

131st MAINE LEGISLATURE

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Legislative Document

No. 2086

S.P. 879

In Senate, January 3, 2024

An Act to Amend the Law Governing the Disposition of Forfeited Firearms

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator CARNEY of Cumberland.
Cosponsored by Representative CLOUTIER of Lewiston and
Senators: BEEBE-CENTER of Knox, ROTUNDO of Androscoggin, Representatives:
CRAVEN of Lewiston, DOUDERA of Camden, LEE of Auburn, MOONEN of Portland,
Speaker TALBOT ROSS of Portland, ZAGER of Portland.

Be it enacted by the People of the State of Maine as follows:

- **Sec. 1. 15 MRSA §3314, sub-§6,** as amended by PL 2019, c. 113, Pt. C, §50, is further amended to read:
- **6. Forfeiture of firearms.** As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393; Title 17-A, section 1105-A, subsection 1, paragraph C-1; Title 17-A, section 1105-B, subsection 1, paragraph C; Title 17-A, section 1105-C, subsection 1, paragraph C-1; Title 17-A, section 1105-D, subsection 1, paragraph B-1; or Title 17-A, section 1118-A, subsection 1, paragraph B and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1504 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1504 govern forfeitures under this subsection.
- **Sec. 2. 15 MRSA §5826, sub-§5, ¶A,** as enacted by PL 1995, c. 421, §1, is amended to read:
 - A. The Except as provided in Title 17-A, section 1504, subsection 2, paragraph B, the petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or
- **Sec. 3. 17-A MRSA §1504, sub-§2,** as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:
- **2. Prohibited forfeiture.** Except as provided in subsection 3, a \underline{A} court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if, prior to the imposition of the person's sentence:
 - A. For a crime other than murder or any other unlawful homicide crime, another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the convicted person; or
 - B. For the crime of murder or any other unlawful homicide crime, another Another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission of the crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime.

- **Sec. 4. 17-A MRSA §1504, sub-§3,** as enacted by PL 2019, c. 113, Pt. A, §2, is repealed.
 - **Sec. 5. 17-A MRSA §1504, sub-§4,** as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:
- **4. Disposition of forfeited firearms.** The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A firearm used during a murder or other unlawful homicide crime forfeited under this section that does not meet the prohibition from forfeiture under subsection 2, paragraph B must be destroyed by the State.

10 SUMMARY

 This bill amends the law governing the disposition of firearms that have been forfeited to the State as a mandatory part of a criminal sentence under the general sentencing provisions of the Maine Criminal Code. Current law requires that forfeited firearms used in commission of a murder or unlawful homicide crime be destroyed by the State. The bill extends the requirement to all firearms that have been forfeited as mandated by the general sentencing provisions of the Maine Criminal Code. The bill also eliminates one of the exceptions to mandatory forfeiture applying to cases in which the firearm subject to forfeiture is rightfully owned by another person. The bill amends the provision of law governing forfeiture of firearms within the Maine Juvenile Code to align with the general sentencing provisions as amended by this bill. Finally, the bill amends the relevant asset forfeiture laws to align with the narrowed exception for 3rd-party claims to firearms subject to forfeiture as provided by this bill.