

HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Lead Agency: **Public Safety Dept**
 Other Agencies:
 Commerce Dept Corrections Dept
 Metropolitan Council Natural Resources Dept
 Office of the Legislative Auditor Office of The State Auditor
 Supreme Court University Of Minnesota

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Natural Resources Dept						
Game And Fish (Operations)	-	86	171	171	171	171
Office of The State Auditor						
General Fund	-	64	188	188	188	188
Public Safety Dept						
General Fund	-	24	-	-	-	-
State Total						
Game And Fish (Operations)	-	86	171	171	171	171
General Fund	-	88	188	188	188	188
Total	-	174	359	359	359	359
Biennial Total			533			718

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Natural Resources Dept					
Game And Fish (Operations)	-	2	2	2	2
Office of The State Auditor					
General Fund	-	.8	1.1	1.1	1.1
Public Safety Dept					
General Fund	-	-	-	-	-
Total	-	2.8	3.1	3.1	3.1

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

Per the Supreme Court: This proposed legislation may have a fiscal impact as a result of loss of filing fees; however, the reduction in revenue could not be determined due to a lack of data.

LBO Signature: Laura Cecko **Date:** 2/1/2021 12:51:07 PM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Natural Resources Dept						
Game And Fish (Operations)	-	86	171	171	171	171
Office of The State Auditor						
General Fund	-	64	188	188	188	188
Public Safety Dept						
General Fund	-	24	-	-	-	-
Total		-	174	359	359	359
Biennial Total				533		718
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Natural Resources Dept						
Game And Fish (Operations)	-	86	171	171	171	171
Office of The State Auditor						
General Fund						
Expenditures	-	99	196	196	196	196
Absorbed Costs	-	(35)	(8)	(8)	(8)	(8)
Public Safety Dept						
General Fund	-	24	-	-	-	-
Total		-	174	359	359	359
Biennial Total				533		718
2 - Revenues, Transfers In*						
Natural Resources Dept						
Game And Fish (Operations)	-	-	-	-	-	-
Office of The State Auditor						
General Fund	-	-	-	-	-	-
Public Safety Dept						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

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Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	24	-	-	-	-
Total	-	24	-	-	-	-
Biennial Total			24			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 2/1/2021 12:47:01 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	-	24	-	-	-	-
Total	-	24	-	-	-	-
Biennial Total			24			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	24	-	-	-	-
Total	-	24	-	-	-	-
Biennial Total			24			-
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This is a bill relating to forfeiture; limiting vehicles and other property subject to forfeiture; providing for recovery of property by innocent owners; modifying participation in the federal equitable sharing program; requiring each appropriate agency and prosecuting authority to provide a written record regarding the proceeds of forfeited property and also directing the distribution and use of proceeds from sale of forfeited property.

Section 1: adds definitions.

Section 2: removes failure to appear as a basis for forfeiting a motor vehicle.

Section 3: provides that an "Innocent owner" of a motor vehicle can bring a claim by notifying prosecutor within 60 days of notice of seizure. The prosecutor has to respond in 30 days with complaint; the hearing on the petition needs to occur within 30 days of filing of the petition. An "asserting person" gets the motor vehicle back if they prove by a preponderance of the evidence that they have an actual ownership interest in the motor vehicle and did not have actual or constructive knowledge of its unlawful use or took reasonable steps to prevent its unlawful use.

Section 4: changes some of the notice language for forfeiture. If the motor vehicle has a value of \$15,000 or less, the claimant can take the return process to conciliation court.

Section 5: says a law enforcement agency continues to get 70% of the proceeds but can use the funds for more purposes.

Section 6: says the forfeiture is stayed and the motor vehicle returned if the driver committed an offense other than 1st degree DUI or the driver is accepted into treatment court. The stay ends and the motor vehicle can be seized if the driver operates a motor vehicle without the required ignition interlock device or leaves treatment court.

Section 7: gives law enforcement immunity if it returns a vehicle that is subsequently used unlawfully.

Section 8: begins the controlled substance forfeiture provisions.

Section 9: is new and says a law enforcement agency cannot transfer property to a federal agency if the transfer would "circumvent state law."

Section 10: says that all property but a homestead is subject to forfeiture for a controlled substance offense. There is language authorizing a law enforcement agency to "money" (defined term which includes cryptocurrency) if the law enforcement agency gives it to someone to make a purchase and the law enforcement agency records the serial number or otherwise marks the money for identification.

Section 11: imposes restrictions on the forfeiture of a “conveyance device” including increasing the dollar value of the device to \$100 and that the controlled substance must be intended for distribution or sale. New language requires the “money” to have a value of more than \$1,500.

Section 12: removes a reference to real and personal property that appears to be duplicative of what is in section 10.

Section 13: says all money totaling \$1,500 or more can be administratively forfeited (including cryptocurrency) if there is probable cause to believe it represents the proceeds of a controlled substance offense. There is a presumption that when money is found “in proximity” to a controlled substance, it was exchanged for the purchase of a controlled substance. The requirement about a law enforcement agency keeping the money if it is marked for identification appears again.

Section 14: creates the concept of an “innocent owner” of a motor vehicle seized as part of a controlled substance offense who can notify the prosecutor within 60 days of the seizure of their status. The same process to forfeit a motor vehicle based on a driving while under the influence offense is then added. Section 15 covers property that does not exceed \$50,000 in value.

Section 16: maintains the division of the proceeds between the law enforcement agency and prosecutor and adds uses for the forfeited proceeds.

Section 17: covers forfeiture related to trafficked persons. A Department of Public Safety reporting requirement is removed.

Section 18: adds federal forfeitures to a reporting requirement and adds several data elements that must be collected as reported. A new type of record about forfeitures is required. Law enforcement agencies will also have to provide data to the state auditor’s office for publication on that office’s website. The state auditor can conduct an audit.

Section 19: Requires the legislative auditor to conduct a study of programs to determine the efficacy of forfeiture and the use of ignition interlock in cases, etc. as well as the impacts (if any) on public safety.

Section 20: Provides for an appropriation to the state auditor for an undescribed amount.

Section 21: Repealer

The effective dates of all sections are January 1, 2022

Assumptions

BCA Assumptions

Given that there has been no historical collection of cryptocurrency at the state level, the BCA cannot know how much cryptocurrency would be collected in the future.

Minnesota State Patrol

The State Patrol will be insignificantly impacted by the changes directed in this bill should it be passed into law. Additional reporting requirements called for in the bill can be absorbed by current forfeiture staff.

Driver and Vehicle Services (DVS)

Assume no fiscal impact to DVS.

The Bureau of Criminal Apprehension (BCA) is a law enforcement agency subject to the forfeiture provisions.

The BCA operates software called eCharging that generates a forfeiture notice and property receipt for forfeitures associated with driving under the influence/driving while intoxicated offenses.

The eCharging software will need to be changed to reflect the changes made by the proposed legislation.

The technical effort will take 240 hours for analysis, development and testing at approximately \$100 per hour.

The BCA's Investigations Division seizes property under provisions included in the proposed legislation. For purposes of the change in section 11, the BCA had no seizures of \$1,500 or less during the last four (4) fiscal years.

The BCA Investigations Division will need to collect and store more data to be included in the quarterly reports.

The BCA further assumes that the analysis, development and testing will occur in FY2022 prior to implementation in FY2022.

Expenditure and/or Revenue Formula

BCA Expenditures

The cost for analysis, development and testing is 240 hours at approximately \$100 per hour for a total of \$24,000.

The BCA will not lose forfeiture proceeds due to the change in section 11.

The cost of the additional data collection and reporting will be absorbed by the BCA.

The total fiscal impact is \$24,000.

Long-Term Fiscal Considerations

Local Fiscal Impact

Local units of government are included in the forfeiture process and how the proceeds can be used. Local units of government will need to explain the impacts of the changes on their operations.

References/Sources

Agency Contact: Olivia Anderson 651-793-2713

Agency Fiscal Note Coordinator Signature: Rita Wurm

Phone: 651-201-7016

Date: 2/1/2021 8:01:05 AM

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Commerce Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 1/25/2021 11:22:07 AM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

House File 75 modifies vehicle forfeiture guidelines; adds provisions for innocent owner recovery and amends the distribution and use of funds derived from the sale of forfeited vehicles. The Commerce Fraud Bureau (CFB) is included in the existing law as an “Appropriate agency” in Section 8 of the bill.

Assumptions

The Commerce Department assumes no costs associated with this bill. Over the past seven years, the CFB has not received any proceeds from forfeitures. While it is possible that the CFB may have cause to seize property in the course of investigations relating to insurance fraud, that has historically not been the case

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Amy Trumper

Phone: 651-539-1517

Date: 1/22/2021 10:43:56 AM

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Fiscal Note

2021-2022 Legislative Session

HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 1/22/2021 4:23:23 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The proposed legislation would modify vehicle forfeiture guidelines, add provisions for innocent owner recovery, and amend the distribution and use of funds derived from the sale of forfeited vehicles.

Assumptions

The Department of Corrections (DOC) does not currently seize vehicles.

This bill contains no criminal provisions.

There would be no fiscal impact to the DOC as a result of this bill.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

The fiscal impact on local correctional agencies as a result of the provisions of this bill is uncertain.

References/Sources

Department of Corrections staff

Agency Contact: Karen Juneski 651-361-7259

Agency Fiscal Note Coordinator Signature: Chris Dodge

Phone: 651-361-7264

Date: 1/22/2021 1:24:09 PM

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Metropolitan Council**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 1/27/2021 2:40:56 PM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

House File 75 modifies vehicle forfeiture guidelines; adds provisions for innocent owner recovery and amends the distribution and use of funds derived from the sale of forfeited vehicles.

Assumptions

The Met Council and Transit Police Department have not historically or anticipated seizing vehicles, so the bill would have no fiscal impact to the Met Council.

Expenditure and/or Revenue Formula

NA

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

Agency Contact: Ed Petrie 612 349 7624

Agency Fiscal Note Coordinator Signature: Stewart McMullan

Phone: 651-602-1374

Date: 1/27/2021 2:39:06 PM

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Natural Resources Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Game And Fish (Operations)	-	86	171	171	171	171
Total	-	86	171	171	171	171
Biennial Total			257			342

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Game And Fish (Operations)	-	2	2	2	2
Total	-	2	2	2	2

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 2/1/2021 12:02:26 PM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Game And Fish (Operations)	-	86	171	171	171	171
Total		-	86	171	171	171
Biennial Total				257		342
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Game And Fish (Operations)	-	86	171	171	171	171
Total		-	86	171	171	171
Biennial Total				257		342
2 - Revenues, Transfers In*						
Game And Fish (Operations)	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

The bill makes a number of changes to procedures and policies relating to DWI and criminal code forfeitures. Provides specific procedures for persons with an ownership interest in a vehicle to bring an innocent owner claim. Limits DWI forfeiture of vehicles to felony level violations, and discontinues DWI forfeiture authority for violations based only on IPS status, 'B-card' status, or failure to appear in court. The vehicle title can be surrendered to the agency to release a vehicle prior to forfeiture, instead of posting security or a bond. The vehicle will be released if the driver follows specified conditions for ignition interlock. Under controlled substance crimes, "money" is defined to include US or foreign country currency and coin, bank check, cashier's check, traveler's check, pre-paid credit card, or money order with a value of \$1500 or more.

Required reporting to the state auditor by the prosecutor and agency includes significantly more data, including such things as if the defendant was convicted by trial or plea agreement, if there was a forfeiture settlement agreement, expenses of the prosecuting authority to litigate forfeiture, total amount of proceeds from the sale of forfeited property in a previous reporting period, how the agency expended any proceeds (down to a detail level of postage and copying).

Changes in the bill are generally effective January 1 2022, and apply to seizures on or after that date.

Assumptions

Forfeiture is generally not a self-funding function for law enforcement or prosecuting authorities including DNR. The net proceed funds help offset costs incurred for such activity as towing, preparation for sale, securing property, and other costs associated with processing forfeitures and their disposition, including those forfeitures that do not have cash values. DNR does not initiate prostitution of human trafficking forfeiture actions. The distribution formula of property proceeds continues under the legislation.

Net actions and proceeds are not anticipated to increase/decrease under this legislation. Electronic forfeiture notices will need to be updated to reflect the notice requirements to the operator and registered owners.

Any vehicles or property released to the innocent owner by the prosecutor will require payment of reasonable costs of towing, seizure, and storage incurred by the agency.

The increased reporting requirements will result in significant additional effort, in the context of firearms, bows, and motor vehicles forfeited/confiscated under the game and fish laws (MS 97A.221.5 and 97A.224.10) that cannot be absorbed by

current staffing.

Additional staffing will be needed to meet the reviewing, researching each forfeiture items as well as the tracking and reporting requirements set forth in the bill. Two new FTEs will be needed to fulfill the requirements should the bill become law. The appropriate FTE job classification for these positions would Office & Admin Specialist Senior.

Expenditure and/or Revenue Formula

It is not anticipated that the changes in this bill will reduce or increase the number of DWI or criminal code forfeitures or the proceeds from those forfeitures initiated by DNR conservation officers. Electronic forms for notice of seizure and intent to forfeit for operators and owners can be done electronically and will not incur costs.

Staffing to document the additional reporting requirements for firearm, bow, and motor vehicle forfeitures/confiscations under the game and fish laws will require two additional FTEs.

Hourly salary and fringe for Office & Admin Specialist Sr: \$41.16

Annual salary and fringe per FTE: \$ 85,608.16

Annual salary and fringe for 2 FTEs: \$171,216.32

Long-Term Fiscal Considerations

The continued staffing levels necessary to document reporting requirements.

Local Fiscal Impact

It is likely there will be local fiscal impacts similar to state agencies, but precisely what those local agency costs may be is unknown.

References/Sources

Agency Contact: Col Rodmen Smith, ENF Director, 651-259-5042

Agency Fiscal Note Coordinator Signature: Emily Engel

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Office of the Legislative Auditor**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Adam Blom **Date:** 1/25/2021 3:41:25 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Section 19 of HF75 requires the Office of the Legislative Auditor (OLA) to conduct a program audit on the efficacy of forfeiture and the use of the ignition interlock in cases involving an alleged violation of Minnesota Statutes, Section 169A.20. The audit must assess the financial impact of the program, the efficacy in reducing recidivism, and the impacts on public safety. The audit must be completed by August 1, 2024.

Assumptions

OLA assumes the program audit referenced in section 19 of the bill would be a program evaluation. Because the due date of the required report isn't until August 2024, OLA would have time to include the evaluation in the regular topic selection process and it would take the place of one of the evaluations typically authorized by the Legislative Audit Commission. No additional funding would be necessary.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Judy Randall (judy.randall@state.mn.us or 651-296-4708)

Jim Nobles (james.nobles@state.mn.us or 651-296-4708)

Agency Contact: Judy Randall (651-296-4708)

Agency Fiscal Note Coordinator Signature: Eric Jacobson

Date: 1/25/2021 7:37:23 AM

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Office of The State Auditor**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	64	188	188	188	188
Total	-	64	188	188	188	188
Biennial Total			252			376

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	.8	1.1	1.1	1.1
Total	-	.8	1.1	1.1	1.1

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Adam Blom **Date:** 1/28/2021 5:41:01 PM
Phone: 651-284-6542 **Email:** adam.blom@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	64	188	188	188	188
Total	-	64	188	188	188	188
	Biennial Total		252			376
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures	-	99	196	196	196	196
Absorbed Costs	-	(35)	(8)	(8)	(8)	(8)
Total	-	64	188	188	188	188
	Biennial Total		252			376
2 - Revenues, Transfers In*						
General Fund						
Total	-	-	-	-	-	-
	Biennial Total		-			-

Bill Description

HF75-0 requires law enforcement agencies to report additional information about forfeiture incidents to the State Auditor including collecting information about forfeitures pursued under federal law. HF75-0 changes the frequency of reporting from monthly to quarterly. In addition, the bill requires law enforcement agencies and prosecuting authorities to report to the State Auditor proceeds of forfeited property under state and federal law each year along with the use of such funds.

Finally, HF75-0 allows the state auditor to perform financial audits of law enforcement agencies and prosecuting authorities under generally accepted government auditing standards (GAGAS) of records related to inventory of seized property and expenditures of forfeiture proceeds. The report must be submitted to the legislature within 90 days of the end of the fiscal year.

Technical Issue: It would be more appropriate to conduct the audits of the forfeiture records of the law enforcement agencies and prosecuting authorities based on established procedures and issue a special report rather than based on GAGAS.

Technical Issue: It is not clear what is meant by the audit report must be submitted to the legislature within 90 days of the end of the fiscal year. Does the bill require the report to be issued within 90 days of the state’s fiscal year end or the law enforcement agencies’ and prosecuting authorities’ fiscal year end? Most law enforcement agencies and prosecuting authorities in Minnesota have a fiscal year end of December 31. These agencies would do their final reporting for the year to the State Auditor after that date. We anticipate that the information reported may be used in identifying the agencies to be audited. Since there is no deadline identified in the language of this bill for when year-end forfeiture information must be reported to the State Auditor, there cannot be a deadline for when the audit report shall be submitted to the legislature. We foresee performing these audits throughout the year as time allows and submitting the report to the legislature immediately upon its completion and release.

Assumptions

The OSA assumed the following when determining the fiscal impact of HF75-0.

All agencies and authorities will report electronically as they have in the past. The State Auditor currently has a web based reporting system that allows law enforcement agencies to login and report forfeitures continuously throughout the year.

The OSA will make its best effort to collect information from all law enforcement agencies and prosecuting authorities that

are required to report. It will be the agencies' and authorities' responsibility to comply with the requirements.

Entities will be responsible for reporting accurate information. The OSA will review reported information and follow-up on information that seems unusual.

There are over 500 entities that could potentially seize and need to report forfeiture information. Historically, there have been approximately 320 agencies and authorities that have reported forfeitures to the State Auditor. Without previous experience, it is difficult to determine how much effort will be needed to meet the requirements to audit these agencies and authorities. The OSA would have a much better understanding of the work that needs to be done after the first year of review when knowledge is gained regarding the systems that maintain and account for forfeitures. Therefore, the OSA assumes, without completing any review, that it would limit the amount of audit work to 1,610 hours each year. The OSA believes we could audit up to 30 entities each year in this amount of time.

The OSA assumes that it would be appropriate to use currently approved audit rates to determine the cost of performing 1,610 hours of audit work. The audit rates represent the full cost of each audit hour by staffing level and include salary, benefits, and other related overhead costs such as rent, equipment, and support. Approved audit rates do not include travel costs. Travel costs are based on past audit work that had similar travel requirements.

The OSA assumes that audits will be performed starting in 2023 once a full calendar year (2022) of reporting information is available.

The OSA assumes that the audits will be conducted based on established procedures and issue a special report rather than a report based on GAGAS.

Finally, the OSA assumes that it will not have to charge any of the entities being audited for the work performed. The OSA assumes that a direct General Fund Appropriation will be made to cover the cost of this work. Since the audit work performed will be done on a sample basis, the OSA assumes that the selected entities would not have to incur the costs.

Expenditure and/or Revenue Formula

The OSA expects it to take more time to collect and report on the new forfeiture reporting requirements than in subsequent years. In the first year, the OSA will need to spend extra time planning and developing the reporting method, updating and creating the report formats, educating agencies and authorities, testing forms, and reviewing the report. We estimate the hours and costs to be as follows:

Position	Planning	Development	Collection	Reporting	Total Hours	Hourly Rate	FICA/ Benefits Factor	Total Cost
Legal Staff	-	112	-	80	192	52.83	1.24	12,578
Supervisor	4	105	44	140	293	42.33		15,379
Technology Staff	5	134	1	-	140	38.98		6,767
Analyst	20	98	20	310	448	35.24		19,577
Analyst	36	192	604	310	1,142	31.70		44,890
Total	65	641	669	840	2,215			99,191
Less Cost that can be absorbed:								
Legal Staff		(112)		(80)	(192)	52.83	1.24	(12,578)
Supervisor	(4)	(105)	(44)	(140)	(293)	42.33		(15,379)
Technology Staff	(5)	(134)	(1)	-	(140)	38.03		(6,767)
Net Costs	56	290	624	620	1,590			

In subsequent years, it will not be necessary for the OSA to spend time on planning and development. All of the time will be spent collecting the required information and reporting on it. We estimate the hours and costs to be as follows:

Position	Collection	Reporting	Total Hours	Hourly Rate	FICA/ Benefits Factor	Total Cost
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Legal Staff	24	24	48	52.83	1.24	3,144
Supervisor	59	28	87	42.33		4,567
Technology Staff	2	-	2	38.98		97
Analyst	48	144	192	35.24		8,390
Analyst	420	134	554	31.70		21,777
Total	553	330	883			37,975
Less Cost that can be absorbed:						
Legal Staff	(24)	(24)	(48)	52.83	1.24	(3,144)
Supervisor	(59)	(28)	(87)	42.33		(4,567)
Technology Staff	(2)	-	(2)	38.03		(97)
Net Costs	468	278	746			30,167

Calculation for annually auditing law enforcement agencies and prosecuting authorities:

Position	CY 2020 Approved Audit Rates	Hours	Cost
Local Government Auditor Senior	\$ 92.00	1,380	\$ 126,960
Local Government Auditor Staff Specialist	\$ 99.00	180	\$ 17,820
Local Government Auditor Director	\$ 111.00	30	\$ 3,330
Local Government Auditor Manager	\$ 124.00	10	\$ 1,240
Reviewer	\$ 124.00	10	\$ 1,240
Travel Costs			\$ 7,500
Total		1,610	\$ 158,090

Long-Term Fiscal Considerations

The estimated costs are based on CY 2020 approved audit rates. The actual costs will increase in the future as salary, benefits, and other costs increase.

Local Fiscal Impact

Law enforcement agencies and prosecuting authorities will have costs related to responding to questions and providing the OSA with information and records for the audit of the systems they use to account for the inventory of seized property and expenditures of forfeiture proceeds.

References/Sources

Agency Contact: Matthew Lindemann

Agency Fiscal Note Coordinator Signature: Matthew Lindemann

Date: 1/27/2021 1:19:48 PM

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Fiscal Note

2021-2022 Legislative Session

HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been reviewed and meets the LBO requirements for compliance with the Fiscal Note Uniform Standards and Procedures. This proposed legislation may have a fiscal impact as a result of loss of filing fees; however, the reduction in revenue could not be determined due to a lack of data.

LBO Signature: Maren Bardal **Date:** 1/29/2021 2:02:07 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

HF75 at section 1 amends Minn. Stat. § 169A.63, subd. 1, by adding a definition for the term “asserting person” which is a person other than the driver claiming an ownership interest in a seized vehicle, and by amending the definition of “designated offense” to eliminate 2nd degree driving while impaired (DWI) from the definition, to eliminate DWI offenders with a certain driver’s license status, and to add a DWI within 10 years of 2 qualified prior offenses; at section 2 amends Minn. Stat. § 169A.63, subd. 7, the limitations on DWI-related motor vehicle forfeiture, to eliminate the driver’s failure to appear in court on the designated offense as presumptive grounds for forfeiture, and to eliminate the paragraph providing that a vehicle is not subject to forfeiture if an owner can establish they had no actual or constructive knowledge the vehicle would be operated contrary to law; and at section 3 adds a new subdivision 7a to section 169A.63 governing innocent owner claims and providing that an asserting person must provide notice of such a claim to the prosecutor within 60 days of service of the notice of seizure, that if the prosecutor decides to proceed the prosecutor must file a petition in conciliation or district court within 30 days of receipt of the notice, that no filing fee is required, and that to the extent practicable a hearing shall be held within 30 days.

The bill at section 4 amends Minn. Stat. § 169A.63, subd. 8, to require that the notice of forfeiture include information about innocent owner claims, to require that if notice is not served the vehicle must be returned to the owner rather than the person from whom it was seized, and to eliminate the filing fee and the requirement to serve the agency that initiated the forfeiture; at section 5 amends Minn. Stat. § 169A.63, subd. 10, disposition of forfeited vehicles, to expand the permitted use of the proceeds from the sale of forfeited property and to change the distribution; at section 6 amends Minn. Stat. § 169A.63, subd. 13, to limit the situations where forfeiture proceedings are stayed and a vehicle returned for ignition interlock participants to those who have committed a violation other than 1st degree DWI or who have been accepted into treatment court, and eliminates the option for the seizing agency to require a bond and instead allows the agency to require the driver to surrender title pending forfeiture; and at section 7 adds a new subdivision 14 to section 169A.63, which provides criminal and civil immunity for any office or agency that returns a vehicle in good faith.

The bill at section 8 amends Minn. Stat. § 609.531, subd. 1, to add a definition of “asserting person;” at section 9 adds a new subdivision 9 to section 609.531 to prohibit indirect transfers of forfeited property to a federal agency; at section 10 amends Minn. Stat. § 609.5311, subd. 2, to modify the description of property subject to forfeiture, to exempt homestead property, and to provide for recovery of money used by the agency in a controlled substance purchase; at section 11 amends Minn. Stat. § 609.5311, subd. 3, the limitations on controlled substance-related forfeiture, to increase the minimum value of a conveyance device from \$75 to \$100 and to eliminate the requirement that it is associated with a felony-level offense and instead require that it was used in the transportation or exchange of a controlled substance intended for distribution or sale, and to provide for the forfeiture of money in the amount of \$1,500 or more if there is probable cause to believe it was exchanged for the purchase of a controlled substance; at section 12 amends Minn. Stat. § 609.5311, subd. 4, to eliminate the provision authorizing forfeiture of all property described in section 609.5311, subdivision 2; and at section 13 amends Minn. Stat. § 609.5314, subd. 1, property subject to forfeiture, to eliminate the presumption, setting a minimum amount of money at \$1,500 and requiring probable cause that the money, precious metals, or stones represent the proceeds of a controlled substance offense, adding a provision for the forfeiture of all money found in proximity to controlled substances when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance, to eliminate the requirement that a conveyance device be associated with a

felony-level offense and instead require that it was used in the transportation or exchange of a controlled substance intended for distribution or sale, and to provide for recovery of money used by an agency in a controlled substance purchase.

The bill at section 14 adds a new subdivision 1a to Minn. Stat. § 609.5314, governing innocent owner claims for seized vehicles, providing that an asserting person must provide notice of such a claim to the prosecutor within 60 days of service of the notice of seizure, that if the prosecutor decides to proceed the prosecutor must file a petition in conciliation or district court within 30 days of receipt of the notice, that no filing fee is required, and that to the extent practicable a hearing shall be held within 30 days; at section 15 amends Minn. Stat. § 609.5314, subd. 2, to require that the notice of forfeiture include information about innocent owner claims; at section 16 amends Minn. Stat. § 609.5315, subd. 5, distribution of forfeited money, to expand the permitted use of the proceeds; at sections 17 and 18 amends Minn. Stat. § 609.5315, subds. 5b and 6 to modify the public safety and agency reporting requirements and audit requirements; at section 19 requires the legislative auditor to conduct a recidivism study; at and section 20 repeals Minn. Stat. § 609.5317, which governs controlled substance related real property seizures.

Assumptions

It is assumed that the provisions of this bill could impact case filings but it is unknown whether the bill would overall increase or decrease case filings. Because the current law, as well as the provisions of this bill, authorize multiple petition filings for the same seized property it is unknown how many of the current or any future court filings are actually separate cases and how many are consolidated and resolved as a single case. It is assumed that many innocent owners of vehicles subject to forfeiture will continue to file petitions in court because a claim must be filed within 60 days. If the innocent owner provides notice within 60 days to the prosecutor of the intent to assert such a claim, the prosecutor has 30 days to file a petition. Even if the prosecutor responds to the innocent owner within the 60 days allowed to file a claim, if the prosecutor has not yet filed and served a petition, the innocent owner will likely still file a petition to preserve their right to challenge the forfeiture in court.

Although it is unclear, it is assumed that other than the prosecuting attorney filing under the innocent owner provision, claimants in controlled substance related forfeiture proceedings will still have to pay the filing fee as required by Minn. Stat. § 609.5314, subd. 3(a). It is assumed that the filing fee information on the required notice would have to be corrected.

It is assumed that the provisions of this bill eliminating the filing fee for DWI-related forfeitures will reduce filing fee revenue. The judicial branch can provide data on total forfeiture filing fee revenue, but does not have a way to determine whether a forfeiture filing fee was paid for a DWI or a controlled-substance related forfeiture. Therefore the court cannot estimate the potential reduction in filing fee revenue.

Expenditure and/or Revenue Formula

According to Judicial Branch data, an average of \$226,022 in forfeiture filing fee revenue is collected each fiscal year. Some portion of this revenue will be reduced by the provisions of this bill, but the percent or amount cannot be determined.

Also according to judicial branch data, the average conciliation court forfeiture case requires 8 minutes of judge time. Based on a 3-year average of 1,047 conciliation court forfeiture cases per year, the judge time required is 8,376 minutes per year.

Additionally, the average civil forfeiture case requires 44 minutes of judge time. Based on a 3-year average of 1,052 civil forfeiture cases per year, the judge time required is 46,288 minutes per year.

A total of 54,664 judicial minutes is required for forfeiture cases per year.

The overall judge time required is likely less as some percent of the cases are likely regarding the same property and are consolidated. Based on a 78,000 judicial year in minutes, all forfeiture cases statewide do not require a judge FTE. Thus any moderate increase or decrease in case filings would not require or save a judge FTE statewide.

The provisions of this bill are not anticipated to have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

Phone: 651-297-7579

Date: 1/29/2021 11:40:50 AM

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HF75 - 0 - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **2/1/2021 12:51:07 PM**
 Agency: **University Of Minnesota**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 2/1/2021 8:10:18 AM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

House File 75 modifies vehicle forfeiture guidelines; adds provisions for innocent owner recovery and amends the distribution and use of funds derived from the sale of forfeited vehicles.

Assumptions

The University of Minnesota has rarely engaged in forfeitures over the last 10 years and proceeds from forfeitures have been insignificant. The university did not have any forfeitures in 2020. The cost of tracking and receiving asset forfeitures often outweighs potential revenue.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Chief Matthew Clark, University of Minnesota Police Department

Agency Contact:

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Date: 2/1/2021 7:47:58 AM

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