

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 241

Short Title: Destroy Firearm/Crime of Assault or Murder. (Public)

Sponsors: Representatives Davis and Daughtry (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II, if favorable, Appropriations.

March 17, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A FIREARM USED TO ASSAULT A LAW ENFORCEMENT OFFICER OR TO CAUSE SERIOUS BODILY INJURY OR DEATH THAT IS SEIZED AS EVIDENCE SHALL BE DISPOSED OF BY ORDERING THE DESTRUCTION OF THE FIREARM UNLESS THE COURT DETERMINES THAT IT IS APPROPRIATE TO RETURN THE FIREARM TO ITS RIGHTFUL OWNER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15-11.1 reads as rewritten:

"§ 15-11.1. Seizure, custody and disposition of articles; exceptions.

...

(b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if the property seized is a firearm and the district attorney determines the firearm is no longer necessary or useful as evidence in a criminal ~~trial~~, trial and that it was not used in an assault on a law enforcement officer or used to cause serious bodily injury or death to any person, the district attorney, after notice to all parties known or believed by the district attorney to have an ownership or a possessory interest in the firearm, including the defendant, shall apply to the court for an order of disposition of the firearm. The judge, after hearing, may order the disposition of the firearm in one of the following ways:

- (1) By ordering the firearm returned to its rightful owner, when the rightful owner is someone other than the defendant and upon findings by the court (i) that the person, firm, or corporation determined by the court to be the rightful owner is entitled to possession of the firearm and (ii) that the person, firm, or corporation determined by the court to be the rightful owner of the firearm was unlawfully deprived of the same or had no knowledge or reasonable belief of the defendant's intention to use the firearm unlawfully.
- (2) By ordering the firearm returned to the defendant, but only if the defendant is not convicted of any criminal offense in connection with the possession or use of the firearm, the defendant is the rightful owner of the firearm, and the defendant is not otherwise ineligible to possess such firearm.
- (3) By ordering the firearm turned over to be destroyed by the sheriff of the county in which the firearm was seized or by his duly authorized agent if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction of the firearm.



* H 2 4 1 - V - 1 *

1 (4) By ordering the firearm turned over to a law enforcement agency in the
2 county of trial for (i) the official use of the agency or (ii) sale, trade, or
3 exchange by the agency to a federally licensed firearm dealer in accordance
4 with all applicable State and federal firearm laws. The court may order a
5 disposition of the firearm pursuant to this subdivision only if the firearm has
6 a legible, unique identification number. If the law enforcement agency sells
7 the firearm, then the proceeds of the sale shall be remitted to the appropriate
8 county finance officer as provided by G.S. 115C-452 to be used to maintain
9 free public schools. The receiving law enforcement agency shall maintain a
10 record and inventory of all firearms received pursuant to this subdivision.

11 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used
12 only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any
13 local wildlife hunting ordinance.

14 (b2) Notwithstanding subsections (a) and (b) of this section or any other provision of
15 law, if the property is a firearm that was used in an assault on a law enforcement officer or was
16 used to cause serious bodily injury or death to any person, the firearm shall be disposed of as
17 provided by this subsection. The district attorney, after notice to all parties known or believed
18 by the district attorney to have an ownership interest in the firearm, shall petition the court to
19 dispose of the firearm. The judge, after hearing, shall order the firearm turned over to be
20 destroyed by the sheriff of the county in which the firearm was seized or by the sheriff's duly
21 authorized agent, unless the judge finds it appropriate to return the firearm to its rightful owner.
22 The judge may order the firearm returned to its rightful owner, only as provided by subdivision
23 (1) of subsection (b1) of this section. The sheriff shall maintain a record of the destruction of
24 the firearm.

25 "

26 **SECTION 2.** This act becomes effective December 1, 2015, and applies to
27 petitions to dispose of firearms submitted on or after that date.