

BACKGROUND

State laws governing property that is subject to criminal forfeiture proceedings, and the actual disposition of the forfeited property, have changed considerably since their inception in 1971.

- ! In 1971, the Legislature authorized a law enforcement agency making an arrest involving a controlled substance to seize property associated with the use or transportation of the controlled substance. Upon conviction of the offense, the individual forfeited the seized property to the local law enforcement agency. Legislation authorized the local law enforcement agency to use forfeited property for law enforcement purposes, sell the property and use the proceeds of the sale for authorized agency activities, and destroy forfeited contraband.

- ! In 1973, the Legislature authorized the seizure and subsequent forfeiture of money that was deemed to be related to the commission of an offense involving a controlled substance. The 1973 law prescribed a more detailed process for criminal forfeitures. It also directed that half of all proceeds from the sale of forfeited property, and half of all of the forfeited cash, be forwarded to the state drug abuse authority. The state drug abuse authority was directed to use its share of the proceeds for the care and treatment of individuals with drug-related disorders. The remaining half of the proceeds from the sale of forfeited property would continue to be used by the local law enforcement agency.

- ! In 1984, the Legislature expanded the items that are subject to criminal forfeiture to include all moneys, precious metals, gems, negotiable instruments, securities and property or things of value. The 1984 law further stipulated that "all moneys, precious metals, and gems found in proximity to controlled substances or in proximity to any equipment or records pertaining to a controlled substance, are subject to forfeiture." It also revised the formula for distributing forfeited cash and the net proceeds from the sale of forfeited property. Under the 1984 revision, the state retained one-third of the cash and net proceeds for the care and treatment of individuals with drug-related disorders. The remaining two-thirds of the net proceeds were to be shared equally between the law enforcement agency making the initial arrest and the prosecuting agency.

- ! In 1988, the Legislature significantly expanded the list of criminal offenses which included the potential for forfeiture of cash and personal property. In addition to forfeitures related to offenses involving a controlled substance, the Legislature authorized forfeitures of cash and property related to the commission of a variety of other criminal offenses, including: murder, aggravated assault, criminal sexual conduct, criminal vehicular homicide, robbery, kidnaping, prostitution, bribery, fraud, and theft. The 1988 law also amended the formula used to distribute forfeited cash and the proceeds from the sale of forfeited property. The new formula directed that 70 percent of the cash and net proceeds be used by the law enforcement agency initiating the forfeiture action, 20 percent of the cash and net proceeds be distributed to the prosecuting agency, and the remaining ten percent of the cash and net proceeds be forwarded to the state for deposit in the state's general fund.

- ! In 1992, legislative interest in the nature and extent of criminal forfeitures increased throughout the state. This increased interest resulted in a legislatively-imposed requirement that law enforcement agencies report all criminal forfeitures to the Office of the State Auditor. Monthly reports to the auditor "shall include the amount forfeited, date, and a brief description of the circumstances involved." (See Attachment A for a copy of the reporting form.)
- ! In 1993, the Legislature passed legislation that forbids law enforcement agencies from selling forfeited firearms. The provision requires that all forfeited weapons, ammunition, and firearm accessories be destroyed unless they are retained for law enforcement purposes.
- ! In 1994, the Legislature amended the forfeiture statutes to require law enforcement agencies to report to the State Auditor "the number of firearms forfeited and the make, model, and serial number of each firearm forfeited." (See Attachment B for a copy of the reporting form.)
- ! In 1995, the Legislature expanded DUI-related forfeiture statutes to include offenses involving snowmobiles, all-terrain vehicles, boats and automobiles. A vehicle used in an incident that results in a third impaired driving conviction in five years or a fourth conviction within fifteen years is subject to forfeiture. The legislation also requires law enforcement agencies to report these forfeitures to the Office of the State Auditor on an annual basis. (See Attachment C for a copy of the reporting form.)
- ! Due to the legislative repeal of Minn. Stat. Sections 84.912, subd. 10 and 86B.337, Subd. 10, law enforcement agencies are no longer required to report information on DWI-related forfeitures to the OSA. In addition, the OSA is no longer required to report on DWI-related forfeitures in Minnesota.