

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 807

Short Title: Modify Firearms Retrieval Process in DV Cases. (Public)

Sponsors: Representatives Carson Smith and Ward (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY AND CLARIFY PROVISIONS RELATED TO THE RETRIEVAL OF
3 FIREARMS, AMMUNITION, AND PERMITS SURRENDERED PURSUANT TO AN EX
4 PARTE, EMERGENCY, OR PERMANENT DOMESTIC VIOLENCE PROTECTIVE
5 ORDER.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 50B-3.1 reads as rewritten:
8 **"§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

9 ...
10 (e) Retrieval. – ~~If the court does not enter a protective order when the ex parte or~~
11 ~~emergency order expires, the~~ The defendant may retrieve any weapons or other related items
12 surrendered to the sheriff by any of the following methods, unless the court or the sheriff finds
13 that the defendant is precluded from owning or possessing a firearm pursuant to State or federal
14 law or final disposition of any pending criminal charges committed against the person that is the
15 subject of the current protective order.

16 (1) Upon order of the court after a finding that insufficient evidence exists to issue
17 a permanent domestic violence protective order following a hearing in which
18 both parties are present or in which the plaintiff fails to appear.

19 (2) Upon order of the court after the issuance of a permanent domestic violence
20 protective order in which the court removes any requirement that the
21 defendant surrender weapons and other related items to the sheriff, or upon
22 the court's modification of a permanent domestic violence protective order
23 that removes any requirement that the defendant surrender weapons and other
24 related items to the sheriff.

25 (3) Upon order of the court following a hearing held pursuant to subsection (f) of
26 this section.

27 (4) Upon the determination of the sheriff that at least 30 days have passed
28 following the expiration of the domestic violence protective order requiring
29 the surrender of the weapons and other related items.

30 ...
31 (h) Disposal of Firearms. – ~~If the~~ In any of the following circumstances, the sheriff who
32 has control of firearms, ammunition, or permits surrendered pursuant to this Chapter shall give
33 notice to the defendant and shall apply to the court for an order of disposition of the firearms,
34 ammunition, or permits:



- 1 (1) The defendant does not file a motion requesting the return of any firearms,
2 ammunition, or permits surrendered within the time period prescribed by this
3 section, if the section.
- 4 (2) The court determines that the defendant is precluded from regaining
5 possession of any firearms, ammunition, or permits surrendered, or if the
6 surrendered.
- 7 (3) The defendant or third-party owner fails to remit all fees owed for the storage
8 of the firearms or ammunition within 30 days of the entry of the order granting
9 the return of the firearms, ammunition, or permits, the sheriff who has control
10 of the firearms, ammunition, or permits shall give notice to the defendant, and
11 the sheriff shall apply to the court for an order of disposition of the firearms,
12 ammunition, or permits. permits.
- 13 (4) The defendant or third-party owner fails to retrieve the firearms, ammunition,
14 or permits within 60 days of the entry of the order granting the return of the
15 firearms, ammunition, or permits.

16 The ~~judge, court,~~ after a ~~hearing,~~ hearing held pursuant to this subsection, may order the
17 disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law,
18 including subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur,
19 any proceeds from the sale after deducting any costs associated with the sale, and in accordance
20 with all applicable State and federal law, shall be provided to the ~~defendant, if requested by the~~
21 ~~defendant by motion made before the hearing or at the hearing and if ordered by the~~
22 ~~judge,~~ sheriff's office for any remaining storage fees not remitted by the defendant or third-party
23 owner. Once all remaining storage fees have been paid, any remaining proceeds shall be provided
24 to the sheriff's office to be used for the general use of the office.

25 If the court receives an application from the sheriff pursuant to subdivision (4) of this
26 subsection, the judge may order any disposition of the firearms, ammunitions, or permits that is
27 authorized by this Chapter, except that the judge may not order the sheriff to retain custody of
28 the items solely for the purpose of retrieval by the defendant or third-party owner.

29 "

30 **SECTION 2.** This act is effective when it becomes law and applies (i) to firearms,
31 ammunition, and permits surrendered on or after that date and (ii) beginning 60 days after this
32 act becomes law, to firearms, ammunition, and permits surrendered before the date this act
33 becomes law.