

CHAPTER 2024-61

Committee Substitute for Senate Bill No. 1286

An act relating to the return of weapons and arms following an arrest; amending s. 790.08, F.S.; requiring that weapons, electric weapons or devices, or arms taken from a person pursuant to an arrest that are not either seized as evidence or seized and subject to forfeiture be returned to the person within a certain timeframe if specified conditions are met; authorizing a sheriff or chief of police to develop procedures to ensure the timely return of such weapons, electric weapons or devices, or arms; prohibiting a sheriff or chief of police from requiring a court order before releasing such weapons, electric weapons or devices, or arms; providing an exception; amending s. 933.14, F.S.; deleting a requirement for an order of a trial court judge to return a pistol or firearm taken by an officer for a breach of the peace; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 790.08, Florida Statutes, is amended to read:

790.08 Taking possession of weapons and arms; reports; disposition; custody.—

(1)(a) Every officer making an arrest under s. 790.07, or under any other law or municipal ordinance within the state, shall take possession of any weapons, electric weapons or devices, or arms mentioned in s. 790.07 found upon the person arrested and deliver them to the sheriff of the county, or the chief of police of the municipality wherein the arrest is made, ~~who shall retain the same until after the trial of the person arrested.~~

(b) Any weapons, electric weapons or devices, or arms that are taken from a person under paragraph (a) that are not either seized as evidence or seized and subject to forfeiture under ss. 932.701–932.7062 must be returned upon request to the person from whom the weapons, electric weapons or devices, or arms were taken within 30 days after such request is made if he or she meets all of the following criteria:

1. The person has been released from detention.
2. The person provides a form of government-issued photographic identification.
3. If requesting the return of a firearm, a completed criminal history background check confirms that the person is not prohibited from possessing a firearm under state or federal law, including not having any prohibition arising from an injunction, a risk protection order, or any other court order prohibiting the person from possessing a firearm.

(c) The sheriff or chief of police may develop reasonable procedures to ensure the timely return of weapons, electric weapons or devices, or arms which are not inconsistent with this subsection.

(d) The sheriff or chief of police may not require a court order to release weapons, electric weapons or devices, or arms that are not seized as evidence in a criminal proceeding unless there are competing claims of ownership of such weapons, electric weapons or devices, or arms.

Section 2. Subsection (3) of section 933.14, Florida Statutes, is amended to read:

933.14 Return of property taken under search warrant.—

~~(3) No pistol or firearm taken by any officer with a search warrant or without a search warrant upon a view by the officer of a breach of the peace shall be returned except pursuant to an order of a trial court judge.~~

Section 3. This act shall take effect July 1, 2024.

Approved by the Governor April 8, 2024.

Filed in Office Secretary of State April 8, 2024.