

APPENDIX 2

Legislative History Summary of 1989 Minn. Laws ch 305¹
Compiled by Paul Birnberg 8/4/2020

	<u>Progress of House File 159 in House</u>	
Page in House Journal	Date	Event
96	1/23/89	First Reading ² ; referred to Judiciary - Endnote 1 is a copy of the bill as Introduced
1550-1556	4/6/89	Report back with a Delete-All amendment – Endnote 2
1771	4/6/89	Second Reading
1812	4/10/89	Printed copies in member's files
2290	4/12/89	Committee of the Whole, recommended to pass
2351	4/13/89	Third Reading, passed 128-0
7710	5/22/89	Announced passage by Senate with amendments, Dawkins moves that House concur with the Senate amendments and be repassed. Motion prevailed. Read for a third time again and passed 130-0.
9133	6/1/89	Deposited with the Secretary of State
9136	6/1/89	Received from Governor

¹The entire session law is available at
<https://www.revisor.mn.gov/laws/1989/0/Session+Law/Chapter/305/>

²Authors were Andy Dawkins 65A (appears to be main author), Karen Clark 60A, Randy Kelly 67A, Rick Kruger 12B, and Marcus Marsh 17A.

Progress of House File 159 in Senate

Page in Senate Journal	Date	Event
1641	4/17/89	HF 159 received from House
1642	4/17/89	First Reading; referred to Judiciary
2363-2364	4/27/89	Report back with amendments -- Endnote 3; report adopted
2366	4/27/73	Second Reading HF 159
3791	5/18/89	Committee of the Whole, recommended to pass
3890	5/19/89	Third Reading, passed 65-0
6011	6/22/89	Deposited with the Secretary of State

Progress of Senate File 330 (companion bill to HF 159) in Senate

Page in Senate Journal	Date	Event
132	2/2/89	First Reading ³ ; referred to Judiciary
2366	4/27/89	Patrick McGowan (IR) added as co-sponsor

[no more progress]

³Authors were D.M. Moe and Allan Spear.

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

LAND NOTE 1

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 (E); 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.

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations.

The report was adopted.

Kelly from the Committee on Judiciary 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; amending Minnesota Statutes 1988, sections 559.21, by adding a subdivision; 566.02; 609.531; 609.5311, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapters 566 and 609.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

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

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

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

Sec. 2. [566.021] [NOTICE OF SEIZURE PROVISION.]

Landlords shall give written notice to tenants of the provision relating to seizures in section 566.02. Failure to give such notice does not subject the landlord to criminal or civil liability and is not a defense under section 6, subdivision 3.

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

609.531 [FORFEITURES.]

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

ENDNOTE 2

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

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

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

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

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

(f) "Designated offense" includes:

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

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

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

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

(1) to enforce the law;

(2) to deter crime;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A

conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$500 or more.

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

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

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

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

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

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

Subdivision 1. [RENTAL PROPERTY.] (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, whether or not the seizure results in criminal charges or conviction, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504.22. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an unlawful detainer action retains all rights and duties, 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. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned,

notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an unlawful detainer action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an unlawful detainer action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

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

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

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

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

Subd. 4. [LIMITATIONS.] This section shall not apply if the retail value of the contraband or controlled substance is less than the amount specified in section 609.5311, subdivision 3.

Sec. 7. [EFFECTIVE DATE; APPLICATION.]

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

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

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

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

Delete the title and insert:

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

With the recommendation that when so amended the bill pass.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 169, A bill for an act relating to game and fish; authorizing elderly residents to take fish by spearing without a license; amending Minnesota Statutes 1988, section 97A.451, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 10, after "a" insert "spearing"

Page 1, line 13, delete "traveling" and insert "transporting speared fish"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 207, A bill for an act relating to public safety; establishing the board of jail employee training and standards; regulating jail employees; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 214.01, subdivision 3; 214.04, subdivisions 1 and 3; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 214; proposing coding for new law as Minnesota Statutes, chapter 644.

Reports the same back with the recommendation that the bill do pass.
Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

H.F. No. 243: A bill for an act relating to the department of revenue; recodifying information and disclosure provisions to increase uniformity of treatment and comply with the data privacy act; amending Minnesota Statutes 1988, sections 60A.17, subdivision 20; 82.27, subdivision 7; 147.091, subdivision 7; 148.10, subdivision 5; 148B.06, subdivision 3; 150A.08, subdivision 9; 171.31; 176.186; 176.231, subdivision 9; 256.978; 270.052; 270.064; 270.66, subdivision 3; 270.72, subdivision 4; 270.73, subdivision 1; 270A.11; 290.081; 290.174; 290.371, subdivision 5; 290.50, subdivision 6; 290.523, subdivision 1; 290.91; 290.92, subdivisions 5a, 17, and 26; 290A.112, subdivision 1; 297A.07; 326.20, subdivision 4; and 469.173, subdivision 5; proposing coding for new law as Minnesota Statutes, chapter 270B; repealing Minnesota Statutes 1988, sections 13.70; 290.05, subdivision 7; 290.61; 290A.17; 291.48; and 297A.43.

Reports the same back with the recommendation that the bill do pass.
Report adopted.

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

H.F. No. 456: A bill for an act relating to human rights; allowing results of job evaluation systems as evidence in discrimination actions; amending Minnesota Statutes 1988, sections 43A.05, by adding a subdivision; and 471.997.

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

Page 1, lines 11 and 12, delete "subdivision 5 of"

Page 1, line 16, strike "ACT EXCEPTION"

Delete the title and insert:

"A bill for an act relating to human rights; permitting comparable worth plans to be used as evidence; amending Minnesota Statutes 1988, sections 43A.05, by adding a subdivision; and 471.997."

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

Mr. Spear from the Committee on Judiciary, 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; amending Minnesota Statutes 1988, sections 566.02; 609.531; 609.5311, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapters 566 and 609.

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

Page 1, after line 9, insert:

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

ENDNOTE 3

DRUGS.]

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

Subd. 2. [BREACH VOIDS RIGHT TO POSSESSION.] A breach of the covenant created by subdivision 1 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, remain in effect until the lease is terminated by the terms of the lease or operation of law.

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

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

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

Page 6, line 20, delete everything before the comma

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

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

Page 8, line 3, delete "1, 3, 4, 5, and 6" and insert "2, 4, 5, 6, and 7"

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

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after "chapters" insert "504;" and after "566" insert a semicolon

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1282 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

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