

SENATE BILL NO. 1138

November 26, 2024, Introduced by Senators POLEHANKI and SHINK and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 239 and 239a (MCL 750.239 and 750.239a), as
amended by 2010 PA 294.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 239. (1) Except as provided in subsection (2) and subject
2 to section 239a, all pistols, weapons, or devices carried,
3 possessed, or used contrary to this chapter are forfeited to ~~the~~
4 **this** state and ~~shall~~**must** be turned over to the department of state
5 police for disposition as determined appropriate by the director of

1 the department of state police or ~~his or her~~ **the director's**
 2 designated representative.

3 (2) The director of the department of state police shall
 4 dispose of firearms under this section by ~~1 of the following~~
 5 ~~methods:~~

6 ~~(a) By conducting a public auction in which firearms received~~
 7 ~~under this section may be purchased at a sale conducted in~~
 8 ~~compliance with section 4708 of the revised judicature act of 1961,~~
 9 ~~1961 PA 236, MCL 600.4708, by individuals authorized by law to~~
 10 ~~possess those firearms.~~

11 ~~(b) By destroying them.~~ **The director shall ensure that all**
 12 **parts of a firearm disposed of under this section are destroyed.**

13 ~~(c) By any other lawful manner prescribed by the director of~~
 14 ~~the department of state police.~~

15 (3) Before disposing of a firearm under this section, the
 16 director of the department of state police shall do both of the
 17 following:

18 (a) Determine through the law enforcement information network
 19 whether the firearm has been reported lost or stolen. If the
 20 firearm has been reported lost or stolen and the name and address
 21 of the owner can be determined, the director of the department of
 22 state police shall provide 30 days' written notice of ~~his or her~~
 23 **the director's** intent to dispose of the firearm under this section
 24 to the owner, and allow the owner to claim the firearm within that
 25 30-day period if ~~he or she~~ **the owner** is authorized to possess the
 26 firearm.

27 (b) Provide 30 days' notice to the public on the department of
 28 state police website of ~~his or her~~ **the director's** intent to dispose
 29 of the firearm under this section. The notice ~~shall~~ **must** include a

1 description of the firearm and ~~shall~~ state the firearm's serial
 2 number, if the serial number can be determined. The department of
 3 state police shall allow the owner of the firearm to claim the
 4 firearm within that 30-day period if ~~he or she~~ **the owner** is
 5 authorized to possess the firearm. The 30-day period required under
 6 this subdivision is in addition to the 30-day period required under
 7 subdivision (a).

8 (4) The department of state police is immune from civil
 9 liability for disposing of a firearm in compliance with this
 10 section.

11 Sec. 239a. (1) A law enforcement agency that seizes or
 12 otherwise comes into possession of a firearm or a part of a firearm
 13 subject to disposal under section 239 may, instead of forwarding
 14 the firearm or part of a firearm to the director of the department
 15 of state police or ~~his or her~~ **the director's** designated
 16 representative for disposal under that section, retain that firearm
 17 or part of a firearm for ~~the following purposes:~~

18 ~~(a) For legal sale or trade to a federally licensed firearm~~
 19 ~~dealer. The proceeds from any sale or trade under this subdivision~~
 20 ~~shall be used by the law enforcement agency only for law~~
 21 ~~enforcement purposes. The law enforcement agency shall not sell or~~
 22 ~~trade a firearm or part of a firearm under this subdivision to any~~
 23 ~~individual who is a member of that law enforcement agency unless~~
 24 ~~the individual is a federally licensed firearms dealer and the sale~~
 25 ~~is made pursuant to a public auction.~~

26 ~~(b) For official use by members of the seizing law enforcement~~
 27 ~~agency who are employed as peace officers. A firearm or part of a~~
 28 ~~firearm shall **must** not be sold under this subdivision.~~ **subsection.**

29 (2) A law enforcement agency that ~~sells or trades any pistol~~

~~to a licensed dealer under subsection (1)(a) or~~ retains any pistol under subsection ~~(1)(b)~~ **(1)** shall complete a record of the transaction under section 2 or section 2a, as applicable.

~~(3) A law enforcement agency that sells or trades a firearm or part of a firearm under this section shall retain a receipt of the sale or trade for a period of not less than 7 years. The law enforcement agency shall make all receipts retained under this subsection available for inspection by the department of state police upon demand and for auditing purposes by the state and the local unit of government of which the agency is a part.~~

(3) ~~(4)~~ Before disposing of a firearm under this section, the law enforcement agency shall do both of the following:

(a) Determine through the law enforcement information network whether the firearm has been reported lost or stolen. If the firearm has been reported lost or stolen and the name and address of the owner can be determined, the law enforcement agency shall provide 30 days' written notice of ~~its~~ **the law enforcement agency's** intent to dispose of the firearm under this section to the owner, and allow the owner to claim the firearm within that 30-day period if ~~he or she~~ **the owner** is authorized to possess the firearm. If the police agency determines that a serial number has been altered or has been removed or obliterated from the firearm, the ~~police~~ **law enforcement** agency shall submit the firearm to the department of state police or a forensic laboratory for serial number verification or restoration to determine legal ownership.

(b) Provide 30 days' notice to the public on a website maintained by the law enforcement agency of its intent to dispose of the firearm under this section. The notice ~~shall~~ **must** include a description of the firearm and ~~shall~~ state the firearm's serial

1 number, if the serial number can be determined. The law enforcement
2 agency shall allow the owner of the firearm to claim the firearm
3 within that 30-day period if ~~he or she~~ **the owner** is authorized to
4 possess the firearm. The 30-day period required under this
5 subdivision is in addition to the 30-day period required under
6 subdivision (a).

7 **(4)** ~~(5)~~—The law enforcement agency is immune from civil
8 liability for disposing of a firearm in compliance with this
9 section.

10 **(5)** ~~(6)~~—As used in this section, "law enforcement agency"
11 means any agency that employs peace officers.