



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0824

Introduced 2/2/2005, by Rep. Careen M Gordon

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-6

from Ch. 38, par. 24-6

Amends the Criminal Code of 1961. Provides that when a firearm is seized from a criminal defendant and the defendant is found to be not guilty or the charges are dismissed, the court shall order the firearm returned not less than 7 days after the dismissal or acquittal. Provides that if the firearm is not returned within 7 days, the defendant may seek a writ of replevin and is entitled to attorney's fees and treble damages. Effective immediately.

LRB094 05556 RLC 35605 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 24-6 as follows:

6 (720 ILCS 5/24-6) (from Ch. 38, par. 24-6)

7 Sec. 24-6. Confiscation and disposition of weapons.

8 (a) Upon conviction of an offense in which a weapon was  
9 used or possessed by the offender, any weapon seized shall be  
10 confiscated by the trial court.

11 (b) Any stolen weapon so confiscated, when no longer needed  
12 for evidentiary purposes, shall be returned to the person  
13 entitled to possession, if known. After the disposition of a  
14 criminal case or in any criminal case where a final judgment in  
15 the case was not entered due to the death of the defendant, and  
16 when a confiscated weapon is no longer needed for evidentiary  
17 purposes, and when in due course no legitimate claim has been  
18 made for the weapon, the court may transfer the weapon to the  
19 sheriff of the county who may proceed to destroy it, or may in  
20 its discretion order the weapon preserved as property of the  
21 governmental body whose police agency seized the weapon, or may  
22 in its discretion order the weapon to be transferred to the  
23 Department of State Police for use by the crime laboratory  
24 system, for training purposes, or for any other application as  
25 deemed appropriate by the Department. If, after the disposition  
26 of a criminal case, a need still exists for the use of the  
27 confiscated weapon for evidentiary purposes, the court may  
28 transfer the weapon to the custody of the State Department of  
29 Corrections for preservation. The court may not order the  
30 transfer of the weapon to any private individual or private  
31 organization other than to return a stolen weapon to its  
32 rightful owner.

1       (b-1) When the defendant is found to be not guilty or the  
2 charges are dismissed, the court shall order the firearm  
3 returned not less than 7 days after the dismissal or acquittal.  
4 If the firearm is not returned within 7 days, the defendant may  
5 seek a writ of replevin and is entitled to attorney's fees and  
6 treble damages.

7       (b-2) The provisions of this Section shall not apply to  
8 violations of the Fish and Aquatic Life Code or the Wildlife  
9 Code. Confiscation of weapons for Fish and Aquatic Life Code  
10 and Wildlife Code violations shall be only as provided in those  
11 Codes.

12       (c) Any mental hospital that admits a person as an  
13 inpatient pursuant to any of the provisions of the Mental  
14 Health and Developmental Disabilities Code shall confiscate  
15 any firearms in the possession of that person at the time of  
16 admission, or at any time the firearms are discovered in the  
17 person's possession during the course of hospitalization. The  
18 hospital shall, as soon as possible following confiscation,  
19 transfer custody of the firearms to the appropriate law  
20 enforcement agency. The hospital shall give written notice to  
21 the person from whom the firearm was confiscated of the  
22 identity and address of the law enforcement agency to which it  
23 has given the firearm.

24       The law enforcement agency shall maintain possession of any  
25 firearm it obtains pursuant to this subsection for a minimum of  
26 90 days. Thereafter, the firearm may be disposed of pursuant to  
27 the provisions of subsection (b) of this Section.

28       (Source: P.A. 91-696, eff. 4-13-00.)

29       Section 99. Effective date. This Act takes effect upon  
30 becoming law.