

INSTRUCTIONS

Demand for Judicial Determination of Forfeiture Controlled Substances Offense (Valued at More than \$20,000)

Minn. Stat. § 609.5314, subd. 3

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

Use form FOR402 (*Demand for Judicial Determination of Forfeiture – Controlled Substances*) if you want a judicial officer to decide (determine) whether the vehicle or property should be forfeited when:

- The vehicle or property was seized because of an alleged controlled substances offense;
- You received a *Notice of Seizure and Intent to Forfeit* from law enforcement;
- You want the vehicle or property returned to you; and
- **The vehicle or property is worth more than \$20,000.**

Forms You May Need

- *Demand for Judicial Determination of Forfeiture – Controlled Substances* (FOR402);
- *Notice of Seizure and Intent to Forfeit* (form you received from law enforcement); and
- *Affidavit of Service – Forfeiture – Controlled Substances Offense* (FOR404).

The “Judicial Review of Property or Vehicle Seized in Drug Arrest (District Court)” forms are available online at www.mncourts.gov/forms under the “Seizures, Forfeitures, and Impoundments” category.

What You Need to Do

1. Complete the court forms, following all of the steps in these instructions. Each “step” here is described in more detail below.
2. Serve the prosecuting authority.
3. File with court administration.
4. Appear at the hearing.



You must serve and file your forms **no later than 60 days after you were served** with the *Notice of Seizure and Intent to Forfeit* form.

Resources and General Information about Forfeiture

Forfeiture is the process that a state agency uses to seize (take) property from an owner after someone is arrested, charged, or convicted of a specific crime. Forfeiture of property is a civil issue that is separate from any criminal charges that may have been filed against someone. You can read more about forfeitures in the “Forfeiture and Impoundment” Help Topic online at <http://mncourts.gov/Help-Topics/Forfeiture-and-Impoundment.aspx>.

You will find information about asking the court to return a vehicle or property that was taken after a controlled substances offense in Minn. Stat. § 609.5314, subd. 3 (<https://www.revisor.mn.gov/statutes/cite/609.5314>). If the value of the vehicle or property is more than \$20,000, you may file an action in district court for recovery of the seized vehicle or property.

- Form FOR202 is the form used when filing a forfeiture action in district court for alcohol-related offenses.
- Form FOR402 is used for controlled substances cases.

Innocent Owner

Any person (other than the defendant driver alleged to have committed the offense) may bring an innocent owner claim by notifying the prosecuting authority in writing no later than 60 days after being served with the *Notice of Seizure and Intent to Forfeit*. Your written notice to the prosecuting authority does not get filed with the court. See Minn. Stat. § 609.5314, subd. 1a(a) (www.revisor.mn.gov/statutes/cite/609.5314). The court does not publish a form for this purpose. You may need to get legal advice.

Information needed to fill out the forms

The *Demand for Judicial Determination of Forfeiture* form (FOR402) asks for the following information:

- The name of the county in which the vehicle was seized.
- The name and address of the prosecuting authority having jurisdiction over the forfeiture (for example: Rice County Attorney’s Office or St. Paul City Attorney’s Office).
- Details about the vehicle. For example:
 - Year
 - Make
 - Model
 - Vehicle Identification Number (VIN)
 - License plate number
 - State where the vehicle is registered
 - Value of the vehicle.
- Date or approximate date of seizure.
- Your interest in the vehicle (for example: owner).
- The legal grounds (reasons) why you believe the property was improperly seized. You may need to get legal advice.

Step 1
Fill Out the *Demand for Judicial Determination of Forfeiture – Controlled Substances* (FOR402)

The Caption

See Instructions (FOR401) for help in filling out this form.

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Civil – Forfeiture</u>

Plaintiff/Claimant

Name: _____

Address: _____

City/State/Zip: _____

VS

Defendant (Vehicle and/or Property)

c/o Prosecuting Authority:

Address: _____

City/State/Zip: _____

**Demand for Judicial Determination of Forfeiture of Property
 Controlled Substance Offense (More than \$20,000) (FOR402)**

Minn. Stat. § 609.5314, subd. 3

- At the very top of the page, you will fill in 2 lines:
 - The **county** where the vehicle and/or property was seized; and
 - The **judicial district** number. Each county belongs in one of 10 judicial districts. If you need help, see www.mncourts.gov/Find-Courts.aspx.
 - Leave the **court file number** blank. The court will assign a number after you file the paperwork.
- Fill in the name of each party.
 - You will be the **plaintiff** in this case. List your full name and address.
 - The **defendant** is a description of the vehicle or property. For example: 2015 Jeep Cherokee (if a vehicle was seized), or \$1,000 in U.S. Currency (if cash was seized).
 - List the name and address of the prosecuting authority where the seizure took place. This is the city or county attorney responsible for prosecuting the underlying offense (for example: Kandiyohi County Attorney’s Office, or St. Paul City Attorney). If you are not sure which agency you should list here, get legal advice.

Next, you will fill out the **rest of the form**.

Vehicle/Property Information

1. Check all that apply:

The following motor vehicle was seized on _____ (date):

a. Year: _____

b. Make: _____

c. Model: _____

d. Vehicle Identification Number (VIN): _____

e. License Plate Number: _____ State: _____

f. Value of Vehicle: _____

AND/OR

The following property was seized on _____ (date):

1. Question 1 asks you to give details about the vehicle and/or property that was seized. Check the box or boxes showing what was seized (vehicle, or other property, or both).
 - **If a vehicle was seized**, list the details about the vehicle. Some of this information may be on the *Notice* you received from law enforcement. List the following:
 - Date of seizure;
 - Year of vehicle;
 - Make (for example: Jeep, Ford, or Honda);

- Model (for example: Cherokee, Explorer, or Civic);
 - The VIN (Vehicle Identification Number; you will find this number on the vehicle's title);
 - License plate number;
 - State where the vehicle is registered; and
 - Value of the vehicle.
- **If property was seized**, list the date of seizure and description of the property, including the value. For example: "An Apple laptop computer worth \$1,500" or "\$1,000 in US Currency," if cash was seized.

Interest in Vehicle and/or Property

2. What is your interest in the vehicle and/or property? _____

2. Explain your interest in the property that was seized. For example, are you the registered owner of the vehicle? If you are not sure how to describe your interest, you should get [legal advice](http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

Improperly Seized

3. Why do you believe the vehicle and/or property was improperly seized? _____

3. Explain why you think law enforcement was wrong to seize the property.

Signature Block

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

Date: _____

County and state where signed: _____

Signature of Plaintiff: _____

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Email: _____

When you sign the *Demand for Judicial Determination of Forfeiture*, you are signing under penalty of perjury. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, www.revisor.mn.gov/statutes/?id=609.48).

- Date and sign the form.
- Include the county and state you were in when you signed the form.
- Include your name and contact information in the blanks under the signature line.

Step 2

Make Copies and Serve the Prosecuting Authority

Copies

Make at least 2 copies of the *Demand for Judicial Determination of Forfeiture – Controlled Substances* you filled out in Step 1. The copies are for:

- The prosecuting authority; and
- Your records (bring your copy with you to court on the day of the hearing).

Serve the Prosecuting Authority



You must serve the prosecuting authority **within 60 days** of the date you received the *Notice of Seizure and Intent to Forfeit* form.

The prosecuting authority must receive a complete copy of the *Demand* you filled out in Step 1. This is called “service of process.” Service may be done in one of three ways:

1. Service by Certified Mail;
2. Third Party Personal Service; or
3. Service by Regular First-Class Mail with Waiver/Acknowledgment of Service (CIV022A and CIV022B).

Service by Certified Mail

You or someone else who is at least 18 years old must mail a copy of the paperwork to the prosecuting authority by certified mail.

Personal Service

Service must be hand-delivered (personal service) and **you cannot be the one to serve**. You have to arrange for someone who is at least 18 years old and who has no interest in the case to **hand-deliver** the forms for you. You can also hire a professional process server.

Service by Regular First-Class Mail with Waiver/Acknowledgment of Service

The Rules of Civil Procedure also allow for service by first-class mail. If you decide to serve by mail, you must include the following additional forms:

- *Notice of Lawsuit and Request for Waiver of Service of Summons* (CIV022A) form;
- Two (2) copies of the *Waiver of Service of Summons* (CIV022B) form; and
- A prepaid way (such as a self-addressed, stamped envelope) for the other party to return a signed copy of the *Waiver of Service of Summons* (CIV022B) to you.



The deadline for service applies even if you choose to serve by mail. If the other party does not sign and return the *Waiver of Service* to you, the papers may not be considered served. If that happens, you must serve them by certified mail or personal service within 60 days of the date of when you received the *Notice of Seizure and Intent to Forfeit* form. If you have any questions, please talk to a lawyer.

Step 3

Fill Out the *Affidavit of Service – Forfeiture – Controlled Substances Offense Form (FOR404)* *Server Must Sign*

You can fill out the caption of the *Affidavit of Service – Forfeiture – Controlled Substances Offense* ahead of time.

This caption should match the caption on the *Demand (FOR402)*.

Who Was Served

<p>Person Who Served</p> <p>My name is _____, and I am at least 18 years old. I served papers for this forfeiture case as follows:</p> <p>Who Was Served</p> <p>Prosecuting Authority:</p> <p>Name: _____</p> <p>Street Address: _____</p> <p>City/State/Zip: _____</p>
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- Fill in the first and last name of the person who served the paperwork. Remember, you cannot be the one to hand-deliver the documents to the prosecuting authority.
- Fill in the name and address of the prosecuting authority that was served.

What Was Served

<p>What Was Served</p> <p>Forms Served (check all that apply)</p> <p><input type="checkbox"/> <i>Demand for Judicial Determination of Forfeiture (FOR402)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Additional Forms if Serving by Regular First-Class Mail</p> <p><input type="checkbox"/> Notice of Lawsuit and Request for Waiver of Service of Summons (CIV022A)</p> <p><input type="checkbox"/> Waiver of Service (CIV022B) (2 copies)</p> <p><input type="checkbox"/> Self-addressed, stamped envelope for return of the Waiver of Service.</p>
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- Check the box(es) showing the papers that were served. Remember, if you choose to serve by regular first-class mail, you must include the additional forms.

How papers were served – the Server should fill out this section

How Papers Were Served	
1.	<input type="checkbox"/> Certified Mail – On _____ (date), I sent a copy of the forms to the address noted above by certified mail, with enough postage, in the United States Mail in _____ (city, state).
2.	<input type="checkbox"/> Personal Service - I am not a party in this case and on _____ (date), I delivered a copy of the forms to the address noted above.
3.	<input type="checkbox"/> Regular First-Class Mail – On _____ (date), I placed the envelopes addressed as noted above in the United States Mail in _____ (city, state). There was enough postage on each envelope at the time of the mailing.

- If the server *sent* the copies by *Certified Mail*, they should check the first box (“Certified Mail”). Then fill in the date the copies were mailed, and the city and state the server was in when they mailed the forms.
- If the server *hand-delivered* the copies, they should check the second box (“Personal Service”). Then fill in the date they personally served the forms.
- If the server *sent* the copies by regular *First-Class Mail*, they should check the third box (“Regular First-Class Mail”). Then fill in the date when the copies were mailed, and the city and state the server was in when they mailed the forms.

Signature of Server

- Whoever served the forms will need to sign the bottom of the form under penalty of perjury and fill in the contract information.

Step 4

File with Court Administration

File the following documents with court administration:

- *Demand for Judicial Determination of Forfeiture – Controlled Substances* (FOR402); and
- *Affidavit of Service – Forfeiture – Controlled Substances Offense* (FOR404).

If you served the Prosecuting Authority by regular first-class mail, **you must also file the Waiver/Acknowledgment of Service** forms signed by the agency.

Deadline for Filing:

Filing must be done **within 60 days** from the date you received the *Notice of Seizure and Intent to Forfeit*.

How to File

At the Courthouse – for Self-Represented Litigants (SRLs)

- This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at www.mncourts.gov/Find-Courts.aspx. Use the drop-down menu or map to find your county.
- It is a good idea to make a copy of each of the forms you are filing with the court for your own records.
- There is no fee to file your forfeiture forms.

Electronic Filing through eFS System

- The eFS System allows you to electronically file (eFile) your forms. Information on eFiling is on the MN Judicial Branch website at www.mncourts.gov/eFile under the “eFile and eServe Training” tab.
- There is no fee to file your forfeiture forms.
- Once you choose to eFile, you must eFile for the rest of the case. See [Minn. Gen. R. Prac. 14.01\(b\)\(5\)\(i\)](http://www.revisor.mn.gov/court_rules/gp/id/14/) (revisor.mn.gov/court_rules/gp/id/14/). Government agencies and attorneys are always required to eFile.

What Happens Next...

Court administration will notify you of the hearing date and time.

If you miss the court date, the judicial officer could order the forfeiture of your vehicle or property. For more information about going to court, visit the “Going to Court” Help Topic at www.mncourts.gov/Help-Topics/Going-to-Court.aspx.

If you are not sure what to say in court, it is a good idea to [talk to an attorney](#) before the hearing (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).