§437. Permissible destruction or transfer of ownership to the State of a computer used in the commission of a crime

1. Notwithstanding any provision of law to the contrary and except as provided in subsection 3, the State may either permanently destroy or assume ownership of a computer that was used in the commission of a crime or that facilitated the commission of a crime if:

A. A person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or is found not criminally responsible of a crime committed using, or that was facilitated through the use of, the computer and all appeal periods have run and those proceedings have concluded; [PL 2013, c. 297, §3 (NEW).]

B. The opportunity for the computer to be forfeited to the State through proceedings at the presentencing stage has passed; and [PL 2013, c. 297, §3 (NEW).]

C. A person having a lawful property interest in the computer has not notified the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that the person wants to take possession of the computer. The written notification must be made to the criminal justice agency having custody of the computer. [PL 2013, c. 297, §3 (NEW).]

If the State assumes ownership of a computer pursuant to this subsection, all computer data stored on the computer must be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436.
[PL 2013, c. 297, §3 (NEW).]

2. A person who has a lawful property interest in a computer that was used to commit a crime or that facilitated the commission of a crime may take possession of the computer if:

A. The person notifies the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that a person committed a crime using, or that was facilitated by the use of, the computer and all appeal periods have run and those proceedings have concluded, that the person wants to take possession of that computer. The written notification must be made to the criminal justice agency having custody of the computer; [PL 2013, c. 297, §3 (NEW).]

B. The crime that was committed using, or that was facilitated through the use of, the computer is not a crime identified in chapter 12; and [PL 2013, c. 297, §3 (NEW).]

C. All computer data stored on the computer have been permanently destroyed pursuant to section 436. [PL 2013, c. 297, §3 (NEW).]
[PL 2013, c. 297, §3 (NEW).]

3. Notwithstanding subsection 2, a person having a lawful property interest in a computer may not take possession of that computer if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12. Notwithstanding subsection 1, the computer may be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436 if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12.

When the State receives a notification from a person who wishes to take possession of a computer pursuant to subsection 2, the State must respond to that notification within 60 days from the date the notification was received by the State. The State's response must include but is not limited to what actions, if any, the State will take regarding the computer identified in the notification.
[PL 2013, c. 297, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 297, §3 (NEW).

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