

INSTRUCTIONS

Demand for Judicial Determination of Forfeiture Controlled Substances Offense (Valued at More than \$15,000)

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 \$15,000.**

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).

Forms are available online at www.mncourts.gov/forms.

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 \$15,000, 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) (<https://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.

Do you have all the information you need to fill out the forms?

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

- The name of the county in which the property was seized.
- The name and address of the prosecuting authority having jurisdiction over the forfeiture (for example, Rice County Attorney's Office).
- Details about the property. For example:
 - Amount of cash
 - Motor vehicle:
 - 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 or property (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

State of Minnesota		District Court
A County of: _____	Court File Number: _____	
Judicial District: _____	Case Type: <u>Civil – Forfeiture</u>	
Plaintiff/Claimant B		
Name: _____		
Address: _____		
City/State/Zip: _____		
VS		
Defendant (Vehicle and/or Property) C		
c/o Prosecuting Authority: _____		
D		
Address: _____		
City/State/Zip: _____		
Demand for Judicial Determination of Forfeiture of Property Controlled Substance Offense (More than \$15,000) (FOR402) <small>Minn. Stat. § 609.5314, subd. 3</small>		

A. At the very top of the first page, you will fill in 2 lines:

- The **county** where the vehicle and/or property was seized; and
- The **judicial district** number (each county is located in 1 of 10 judicial districts: <http://www.mncourts.gov/Find-Courts.aspx>).

- Leave the **court file number** line blank. The court will assign a number after the paperwork is filed.
- B. You will be the **plaintiff/claimant** in this case. List your full name and address.
- C. The **defendant** is a description of the vehicle or property seized. For example: 2021 Jeep Cherokee (if a vehicle was seized), or \$1,000 in U.S. Currency (if cash was seized).
- D. List the name and address of the **prosecuting authority** for the county where the seizure took place. The prosecuting authority is the attorney responsible for prosecuting the offense that resulted in the forfeiture (for example: Rice County Attorney's Office).

Note: it is important to list the correct prosecuting authority. If you are not sure which agency you should list here, get [legal advice](https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

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

1. Paragraph 1 asks you to give details about the vehicle and/or property.

Check the box or boxes showing what was seized (vehicle, or other property, or both).

- *If a vehicle was seized*, list the date of seizure, and then give following information:
 - a. Year of vehicle;
 - b. Make (for example: Jeep, Ford, or Honda);
 - c. Model (for example: Cherokee, Explorer, or Civic);
 - d. The VIN (you will find this number on the vehicle's title);
 - e. License plate number and state where the vehicle is registered; and
 - f. 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.

The plaintiff/claimant in this matter asks for a judicial determination on the forfeiture of the defendant property pursuant to Minn. Stat. § 609.5314, subd. 3, claiming the property was improperly seized.

1 Check all that apply:

☐ The following **motor vehicle** was seized on or about _____ (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 or about _____ (date):

2. Explain your interest in or connection to 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).

2 I claim an interest in or connection to the vehicle and/or property because: _____

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

3 I believe the vehicle and/or property was improperly seized because: _____

Signature Block

Read the “Acknowledgment” before you date and sign the form.

When you sign the *Demand for Judicial Determination of Forfeiture – Controlled Substances*, 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, <https://www.revisor.mn.gov/statutes/?id=609.48>).

- A. Date and sign the form.
- B. Include the county and state you were in when you signed the form.
- C. Include your phone number, and e-mail address 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. Personal Service by someone other than yourself; or
3. Service by Regular First-Class Mail with Waiver/Acknowledgment of Service.

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 hand-deliver**. 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.



NOTE: 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](http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

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).

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Civil – Forfeiture</u>
_____ Plaintiff	
VS	
_____ Defendant (Vehicle or Property)	
Affidavit of Service – Forfeiture	
Controlled Substance Offense (FOR404)	
Minn. Stat. § 609.5314	

Service Details: Who, What, When, and Where

- 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.
- Check the box(es) showing the papers that were served. Remember, if you choose to serve by first-class mail, you must include the additional forms.

If you served the Prosecuting Authority by mail, you **must also file the Waiver/Acknowledgement of Service** forms signed by the agency.

How to File

At the Courthouse:

- File the forms with court administration.
- This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://www.mncourts.gov/Find-Courts.aspx>.

Electronic Filing through eFS System:

- If you have an account, or want to create one, with the eFS System, you can file electronically (eFile). See <https://www.mncourts.gov/eFile>.
- **NOTE:** Once you decide to eFile, you must continue to eFile for the entire case.

Deadline for Filing

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

Filing Fee

There is no filing fee to file your forfeiture forms.

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 <https://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](https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) before the hearing (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).