



Ohio Legislative Service Commission

Bill Analysis

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H.B. 210

130th General Assembly
(As Introduced)

Reps. Becker, Lynch, Thompson, Hood, Retherford, Maag, Blessing, Brenner

BILL SUMMARY

- Eliminates the authority for a law enforcement agency to destroy unclaimed or forfeited firearms or dangerous ordnance or to send such items to the Bureau of Criminal Identification and Investigation for destruction.
- Modifies the remaining methods of disposal of unclaimed or forfeited firearms or dangerous ordnance in the custody of a law enforcement agency to require that such items be disposed of in one of the following ways:
 - If the items are suitable for police work, given to a law enforcement agency;
 - If the items are suitable for sporting use or as museum pieces or collectors' items, sold at a public auction to the highest bidder for cash, sold at a public auction to a federally licensed firearms dealer, or transferred to the Department of Public Safety for sale;
 - If the items are not suitable for sporting use or as museum pieces or collectors' items, sold at public auction to a federally licensed firearms dealer or transferred to the Department of Public Safety for sale; or
 - If the items may not legally be possessed by any person, transferred to the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Provides that if a law enforcement agency transfers a forfeited firearm or dangerous ordnance to the Department of Public Safety for sale, the portion of proceeds from the sale that would otherwise be allocated to the law enforcement agency must be allocated to the Department of Public Safety Investigative Unit Contraband, Forfeiture, and Other Fund.

CONTENT AND OPERATION

Disposal of unclaimed or forfeited firearms or dangerous ordnance

Overview

The bill modifies the procedure for disposing of unclaimed or forfeited firearms and dangerous ordnance in the custody of a law enforcement agency. Specifically, the bill requires an unclaimed or forfeited firearm or dangerous ordnance to be disposed of using specified methods, generally a public auction, depending on the potential use of the firearm or dangerous ordnance. The bill also eliminates the authority of a law enforcement agency to destroy an unclaimed or forfeited firearm or dangerous ordnance or send it to the Bureau of Criminal Identification and Investigation (BCII) for destruction. The bill also specifies that a law enforcement agency or the Department of Public Safety may only sell a firearm or dangerous ordnance to a person who can legally possess the firearm or dangerous ordnance. If under state or federal law the firearm or dangerous ordnance may not be legally possessed by any person, the item must be transferred by the law enforcement agency in custody of the item to the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives.¹

Under current law unchanged by the bill, a firearm is "any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant," including an unloaded firearm or any firearm that is inoperable but that can readily be rendered operable. A dangerous ordnance generally includes any automatic or sawed-off firearm, zip-gun, or ballistic knife, any explosive or incendiary device, certain explosive substances, any ammunition or weapon designed and manufactured for military purposes, any firearm muffler or silencer, or any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.²

Specific methods of disposal

Under the bill, an unclaimed or forfeited firearm or dangerous ordnance that, as under current law is suitable for police work may be given to a law enforcement agency for that purpose.³ If the firearm or dangerous ordnance is not given to a law enforcement agency for police purposes, the firearm or dangerous ordnance must be disposed of as follows, depending on its purpose:

¹ R.C. 2981.12(A)(2)(a) to (c).

² R.C. 2981.01(A)(5) and 2923.11(B)(1) and (K).

³ R.C. 2981.12(A)(2).



(1) If the firearm or dangerous ordnance is suitable for sporting use or as a museum piece or collector's item, the law enforcement agency in custody of the item must sell it at a public auction to the highest bidder for cash or at a public auction to a federally licensed firearms dealer in a manner that the court considers proper, or transfer it to the Department of Public Safety for sale.⁴

(2) If the firearm or dangerous ordnance is not suitable for sporting use or as a museum piece or collector's item, the law enforcement agency in custody of the item must sell the item at a public auction to a federally licensed firearms dealer in a manner that the court considers proper or transfer the item to the Department of Public Safety for sale.⁵

Under both the bill and current law, the prosecutor must give notice of a proposed sale.⁶

Current law methods of disposal

Under current law, firearms and dangerous ordnance may be disposed of in any of the following ways: (1) if suitable for police work, given to a law enforcement agency, (2) if suitable for sporting use or as a museum piece or collector's item, sold at public auction to the highest bidder for cash, (3) sold to a federally licensed firearms dealer in a manner that the court considers proper, or (4) if not given to a law enforcement agency or sold, destroyed or sent to the BCII for destruction.⁷

Proceeds from the sale of forfeited firearms or dangerous ordnance

Under the bill, if a law enforcement agency transfers a firearm or dangerous ordnance forfeited under the Ohio Forfeiture Law to the Department of Public Safety for sale, the portion of proceeds from the sale that would otherwise be allocated to the law enforcement agency must be allocated to the Department of Public Safety Investigative Unit Contraband, Forfeiture, and Other Fund.⁸ Under current law, the proceeds from the sale of a firearm or dangerous ordnance forfeited under the Ohio Forfeiture Law generally are divided as follows:

⁴ R.C. 2981.12(A)(2)(a).

⁵ R.C. 2981.12(A)(2)(b).

⁶ R.C. 2981.13(A).

⁷ R.C. 2981.12(A)(2).

⁸ R.C. 2981.13(B)(4)(b).



(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, to satisfy any restitution ordered to the victim of the offense in a criminal forfeiture case, or to satisfy any recovery ordered for the person harmed, unless paid from other assets, in a civil forfeiture case;

(3) Third, to pay the balance due on any security interest preserved under the forfeiture law;

(4) Fourth, to the law enforcement trust fund of the prosecutor and to the specified fund supporting the law enforcement agency, or agencies, that substantially conducted the investigation. However, if the forfeiture was ordered by a juvenile court, 10% of the final proceeds must go to specified certified alcohol and drug addiction treatment programs.⁹

HISTORY

ACTION	DATE
Introduced	06-18-13

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⁹ R.C. 2981.13(B)(4).

