

HOUSE RESEARCH

Bill Summary

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Subject: Forfeiture; criminal conviction required

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Overview

This bill amends the forfeiture burden of proof by requiring a conviction for judicial forfeiture of property associated with controlled substance offenses and vehicles used in drive-by shootings. It also eliminates the presumption for administrative forfeiture of certain property found in proximity to drugs (but maintains the use administrative forfeiture when property owner does not file a demand for judicial determination).

Section

- 1 Forfeiture a civil procedure; conviction required.** Requires a conviction for forfeiture by judicial determination (i.e., when prosecutor files a judicial forfeiture action or property owner files demand to convert administrative forfeiture to a judicial action). Maintains the burden of proving by clear and convincing evidence that the property is an instrument or represents the proceeds of the underlying offense.
- 2 Forfeiture by judicial action; procedure.** Conforming change in line with section 3 and 4.
- 3 Administrative forfeiture; property associated with controlled substance offenses.** Strikes a reference to subdivision 1 (see section 7 - repealing the presumption). Provides that forfeiture of property associated with controlled substances (under § 609.5311) that does not exceed \$50,000 may be administratively forfeited.

Section

- 4** **Judicial forfeiture; property associated with controlled substance offenses.** Strikes language providing that judicial forfeiture of property associated with a controlled substance offense must be held within 180 days of filing the demand but in no event before the conclusion of the criminal proceeding. Because a conviction would be required for judicial forfeiture, this language is replaced with a requirement that the hearing be held as soon as possible and, in any event, no later than 90 days after the criminal proceeding.
- 5** **Weapons, phone cloning, bullet resistant vests.** Strikes language that would allow such property to be forfeited without a conviction.
- 6** **Motor vehicles subject to forfeiture.** Strikes language that would allow forfeiture of a vehicle in a drive-by shooting to be forfeited without a conviction.
- 7** **Repealer.** Repeals the presumption of forfeiture for certain property found in proximity to drugs (including money, firearms, etc.). This is being replaced with related administrative and judicial forfeiture provisions in sections 3 and 4.