

Act No. 496
Public Acts of 1996
Approved by the Governor
January 7, 1997
Filed with the Secretary of State
January 8, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Kaza, Weeks, Horton, Anthony, Goschka, Hill, Walberg, Profit, Dalman, Tesanovich, DeHart, Lowe, Cropsey, McBryde, Kukuk, Sikkema, Gernaat, Jellema, Wetters and Green

ENROLLED HOUSE BILL No. 5816

AN ACT to amend Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 239a.

The People of the State of Michigan enact:

Section 1. Act No. 328 of the Public Acts of 1931, as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, is amended by adding section 239a to read as follows:

Sec. 239a. (1) Before a firearm is turned over for disposal under section 239, the police agency that recovered or confiscated the firearm shall determine if there is a known legal owner of the firearm and whether the firearm has been reported stolen. If the police agency determines a serial number has been eradicated from the firearm, the police agency shall submit the firearm to the department of state police or a forensic laboratory for serial number restoration to determine legal ownership. In making the determination of ownership required under this subsection, the police agency shall review information contained in the law enforcement information network and examine that police agency's stolen property reports. If the police agency determines the firearm is stolen, the police agency shall notify the agency reporting the firearm as stolen and return the firearm to that agency at the conclusion of the criminal case. The agency receiving the firearm shall notify the legal owner and provide for disposition of the firearm in compliance with subsections (3) and (4).

(2) If the owner is not alleged to have been involved in the violation for which forfeiture is required or did not knowingly allow the firearm to be possessed illegally, notification shall be given at the conclusion of the criminal case but not later than 90 days before the firearm is disposed of under section 239. Notification under this subsection may be given by certified mail sent to the owner's last known address, or by personal contact with the owner.

(3) The police agency shall return a firearm to its owner if the owner claims the firearm within the notification period and that police agency determines that the owner was not involved in the violation for which the firearm was seized. Except as otherwise provided in subsection (2), a firearm shall be returned under this subsection within 30 days after the firearm is claimed by the owner unless the owner is prohibited from possessing a firearm under state or federal law.

(4) An individual claiming ownership of a firearm may petition the circuit court for return of a firearm under this section if return of the firearm is denied by the police agency or if the firearm is not returned within 30 days as required

under subsection (3). The police agency shall not dispose of a firearm until the expiration of the 30-day period or, if a petition is filed under this subsection, until permitted to do so by the court.

(5) A police agency shall turn confiscated weapons over to the department of state police under section 239 not more than 1 year after final conclusion of the criminal case and expiration of the appeal period. The police agency shall first make a reasonable effort to contact the owner of the firearm to determine whether a demand for the firearm is forthcoming.

(6) A police agency that seizes a firearm for forfeiture under this act shall exercise reasonable care to protect the firearm from loss or damage while the firearm is in its custody.

(7) As used in this section, "police agency" means 1 or more of the following:

- (a) The department of state police.
- (b) A county sheriff's department.
- (c) A police department or public safety department of a local unit of government.
- (d) A police department or public safety department of a college or university.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.

