



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5816 (Substitute H-2 as passed by the House)
Sponsor: Representative Greg Kaza
House Committee: Conservation, Environment and Great Lakes
Senate Committee: Judiciary

Date Completed: 11-27-96

CONTENT

The bill would amend the Michigan Penal Code to provide that, before a firearm that was carried, possessed, or used illegally was turned over for disposal, the police agency that recovered or confiscated the weapon would have to determine if there was a known legal owner and whether the firearm had been reported stolen. If the police agency determined that a serial number had been eradicated from the firearm, the police agency would have to submit the weapon to the Department of State Police or a forensic laboratory for serial number restoration to determine legal ownership. In making a determination of ownership, the police agency would have to examine its stolen property reports and review information contained in the Law Enforcement Information Network. If the police agency determined that the firearm had been stolen, the agency would have to notify the agency reporting the theft and return the firearm to that agency at the conclusion of the criminal case. The receiving agency would have to notify the legal owner and provide for disposition of the firearm in compliance with the bill.

If the owner were not alleged to have been involved in the violation for which forfeiture of the firearm was required or did not knowingly allow the firearm's illegal possession, notification would have to be given at the conclusion of the criminal case but not later than 90 days before the firearm was to be disposed of under the Penal Code. Notification could be given by certified mail sent the owner's last known address, or by personal contact with the owner.

The police agency would have to return a firearm to its owner if the owner claimed the weapon within the notification period and the police agency determined that the owner was not involved in the violation for which the firearm was seized. Except when a firearm was retained for a criminal case, a firearm would have to be returned within 30 days after it was claimed by the owner, unless the owner was prohibited under State or Federal law from possessing a firearm.

An individual claiming ownership of a firearm could petition the circuit court for return of the weapon if the police agency denied its return or if the firearm were not returned within 30 days. The police agency could not dispose of a firearm until the expiration of the 30-day period or, if a petition were filed, until permitted by the court to do so.

A police agency would have to turn confiscated weapons over to the Department of State Police for disposal, as currently required under the Penal Code, not more than one year after final conclusion of the criminal case and expiration of the appeal period. The police agency first would

have to make a reasonable effort to contact the owner of the firearm to determine whether a demand for the firearm was forthcoming. A police agency that seized a firearm for forfeiture would have to exercise reasonable care to protect the firearm from loss or damage while it was in police custody.

“Police agency” would mean one or more of the following:

- The Department of State Police.
- A county sheriffs’ department.
- A police department or public safety department of a local unit of government.
- A police department or public safety department of a college or university.

Proposed MCL 750.239a

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the Department of State Police. Department policies already reflect those that would be mandated by the bill. In 1995, the State Police destroyed 7,532 handguns and 6,850 long guns. Among local law enforcement agencies, most larger agencies already check firearms for ownership. For the local units that do not currently follow the procedures outlined in the bill, some minor administrative costs would result.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.