

House Bill 1095

By: Representatives Mallow of the 163<sup>rd</sup>, Evans of the 57<sup>th</sup>, Jackson of the 165<sup>th</sup>, Roberts of the 52<sup>nd</sup>, and Gilliard of the 162<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to disposition of property seized, so as to provide law enforcement agencies the  
3 option to destroy or sell certain firearms; to revise procedures for the disposition of certain  
4 firearms in custody of law enforcement agencies; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to  
9 disposition of property seized, is amended by revising Code Section 17-5-52, relating to  
10 disposition of weapons used in commission of crime or delinquent act involving possession  
11 and civil forfeiture, as follows:

12 "17-5-52.

13 When a final judgment is entered finding a defendant guilty of the commission or  
14 attempted commission of a crime against any person or guilty of the commission of a crime  
15 or delinquent act involving the illegal possession or carrying of a weapon, any device  
16 which was used as a weapon in the commission of the crime or delinquent act shall be

H. B. 1095

17 turned over by the person having custody of the weapon or device to the sheriff, chief of  
18 police, or other executive officer of the law enforcement agency that originally confiscated  
19 the weapon or device when the weapon or device is no longer needed for evidentiary  
20 purposes. Within one year after receiving the weapon or device, the sheriff, chief of police,  
21 or other executive officer of the law enforcement agency shall return, ~~or sell, or destroy~~ the  
22 weapon as provided in Code Section 17-5-54, or if the weapon or device is subject to  
23 forfeiture, the procedures set forth in Chapter 16 of Title 9 shall be followed  
24 notwithstanding the time frames set forth in Code Section 9-16-7. A state attorney seeking  
25 forfeiture under this Code section shall commence civil forfeiture proceedings within 60  
26 days of the entry of a final judgment as contemplated by this Code section; the remaining  
27 provisions of Chapter 16 of Title 9 shall be applicable."

28

## SECTION 2.

29 Said article is further amended by revising subsection (g) of Code Section 17-5-54, relating  
30 to definitions and disposition of personal property in custody of law enforcement agency, as  
31 follows:

32 "(g)(1) ~~Except as provided for under paragraph (2) of this subsection with~~ With respect  
33 to unclaimed firearms, ~~if the sheriff, chief of police, agency director, or designee of such~~  
34 ~~official certifies that a firearm is unsafe because of wear, damage, age, or modification~~  
35 ~~or because any federal or state law prohibits the sale or distribution of such firearm, at the~~  
36 ~~discretion of such official, it~~ such firearms shall be transferred to the Division of Forensic  
37 Sciences of the Georgia Bureau of Investigation, a municipal or county law enforcement  
38 forensic laboratory for training or experimental purposes, or be destroyed; provided,  
39 however, that paragraph (2) of this subsection shall not apply to any firearm certified by  
40 the sheriff, chief of police, agency director, or designee of such official to be unsafe  
41 because of wear, damage, age, or modification or because any federal or state law  
42 prohibits the sale or distribution of such firearm.

- 43 (2) ~~An~~ Otherwise, an unclaimed firearm:
- 44 (A) Possessed by a municipal corporation ~~shall~~ may be disposed of as provided for in
- 45 Code Section 36-37-6; provided, however, that municipal corporations shall not have
- 46 the right to reject any bids or to cancel any proposed sale of such firearms, and all sales
- 47 shall be to persons who are licensed as firearms collectors, dealers, importers, or
- 48 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are
- 49 authorized to receive such firearms under the terms of such license; or
- 50 (B) Possessed by the state or a political subdivision other than a municipal corporation,
- 51 ~~shall~~ may be disposed of by sale at public auction to persons who are licensed as
- 52 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
- 53 U.S.C. Section 921, et seq., and who are authorized to receive such firearms under the
- 54 terms of such license. Auctions required by this subparagraph may occur online on a
- 55 rolling basis or at live events, ~~but in no event shall such auctions occur less frequently~~
- 56 ~~than once every 12 months during any time in which the political subdivision or state~~
- 57 ~~custodial agency has an inventory of five or more saleable firearms.~~
- 58 (3) If no bids from eligible recipients are received within six months from when bidding
- 59 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
- 60 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
- 61 of Investigation, a municipal or county law enforcement forensic laboratory for training
- 62 or experimental purposes, or be destroyed."

63

### SECTION 3.

64 All laws and parts of laws in conflict with this Act are repealed.