p. 2 lines 20-35 :

*By Sept 1 : LL's give notice of lease changes eff. Oct. 1  
CD vendors (ditto)*

*All new Leases & CO's after Sept 1 include above*



**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Notes by Rep. Dawkins on the Senate Amendment Adding Minn. Stat. § 504.181

1 Item

*Add*

1 M..... moves to amend H.F. No. 159 as follows:

2 Page 1, after line 9, insert:

3 "Section 1. [504.181] [COVENANT OF LESSEE NOT TO ALLOW  
4 DRUGS.]

5 Subdivision 1. [COVENANT NOT TO SELL DRUGS OR ALLOW DRUG  
6 SALES.] In every lease or license of residential premises,  
7 whether in writing or parol, the lessee or licensee covenants  
8 that the premises, common area, and curtilage will not be used  
9 to manufacture, sell, give away, barter, deliver, exchange,  
10 distribute, or possess with intent to manufacture, sell, give  
11 away, barter, deliver, exchange, or distribute a controlled  
12 substance as defined in section 152.01, subdivision 4.

*Add*  
*by the lessee or licensee*  
*for the purpose of*  
*manufacturing, selling,*  
*bartering, delivering,*  
*exchanging, distributing,*  
*or possessing with intent*  
*to manufacture, sell, give*  
*away, barter, deliver,*  
*exchange, or distribute a*  
*controlled substance as*  
*defined in section 152.01,*  
*subdivision 4.*

13 Subd. 2. [BREACH VOIDS RIGHT TO POSSESSION.] A breach of  
14 the covenant created by subdivision 1 voids the lessee's or  
15 licensee's right to possession of the residential premises. All  
16 other provisions of the lease or license, including but not  
17 limited to the obligation to pay rent, remain in effect until  
18 the lease is terminated by the terms of the lease or  
19 operation of law.

*All*  
*strictly*  
*DN*

20 Subd. 3. [WAIVER NOT ALLOWED.] The parties to a lease or  
21 license of residential premises may not waive or modify the  
22 covenant imposed by this section."

23 Page 8, line 1, after "3" insert ", paragraph (b)"

24 Renumber the sections in sequence

25 Amend the title accordingly

**Papers from State Representative Andrew Dawkins Files  
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Notes – Probably by Rep. Dawkins - Unstated Date or Intended Audience

1 Item

RESPONSIBILITY IN PROPERTY OWNERSHIP BILL

1. When the police or other law enforcement agencies execute a warrant or otherwise "raid" a property and find illegal substances (Class A narcotics, or other felony-type contraband, not marijuana), then, regardless of whether criminal charges or convictions result and regardless of whether the owner of the property or the occupant of the property has knowledge of the contraband, the owner of the property is officially notified by certified, return receipt mail that (a) contraband was found on the property, (b) this gives you the right to bring an unlawful detainer action against the occupant or commence a cancellation of contract for deed against the vendee, (c) should you not take such legal action within reasonable time limits (as provided by law) and drugs or other contraband are found on the property a second time in a subsequent police raid, then the cost of the police raid (including undercover advance detective work, etc.) will be assessed against the property as a lien, and (d) should a third police raid result in a third discovery of contraband, then your property is subject to forfeiture.
2. If the owner of the property also lives in the property, it is the owners duty to determine how the contraband got onto the property and not allow it to happen again. If the owner of the property is a landlord and rents the property, then the owner has the duty to commence an unlawful detainer action. If the owner of the property is a contract for deed vendor, then the owner has the duty to commence a cancellation action on the contract.
3. The unlawful detainer statute and contract for deed termination statute must be amended to provide this *cause* of action.
4. It would be a defense in the unlawful detainer proceeding or contract cancellation proceeding that the tenant or vendee (a) had no knowledge of the illegal activity and (b) the use of the property that led to the discovery of contraband was beyond the control of the tenant or vendee -- such as an illegal breaking and entering, etc.
5. It would be a defense in the forfeiture action or grounds for an appeal on the lien assessment that the owner took every reasonable step to thwart the illegal activity, but to no avail.

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April 10, 1989 Press Release

NEWS RELEASE

Rep. Andy Dawkins, District 65A, 612/296-5158

Council Member Bill Wilson, 612/298-4646

April 10, 1989

FOR IMMEDIATE RELEASE

**REP. DAWKINS, COUNCIL MEMBER WILSON COMBAT CRACK HOUSES**

State Representative Andy Dawkins (DFL-St. Paul) and St. Paul City Council Member Bill Wilson today expressed optimism over the passage of H.F. 159, an anti-crack bill, which is expected to come to a floor vote today or Wed., April 12, 1989 in the Minnesota House of Representatives.

The proposed legislation would require landlords either to bring an eviction action against crack-dealing tenants or assign the eviction action to the county attorney whenever \$5,000 or more of any contraband is discovered on the premises.

Rep. Dawkins said the \$5,000 figure is too high to be truly effective, but he pegged the amount to existing forfeiture laws. The lawmaker expects another bill passing through the Legislature to reduce the forfeiture threshold to \$1,000 which automatically will reduce his bill to the \$1,000 amount as well.

"Then we will have an effective tool for county attorneys to use when there is a crack raid but insufficient evidence to bring criminal charges," explained Rep. Dawkins. "The burden of proof is not so high in civil cases, so even though we may not be able to bring criminal charges, we still can get rid of the crack house through an eviction proceeding."

The bill provides that landlords who don't cooperate face loss of their property through a forfeiture action.

Rep. Dawkins said that when he first drafted the bill he was requiring landlords to do the evicting. But he heard from many landlords who felt they were being put in the middle of what was really a law enforcement problem, so he amended his bill to give landlords the choice of either doing the evicting themselves or assigning the eviction action to the county attorney.

Council Member Wilson said that he and Rep. Dawkins have been working together on several ideas to help ease the crack problem in the City of St. Paul, particularly in the Summit-University and Frogtown neighborhoods which they both represent.

add 1/legislation

"Andy and I have attended many community meetings together where we kept hearing the same thing: what can we do to get rid of the crack houses?," said Council Member Wilson. "I have initiated several pieces of legislation at the city level and Andy has been pushing for changes in state law. Together we hope to give the community more power to keep the neighborhood safe. Rep. Dawkins' bill is a major step in that direction."

Rep. Dawkins noted that the bill has passed several legislative committees on unanimous votes and he expects the bill to pass both houses of the Legislature and to be signed by the Governor. Senator Don Moe is carrying the bill in the Senate and will be pushing it through the Senate in the next three weeks.

Rep. Dawkins said one significant part of the bill provides for forfeiture of real estate based on any illegal contraband and isn't limited to controlled substances.

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5 Newspaper Articles



# SUNDAY

Gophers fall 31-22 to Iowa;  
Irish, USC, Michigan win

Heiress Christina Onassis  
dies at 37 in Argentina/6B

ARTS

*Holiday*  
entertainment  
preview

VARIETY

Late  
bloomers:  
You're not  
too old to  
find success

TRAVEL

Rugs  
made in Mexico

ST. PAUL  
EDITION

- Sobriety is celebrated  
at Camel Club/1B
- Legislative session is  
challenge for DFL/1B

\$125

# StarTribune

SUNDAY/November 20/1988

NEWSPAPER OF THE TWIN CITIES

## Few Cities drug arrests lead to prison Most suspects slip through holes in the justice system

By Conrad deFiebre  
and Norman Draper  
Staff Writers

Despite a well-publicized crackdown on users and sellers of illegal drugs, hardly anyone arrested by Twin Cities police for a serious drug offense serves time in prison for the crime.

Star Tribune research has found that of nearly 1,000 felony drug arrests reported by the Minneapolis and St. Paul police departments in the first six months of this year, only 29 resulted in prison sentences. A few cases begun during that period still are trickling through the system, but nearly all those defendants are free on bail.

Drug arrests — most involving cocaine and crack — have soared to record numbers in both cities. And more cases are being prosecuted every year. Yet from the moment of arrest, the Twin Cities' criminal justice system acts as a sieve, sifting out the bulk of the suspects. More than half are released without being charged or face only misdemeanor

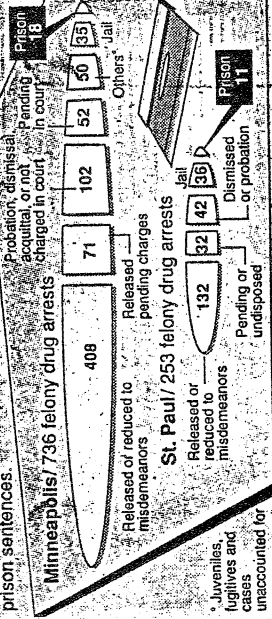
charges for which there often is neither jail time nor a fine.

Even for those convicted of felonies, there is an unusual sentencing option in Minnesota law that allows drug offenders to serve probation, undergo chemical dependency treatment and

Drugs continued on page 12A

### Only a fraction to prison

Of the 989 felony drug arrests in Minneapolis and St. Paul between Jan. 1 and June 30, only 29 resulted in prison sentences.



then have the crimes expunged from their records. Twin Cities judges hand out more of what are called "free passes" than prison terms.

The most common penalty of all is a short stay in the county workhouse followed by treatment, probation and a judge's order to abstain from mood-altering chemicals.

Judges, prosecutors and police expressed little surprise at the findings. Yet many are indignant at how few drug felons wind up in prison. "Of course it's a low number," said Jim Mamin, the Hennepin County prosecutor who supervises drug cases. "It's a very low number."

Many people criticize Minnesota's sentencing guidelines, considered by police and prosecutors to be among the nation's most lenient on drug offenders. But others point to unorthodox police work, timid prosecutors, soft-hearted judges and inter-agency squabbling as gaping holes in the Twin Cities' drug justice net.

Whatever the cause, the result is a system that dribbles many drug dealers back onto the streets virtually unpunished.

William McGee, for instance.

On June 28, Minneapolis police burst into an apartment at 1900 S. 5th St. and found McGee holding a propane torch and trying to hide a nugget of crack between a potted plant and a metal plant stand. They found other paraphernalia used to make crack and several thousand dollars worth of cocaine.

McGee pleaded guilty to possession of cocaine with intent to sell.

But he would serve no time in prison. He was sentenced to three years' probation and ordered to donate \$200 to the court services chemical dependency fund.

McGee was treated sternly compared to Margie Weeden, a 51-year-old grandmother who St. Paul police describe as a neighborhood drug dealer with connections to California street gangs.

Last month, officers found a gram of cocaine on the floorboard between her feet when they stopped a car in which she was leaving the airport after a visit to Los Angeles. It was Weeden's fifth drug-related arrest in two years, none of which has resulted in a conviction.

This time, Ramsey County prosecutors declined to file any charges, saying the police had no right to search her. Besides, since there were two other people in the car with her, whose cocaine was it anyway?

It may be the toughest question in all of police work. A half-pound of cocaine in a drug importer's garage, 3 ounces in a jacket hanging in a dealer's bedroom closet, a pile of rocks on a crack house kitchen table. Whose cocaine is it? In all these recent cases, the question wasn't answered well enough in the opinion of prosecutors to bring charges against anyone.

If the drug wasn't actually on a suspect, authorities must prove he or she had "constructive possession" of it. That's tough to do. For one thing, it is nearly impossible to obtain fingerprints from cocaine, crack or the paper and foil "bundles" in which the drug is wrapped.

Multiple suspects in a crack house or car may jointly possess drugs found in a common area, prosecutors say, but then proof must be offered that they knowingly possessed it and did so to the exclusion of others.

You can't charge a group for what one person may be responsible for, said John Laux, Minneapolis police deputy chief in charge of investigations. "I understand the dilemma but it is inherently frustrating when we walk into a place and there's cocaine there, and everybody says, 'It ain't mine.'"

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"Let's go to court and let the jury decide," said Minneapolis narcotics Sgt. Harry Baltzer.

But prosecutors say police sometimes don't do their part.

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ministrations years long. Those convicted included Colombians with connections to major Miami drug families.

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As a result, Dugan said, "We only get possession cases. Those cases are the hardest to prove and the least likely to result in a stiff sentence."

For hundreds of suspects who face reduced charges, conviction often is little more than a nuisance. In Minneapolis, many of them are charged under city ordinances with a maximum penalty of 90 days in the county workhouse and a \$700 fine.

Bill Korn, the assistant city attorney who supervises such cases, said about half of them are dismissed because the evidence is too thin. Many of those prosecuted simply leave town. The risks aren't great for those who decide to stay. According to Korn, only about a dozen a year have to serve any time behind bars.

"It's a drop in the bucket," he said.

The Hennepin County attorney's office is preparing proposals for stricter drug penalties to be presented to the state Legislature next year.

Johnson also wants to amend the "free pass" option on the lawbooks that allows some drug offenders' crimes to be erased from their records and permits them to enter treatment programs without serving any time behind bars.

Johnson also said he might propose changes that make it easier to prosecute people in a house or car where drugs are present. Those changes would be patterned on New York state law, which presumes possession on the part of everyone in a car in which drugs are found, or anyone in plain view of drugs in a room.

Jim Kindler, executive assistant district attorney for Hennepin, said such a presumption is significant in some cases, but that "the cases where it really makes a difference are a minority."

Minnesota's criminal justice system is not alone in failing to mount a meaningful response to the nation's drug epidemic. Two-thirds of the prosecutors surveyed nationwide this year by the National Law Journal said they are having little or no impact on the illegal drug trade.

"It's something that's only going to get worse before it gets better," said Ramsey County's Foley, whose prosecutors filed more drug charges in six months this year than in all of 1985. He said, "I don't think we're going to solve it by prosecution alone."

5700  
6/20/88

## Crack house raid results in 6 arrests

By Karl J. Karlson  
Staff Writer

St. Paul police raided a suspected crack house Wednesday evening, rousing the 17 people inside and arresting six of them.

In the process, they recovered about a dozen small pieces of crack, two weapons and a fur coat that was stolen earlier in the evening from a nearby church.

Department spokesman Paul Adelman said about 20 officers from the narcotics unit and the critical incident response team raided the two-story house at 762 Hague Ave. at about 10 p.m.

He said neighbors had complained about traffic and other incidents around the house and officers obtained a no-knock search warrant to enter. He said the raid was made without incident.

Inside, they found pieces of suspected crack in a bowl in a second-floor bedroom, suspected marijuana in a stereo speaker and small pieces of suspected crack in dishes in the attic, police said. Also recovered in the attic were measuring scales, a supply of small plastic bags and items covered with white powder.

The suspected drugs were turned over to the police laboratory for analysis.

Those arrested on possible drug charges were two men, both 19; a woman, 22; a man, 25; and a man, 34, all of St. Paul.

A 19-year-old St. Paul man also at the house was arrested on suspicion of possessing stolen property after officers recovered a racoon coat from the attic. The coat apparently was one of two taken about 4 p.m. from Unity Church, 732 Holly Ave., police said.

In that incident, a man walked into the church lobby where a security guard was watching coats for a regular meeting of a women's group.

The man grabbed two coats, valued at a total of \$9,000, from a coat rack. When the guard tried to stop him, he said "sit down or you'll get hurt" and fled out the lobby door.

Later, officers waiting to make the raid on the Hague Avenue house saw a man put a large plastic bag in the trunk of a car outside the house and then enter the house. The fur coat found in the attic was in a similar plastic bag, so officers impounded the car. They opened the trunk Thursday afternoon and found a second racoon coat.

The 19-year-old told officers he won the fur coat in a crap game.

Staff writer Michele...

## 13 arrested in drug raid in St. Paul

St. Paul police seized suspected cocaine and narcotics paraphernalia Thursday night when they arrested eight juveniles and five adults in a raid on a house at 341 Fuller St.

The suspected cocaine was found in the basement, which is where the juveniles were, according to police spokesman Paul Adelman. One of the youths, who is 17, was carrying \$400 when he was searched by police, Adelman said.

Portions of two shotgun barrels that had been sawed off also were found in the house, along with a sweatshirt denoting membership in the Crips, a Los Angeles street gang, he said.

The 39-year-old woman who has rented the house since November is being held in the Ramsey County Jail Annex pending charges. Investigators believe she rented the house to crack dealers or allowed them to use it, Adelman said.

The juveniles and four other adults were released, Adelman said.

Four other people were arrested late Thursday or early Friday on suspicion of possessing cocaine. Two of those arrests occurred on Selby Avenue near Milton Street, while the others occurred when officers stopped a car on the 900 block of Beech Street.

(2)

then have the crimes expunged from their records. Twin Cities judges hand out more of what are called "free passes" than prison terms.

The most common penalty of all is a short stay in the county workhouse followed by treatment, probation and a judge's order to abstain from mood-altering chemicals.

Judges, prosecutors and police expressed little surprise at the findings. Yet many are indignant at how few drug felons wind up in prison. "Of course it's a low number," said Jim Mamin, the Hennepin County prosecutor who supervises drug cases. "It's a very low number."

Many people criticize Minnesota's sentencing guidelines, considered by police and prosecutors to be among the nation's most lenient on drug offenders. But others point to unsophisticated police work, timid prosecutors, soft-hearted judges and inter-agency squabbling as gaping holes in the Twin Cities' drug justice net.

Whatever the cause, the result is a system that dribbles many drug dealers back onto the streets virtually unpunished.

William McGee, for instance.

On June 28, Minneapolis police burst into an apartment at 1500 S. 5th St. and found McGee holding a propane torch and trying to hide a nugget of crack between a potted plant and a metal planter. They found other paraphernalia used to make crack and several thousand dollars worth of cocaine.

McGee pleaded guilty to possession of cocaine with intent to sell.

But he would serve no time in prison. He was sentenced to three years' probation and ordered to donate \$200 to the court services chemical dependency fund.

McGee was treated sternly compared to Margie Weeden, a 51-year-old grandmother who St. Paul police describe as a neighborhood drug dealer with connections to California street gangs.

Last month, officers found a gram of cocaine on the floorboard between her feet when they stopped a car in which she was leaving the airport after a visit to Los Angeles. It was Weeden's fifth drug-related arrest in two years, none of which has resulted in a conviction.

This time, Ramsey County prosecutors declined to file any charges, saying the police had no right to search her. Besides, since there were two other people in the car with her, whose cocaine was it anyway?

It may be the toughest question in all of police work. A half-pound of cocaine in a drug importer's garage, 3 ounces in a jacket hanging in a dealer's bedroom closet, a pile of rocks on a crack house kitchen table. Whose cocaine is it? In all these recent cases, the question wasn't answered well enough in the opinion of prosecutors to bring charges against anyone.

If the drug wasn't actually on a suspect, authorities must prove he or she had "constructive possession" of it. That's tough to do. For one thing, it's nearly impossible to obtain fingerprints from cocaine, crack or the paper and foil "bindles" in which the drug is wrapped.

Multiple suspects in a crack house or car may jointly possess drugs found in a common area, prosecutors say, but then proof must be offered that they knowingly possessed it and did so to the exclusion of others.

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SP108  
1/20-88

# St. Paul may bill for police raids

## Law is aimed at 'crack houses'

By Anthony Lonetree  
Staff Writer

The owners of St. Paul houses, apartments and businesses that have been the sites of frequent drug raids and prostitution arrests soon may have to pay the costs of police action.

Six City Council members said Tuesday that they support an ordinance forcing property owners to pay such costs if there are four convictions at an address during a year and at least one involves a drug, prostitution or "disorderly house" offense.

The ordinance, proposed by Council Member Bill Wilson and set for council action next week, could come into play with the majority of "crack houses" raided by police, said Luci Mitchell, assistant to Police Chief William McCutcheon.

Police spokesman Paul Adelman said that the department executed 102 drug-related search warrants last year, and that 32 crack house searches or raids were carried out in the last six months of the year in the Summit-University area alone.

Wilson said the ordinance would force property owners to pay as much as \$2,500 in police costs. He said he hopes that will persuade landlords to work harder to rid problem properties of drug dealers and prostitutes.

"It's laws like this that will make sure our neighborhoods don't fall under the control of drugs and thugs," Wilson said.

Under the plan, after a fourth conviction at a site, the Police Department would advise a building owner that there are problems with the property and that the owner would have to pay the cost of police action in subsequent arrests.

Wilson said he decided to set the threshold for offenses at four after a study by the city attorney's office and the Police Department showed that private properties averaged 1.3 police calls a year.

Four convictions would indicate serious problems with a building's tenants, he said.

The study also put the average cost

Ordinance continued on page 5B

## Ordinance

Continued from page 1B

for police action between \$140 and \$160. However, Wilson said, arrests on charges involving drugs, prostitution and disorderly-house offenses such as gambling are more costly because they often involve search warrants and team investigations.

Wilson and Mitchell said it is unfair to expect taxpayers to continue paying the costs of prosecuting people who live in buildings where there have been a series of arrests.

The majority of City Council members voiced support for the ordinance in a public hearing yesterday. However, it was opposed by Council Member Kiki Sonnen and by a Summit-University area property owner, Rick Igo.

Sonnen said she was concerned that the ordinance might prevent landlords from calling police about problem tenants for fear that they might be assessed the costs of prosecution.

Igo, who owns more than 300 rental units in the city and who recently bought a house that he said still had shotgun holes in the walls, said the city instead should give landlords greater power to evict tenants.

He said the ordinance would tie the hands of landlords and discourage those like him who have cooperated with police in the past.

However, Council President Jim Scheibel said he does not believe that the council would assess costs to a property owner who has worked with police to rid neighborhoods of drug dealers and prostitutes.

*Dawkins*

②

ST. PAUL  
**PIONEER PRESS**  
**DISPATCH**

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*DANKINS*

(4)

## LANDLORD FINE PROPOSAL

# Avoid the unintended

**A** St. Paul proposal to make owners of troublesome property pay for police calls to that property has a welcome "sic 'em" kind of appeal in a drug-weary community. But it needs much more discussion lest innocent (or helpless) landlords get hurt unintentionally, or other harm is done.

The proposal was made by Ward 2 Council member Bill Wilson, primarily as a way of getting at absentee owners of crack houses — owners who cover their eyes to crime while collecting their rent. It covers owner-occupied as well as rental property, however. It calls for charging the owner for police service after occupants have been convicted of crimes four times in a year, with at least one of those convictions for drug dealing, prostitution or operating a disorderly house.

As police told council members, the ordinance would give officers more leverage with a handful of "problem" properties in the city; much of the drug dealing occurs in rented homes or apartments.

But there are both obvious and subtle problems with the proposal.

Landlords objected to being required to do police work and complained of the difficulty of evicting bad tenants. Mayor George Latimer threatened to veto the ordinance if it passed as originally proposed. The mayor cited an "obvious assault" on due process and fairness to property owners. He also suggested that the ordinance would result in "yet another barrier to affordable low-income housing in our city" by increasing rents and discouraging creation of rental property.

So, before expected council action this week, Mr. Wilson proposed or accepted amendments to his ordinance to protect landowners who cooperate with police and to provide for appeals. Next question: What exactly is "cooperation" and who determines who's cooperating? Mr. Wilson also is seeking changes in state law to make it easier to evict law-breaking tenants.

Mr. Wilson's proposal could have the salutary effect of giving property owners a needed nudge to, at the very least, join a cooperative effort to help crack down on drugs and crime. Cooperative, collaborative efforts are what's needed to win the battles in the war against crime and drugs.

It's vital, though, in building an anti-crime arsenal, to avoid unintended consequences. Mr. Latimer, Mr. Wilson and other council members seem intent on making something clean and workable of this landlord-responsibility ordinance. They just need to talk more to each other.



To: ALL LEGISLATORS  
FROM: SANDY PAPPAS

WHAT NEIGHBORHOODS CAN ACCOMPLISH!  
WE NEED MORE HELP. PLEASE SUPPORT  
FUNDING FOR YEAR OF THE NEIGHBORHOODS.

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# Star Tribune

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NEWSPAPER OF THE TWIN CITIES

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MONDAY/April 3/1989

5

## St. Paul communities unite to fight 'crack'

By Jean Hopfensperger  
Staff Writer

People at the Loft Teen Center in St. Paul want to keep "crack" dealers away from their property this summer.

The playground around the center was a gathering spot last year for dealers who loitered, used drugs, recruited customers and sometimes hid to escape police.

The center, at 1063 Iglehart Av., is drafting tough antidrug rules that will be posted, denying dealers the right to claim they can't be hassled be-

cause they're on a public playground. And at the Jimmy Lee Recreation Center, which shares the Loft building, officials plan to meet soon with neighbors to unite against the dealers.

"For us, warmer weather means more fights and more (suspicious) people gathering," said Kim Porter, a program director at the Loft. "That's our sign of spring."

Residents in St. Paul's inner-city neighborhoods have been organizing to try to control the drug abuse, traf-

Crack continued on page 10A

# Crack

Continued from page 1A

ficking and violence. Churches, district councils and youth groups have joined the fight. Neighborhood councils have organized block clubs and telephone networks to report suspicious behavior and keep track of cars, license plates and people who hang around apparent crack houses.

Schoolchildren and local artists are painting anticrack murals in the Summit-University area to send a message to dealers that they're not welcome.

And about two dozen people launched an anticrack coalition to coordinate the activities of four neighborhoods most concerned about the issue: Summit-University, Frogtown, Lexington-Hamline and Snelling-Hamline.

"Instead of being intimidated, I feel like we should approach this in a positive way," said Judith Stoughton, a nun and retired art professor, who is a member of the coalition.

"One thing I'm trying to do is be more active in my neighborhood," said Stoughton, who is planning a "soup and muffin get-together" to meet her neighbors and discuss how they can deal with the problem.

Lynn Graham-Washington, a mother and former crack user, is launching her own crusade against drug abuse by women, particularly pregnant women. A computer technician for 11 years, she now works for a non-profit video company that recently produced a live call-in cable TV show to reach young women.

Washington, who has been "clean" for more than a year, said her name and telephone number circulate among the network of young women who use drugs in the area. Many call her for advice and referrals, she said.

"So many women don't know the effect of drugs on their child," said Washington, 35. "Women are afraid their babies will be taken away if they report it (their drug use)."

Washington's immediate goal is to find grant money to produce videos that would explain the dangers of crack use to pregnant women.

Sharon Horgan, coordinator of the St. Luke's Church social justice ministry, said her office has become an information center for the St. Paul Anti-Crack Coalition. The church has contributed staff time and resources to help the young coalition get off the ground.



Staff Photo by Brian Peterson

Lynn Graham-Washington, a former crack user, edited a video of an anticrack forum at Cable Access TV, St. Paul.

Coalition members have testified before a legislative committee on drug abuse. They're working with district councils and churches to create more block clubs, and they've sponsored two educational forums, including one last week, that each drew more than 100 people.

"The significant thing is the coalition is all grass-roots people," said Horgan. "It's not people with big titles. This is folks in the neighborhood coming together and saying we should do something now."

Coalition member Stoughton, for example, decided to do something after her garage was painted with gang graffiti. She approached the Inner City Youth League to see if it could get children involved in making a mural to cover the mess. The Sisters of St. Joseph and George's 66 gas station donated money, local artist Alvin Carter designed the mural, and dozens of children took paintbrushes to the project over their spring break.

Meanwhile, community activist Nick Davis and his group, Black People Against Drugs, have launched about

a dozen projects to help residents intimidate crack-house operators in their neighborhoods. The group created an anonymous tip line for residents afraid to call the police, he said, and has designed form letters that can be used by people trying to shut down a house.

One form letter is to be sent to landlords of crack houses. It asks them to evict the tenants or face the possibility of their property being declared a nuisance and subject to city penalties.

Another letter, meant to be distributed to neighbors of crack houses, asks residents to watch the house and record specific activities. After that, a letter would be sent to the crack house, stating that if the occupants don't close up shop within 24 hours, all the neighbors' information will be handed over immediately to the police.

"Those people can't flourish under any scrutiny," said Davis. "That's one important way we can fight them."



**Papers from State Representative Andrew Dawkins Files  
Provided by Mr. Dawkins to Paul Birnberg on August 13, 2020**

Correspondence From Lobbyists to Rep. Dawkins

6 Items

DATE: JANUARY 12, 1989  
TO: SONYA STEVEN  
FROM: JIM APPLEBY  
RE: POSITION PAPER ON AMENDMENTS TO LANDLORD/TENANT LAW

This proposal makes it clear that anyone renting residential property promises to the landlord that they will not engage in any narcotics distribution or manufacturing activities within that property. Any person who violates this guarantee would lose the right to possess the rental property. The landlord could, however, continue to collect the rent on the property until such time as the lease was terminated either by the tenant giving notice to terminate it or by an eviction proceeding.

The need for this legislation is brought about by the crackhouse problem. Legitimate business persons who own multi-family housing units have difficulty evicting tenants who are selling drugs. This proposal would make it clear that a tenant who sells or manufactures drugs in rental property has given up his right to stay there. It also provides at least some minimal protection to the landlord to continue to collect the rent until a new legitimate tenant can be found.

JA:cn

DATE: JANUARY 12, 1989  
TO: SONYA STEVEN  
FROM: JIM APPLEBY  
RE: POSITION PAPER ON FORFEITURE LEGISLATION

Prior to August 1, 1988, Minnesota had two separate and distinct forfeiture statutes. Chapter 152.19 dealt with drug forfeitures and Chapter 609.531 dealt with forfeitures in non-drug felony matters. The 1988 Legislature passed a new forfeiture law which repealed Chapter 152.19 and provided for both drug and non-drug felony forfeitures in Chapter 609. The old drug forfeiture statute provided for forfeiture of vehicles which were found to contain \$100 or more in retail value of illegal controlled substances. The 1988 forfeiture bill as introduced in the Senate retained this \$100 amount. The amount was increased to \$500 in the House of Representatives. It is our belief that many of the representatives may have been unaware that they were increasing by five times the amount of controlled substance necessary to forfeit a vehicle under existing law. There was also concern expressed that with the retail price of an ounce of marijuana at times exceeding \$100, a motor vehicle could be forfeited for transporting less than an ounce and a half of marijuana. (Possession of under 1.5 ounces of marijuana is no longer a crime in Minnesota.)

Our proposal seeks to restore prior law for narcotic controlled substance seizures of motor vehicles while establishing a \$250 threshold for seizures of motor vehicles for

transporting of marijuana. The lower dollar limit for narcotic controlled substances will be particularly useful in seizures involving crack cocaine. Crack cocaine is typically sold in dosage units which are priced from \$5 to \$25 per dose. Typically, a user purchases a small number of units, consumes them, and then purchases more. Similarly, those who distribute crack at the retail level frequently have in their possession only a relatively small amount of the drug. The lower limit for narcotic controlled substances would enable police agencies to seize vehicles from users and distributors of crack. The higher value for the non-narcotic controlled substance marijuana would prevent seizures of motor vehicles for small amounts of marijuana.

Prior to 1988, real property was only subject to forfeiture under Minnesota law if it was purchased with the proceeds of criminal activity. The 1988 statute subjects real property used in drug crimes involving \$5,000 or more of controlled substance to forfeiture. Our proposal lowers this threshold amount to \$500 for narcotic controlled substances and \$2,500 if the controlled substance involved is marijuana. The proposal does not change the requirement that an owner or lienholder must know of the unlawful activity or participate in it and take no action to stop or prevent it. The proposal also sets out certain conditions which, if met, create a presumption that real estate was used for controlled substance activities which would subject the property to forfeiture. These conditions

are that the real property contains some amount of narcotic controlled substances and has been modified or fortified to facilitate distribution of manufacturing of drugs, or is found to contain, in addition to drugs, distribution equipment or automatic weapons or short-barrelled shotguns.

The real property amendments are needed to address the crackhouse problem. Crackhouses are at the low end of the distribution chain. That is, they sell small amounts of drugs directly to consumers. They frequently contain only a sufficient supply of drugs for a day or less of operation. Money is removed and drugs are brought into the crackhouses very frequently. For this reason, it is very unusual to find a large amount of crack in a crackhouse when a search warrant is executed. However, other indications of extensive dope dealing are usually present. Frequently these houses have been substantially fortified to make it difficult for other drug dealers or police to gain entry. Some drug distribution equipment is generally present. Frequently illegal automatic weapons or short-barrelled shotguns are present. Under these circumstances, it is clear that the structure was used for dope dealing and the intent of the occupants was to continue to use it in this way. The presumption created by the presence of drugs and distribution equipment fortifications or weapons could be rebutted.

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ELIZABETH A. CLOUTIER  
THOMAS C. GALLAGHER

TELEPHONE (612) 332-5100

January 27, 1989

LEGAL ASSISTANTS  
OTIS R. MAYS  
DIANE KRAWCZYNSKI  
MARY L. SNYDER  
EARNEST T. HUTCHINSON  
PATRICIA L. GEBO

Mr. Andrew J. Dawkins  
Attorney at Law  
767 University Avenue  
St. Paul, Minnesota 55104

RE: Landlord/Tenant Legislative Proposals

Dear Mr. Dawkins:

This letter is a follow up to my suggestion to you concerning the landlord/tenant legislative proposals that you brought to the attention of the landlord/tenant section of the Hennepin County Bar Association on January 20, 1989. At that meeting, serious questions were raised by some of the audience concerning the burden being placed on landlords by your proposed forfeiture legislation. I offered the suggestion that rather than putting the financial burden on the landlords and/or contract vendors to evict or cancel their tenants or vendees, that either the landlord be given a grant to cover the financial burden or better yet, the government have a special unit to handle the eviction or contract for deed cancellation process in these forfeiture situations.

To elaborate further, it would appear that my second suggestion, of governmental eviction or cancellation, is more appropriate since this is in effect a quasi-criminal action resulting from evidence gathered by a governmental unit's public safety department. Also, the benefit from making life uncomfortable for drug dealers is shared by everyone, not just the crack house landlord or vendor. Furthermore, continuity of enforcement would be achieved by having one unit do the enforcement and hopefully there would be a lower cost and more efficiency.

As a further suggestion, I think that government enforcement of forfeiture, if adopted, should not be limited to any particular counties. If it was, it would just allow the crack dealers to move across county lines to avoid enforcement. I would suggest that perhaps a unit of the Attorney General's Office be doing the enforcement on a state wide basis to cover any loopholes in enforcement.

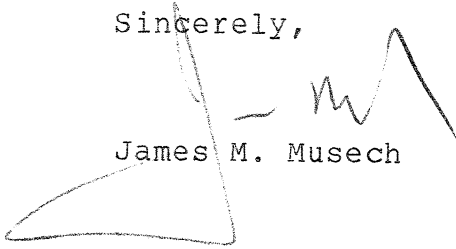
Mr. Andrew J. Dawkinws  
January 27, 1989  
Page Two

I believe that your forfeiture enforcement proposal will put a serious financial burden on landlords and I hope that you consider some modifications to avoid that being done. I think that landlords have a significant burden as it is and even in the cases where a special governmental unit does the enforcement of the eviction or cancellation, the landlord suffers possible loss of rental, cost of rere rental, possible damage to the rental unit and expense of repair. Also, the fact that the governmental unit is doing the enforcement of eviction and/or cancellation would diminish the concern raised by some of the audience for the physical well being of the landlord when he is dealing with unsavory drug dealers.

My final thought is that if you continue to place the ultimate financial burden on the landlord to enforce forfeiture, this will have negative effects for both landlords and tenants. An example would be the landlords would have less capital available to maintain the rental housing in good condition.

Thanks for the opportunity to share my thoughts on this matter.

Sincerely,



James M. Musech

JMM/bam

plus

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OFFICE OF THE COUNTY ATTORNEY

Ramsey County

SUITE 400  
350 ST. PETER STREET  
ST. PAUL, MINNESOTA 55102

TOM FOLEY  
COUNTY ATTORNEY

TELEPHONE  
(612) 298-4421

March 1, 1989

The Honorable Andy Dawkins  
House of Representatives  
State Office Building  
St. Paul, MN 55155

Dear Representative Dawkins:

After further review of H.F. 159 by our office, including Charles Balck who is the Assistant Chief of the Criminal Division, and David MacMillan of our Civil Division, the following suggestions were made:

Retain Section 8 covering the seizure of rental properties but in addition to your own proposed amendments, make the following changes:

Page 6, Line 31, after "landlord" insert "or fee owner as identified in the records of the county assessor."

Page 6, Line 34, after "within" delete "seven days" and insert "thirty days."

Page 7, delete lines 4 through 8.

Page 7, Line 9, delete "(c)" and insert "(b)."

Page 7, Line 9, delete "third" and insert "second."

Page 7, Line 11, after "609.5315" delete "unless" and insert "or if not previously exercised the county attorney may bring an unlawful detainer action."

Delete criminal penalty for threat amendment.




The Honorable Andy Dawkins  
Page 2  
March 1, 1989

Delete subdivision 2.

Page 7, Line 13, insert: "Subd. 1a  
[additional remedies] Nothing in  
subdivision 1 prevents the county attorney  
from proceeding under section 609.5311  
whenever that section applies."

In addition to the above recommendations, we believe the contract for deed provisions are not necessary. We believe current forfeiture laws provide sufficient measure to deal with these situations and that H.F. 159 should be written to deal exclusively with landlord/tenant relationships.

Sincerely,



JOHN WODELE  
Executive Assistant

JW/lo



# Minnesota Police & Peace Officers Association

Official Publication: THE MINNESOTA POLICE JOURNAL

Capitol Office Building Suite 207 525 Park Street St. Paul, Minnesota 55103 612/291-1119



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EXECUTIVE DIRECTOR  
DENNIS J. FLAHERTY

March 3, 1989

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Representative Andy Dawkins  
Room 371 State Office Building  
St. Paul, MN 55155

Dear Representative Dawkins,

I would like to take this opportunity to go on record supporting legislation that you have introduced providing for termination, cancellation, and forfeiture of real estate interests related to drug seizures. I refer to H.F. 159, which we feel would be very effective in stabilizing the increase we are experiencing in the number of "crack" and "drug houses" operated throughout our State.

It is an interesting concept and one that actually could be very effective.

We applaud your endeavors in this area, and extend our support to you with this legislation.

Sincerely,

William Gillespie  
President

by

Dennis J. Flaherty  
Executive Director

DJF/jk

# MINNESOTA COUNTY ATTORNEYS ASSOCIATION

40 North Milton Street, Suite 200 • St. Paul, Minnesota 55104 • (612) 227-7493

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March 20, 1989

Representative Andy Dawkins  
Room 371  
State Office Building  
St. Paul, MN 55155

Dear Representative Dawkins:

Thank you for coming to our legislative committee meeting on Friday. The legislative committee, in our later MCAA Board meeting, recommended that the Association support your H.F. 159. The Board chose not to take any action on your bill, which leaves the MCAA with no position on H.F. 159.

Please call if you have any questions.

Sincerely



William Jeronimus  
Staff Attorney

minneapolis

city of lakes

OFFICE OF CITY COORDINATOR  
STATE LEGISLATIVE LIAISON OFFICE  
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STATE LEGISLATIVE LIAISON

ANDREA HART KAJER (48) 7400  
ASSISTANT STATE LEGISLATIVE LIAISON

JEFFREY VANWYCHEN (48) 7801  
INTERGOVERNMENTAL POLICY ANALYST

March 21, 1989

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Representative Andy Dawkins  
Room 371, State Office Building  
St. Paul, MN 55155

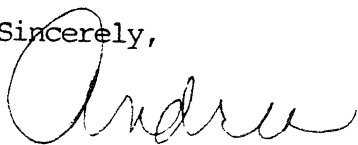
Dear Representative Dawkins:

On Friday, March 17, 1989, the Minneapolis City Council passed the enclosed resolutions regarding H.F. 159, Drug and Contraband Seizures, and H.F. 160, Prostitution. The City Council designated these bills an "E" priority which means the City endorses this legislation but does not lobby the bill. H.F. 136, Neighborhood Organization Suits, the City took no position and H.F. 163, Controlled Substance Offenses, was designated "receive and file" because the City is already supporting H.F. 164, McLaughlin, which lays out the same concepts.

If you have further questions with regard to the City's position on the proposed legislation, please contact me.

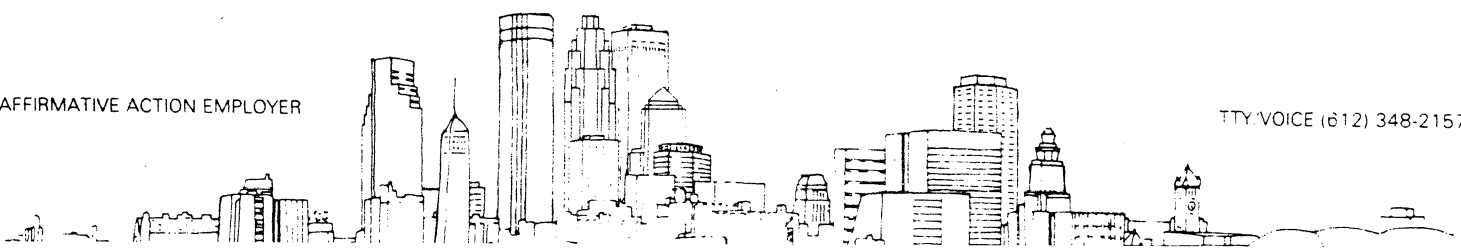
Good luck in your efforts.

Sincerely,



Andrea Hart Kajer  
Assistant State Legislative Liaison

AHK:ph



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IGR - Your Committee recommends that the City Council go on record in support of House File 159 (Petn No \_\_\_\_\_) which requires a landlord to initiate an eviction process against his tenant if police effect a drug seizure from the tenant's premises in excess of \$5,000.

Your Committee further recommends assigning HF 159 an "E" priority for purposes of the City's 1989 legislative program.

Approved as to Accuracy:

Chair

**RECORD OF COUNCIL VOTE**

Council Member	Aye	Nay	N.V.	Abs.	Ovrd.	Sust.	Council Member	Aye	Nay	N.V.	Abs.	Ovrd.	Sust.
Dziedzic							Scallon						
O'Brien							Niemiec						
Hilary							Cramer						
White							Schulistad						
Govie							Johnson						
Carlson							Pres. Rainville						
Savies Belton													

X INDICATES VOTE — N.V. - Not Voting    Abs. — Absent    Ovrd. - Vote to Override    Sust. - Vote to Sustain

PASSED \_\_\_\_\_ 19 \_\_\_\_\_

APPROVED \_\_\_\_\_ 19 \_\_\_\_\_

NOT APPROVED \_\_\_\_\_ 19 \_\_\_\_\_

VETOED \_\_\_\_\_

ATTEST \_\_\_\_\_

City Clerk

Mayor