

§1504. Forfeiture of firearms

1. Mandatory forfeiture. As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

- A. That firearm constitutes the basis for conviction under:
 - (1) Title 15, section 393;
 - (2) Section 1105-A, subsection 1, paragraph C-1;
 - (3) Section 1105-B, subsection 1, paragraph C;
 - (4) Section 1105-C, subsection 1, paragraph C-1;
 - (5) Section 1105-D, subsection 1, paragraph B-1;
 - (6) Section 1105-E, subsection 1, paragraph B; or
 - (7) Section 1118-A, subsection 1, paragraph B; [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. The State pleads and proves that the firearm is used by the person or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13; or [PL 2019, c. 113, Pt. A, §2 (NEW).]
- C. The person, with the approval of the State, consents to the forfeiture of the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Prohibited forfeiture. Except as provided in subsection 3, 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 [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. For the crime of 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, 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. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exceptions to prohibited forfeiture. Notwithstanding subsection 2, paragraph A, the court shall order the forfeiture of a firearm even if another person meets the requirements of subsection 2, paragraph A if the person being sentenced was convicted of possessing a firearm in violation of Title 15, section 393 and, prior to the imposition of the person's sentence, the State satisfies the court by a preponderance of the evidence that the other person:

- A. Knew or should have known that the convicted person was prohibited from owning, possessing or controlling a firearm under Title 15, section 393; and [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. Intentionally, knowingly or recklessly allowed the convicted person to possess or have under the convicted person's control the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

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 that does not meet the prohibition from forfeiture under subsection 2, paragraph B must be destroyed by the State.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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