

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 1225  
Judiciary

(Delegate Kach)

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**Criminal Law - Drive-By Shooting - Forfeiture of Motor Vehicle**

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This bill prohibits a person, while in or having just exited a motor vehicle, from recklessly discharging a firearm at or toward another motor vehicle, a building, or another person. The bill does not establish criminal penalties for this offense. However, once a person is convicted for violating this prohibition, the court must order the forfeiture of a motor vehicle involved in the commission of the offense. The vehicle is to be forfeited to the State or a county, whichever jurisdiction initiated the investigation. If a court orders the forfeiture of a vehicle, the interest transferred to the State or a county is subordinate to the interest of the holder of a perfected security interest in the motor vehicle.

After discharging any perfected security interest in a forfeited motor vehicle, the Secretary of State Police or the local governing body of a county may (1) use the forfeited motor vehicle for public purpose or (2) sell, exchange, or convey the forfeited motor vehicle. Any money received from the sale, exchange, or conveyance of a forfeited motor vehicle must be deposited in the general fund of the State or the general fund of the county.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues from the proceeds of forfeited property. It is expected that the bill's provisions can be implemented with existing resources.

**Local Effect:** Potential minimal increase in local revenues from the proceeds of forfeited property. It is expected that the bill's provisions can be implemented with existing resources.

**Small Business Effect:** None.

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### **Analysis**

**Current Law:** Reckless endangerment is (1) engaging in conduct that creates a substantial risk of death or serious physical injury to another or (2) discharging a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. The offense is a misdemeanor, punishable by imprisonment for up to five years and/or a \$5,000 maximum fine. The prohibited conduct involving the discharge of a firearm does not apply to a law enforcement officer or security guard in the performance of an official duty or an individual acting in self defense against a crime of violence.

**Local Revenues:** The bill's requirement that proceeds from the sale, exchange, or conveyance of a forfeited motor vehicle must be deposited in a county's general fund may contradict existing policy in some jurisdictions. For example, Charles County advises that its county commissioners have adopted a local resolution that requires funding from the Local and State Asset Forfeiture Program to be placed in a special revenue fund. Revenues in the fund are distributed as follows: 50% to the Charles County Sheriff's Office; 20% to the County Commissioners Office; and 30% to the State's Attorney's Office. Fund revenues may only be spent on finance costs associated with drug enforcement and education.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles, Frederick, and Montgomery counties; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2013  
mc/kdm

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