

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1264
Judiciary

(Delegate Clippinger)

Criminal Procedure - Right of Appeal - Unlawful Possession of Firearm

This bill authorizes the State, in a case involving a violation of the State's prohibitions on the unlawful possession of a regulated firearm under § 5-133 of the Public Safety Article, the unlawful possession of a rifle or shotgun by a person (general) under § 5-205 of the Public Safety Article, or the unlawful possession of a rifle or shotgun by a person with specified prior convictions under § 5-206 of the Public Safety Article, to appeal from a decision of a trial court that (1) excludes evidence offered by the State or (2) requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: The State may appeal from a final judgment granting a motion to dismiss or quashing or dismissing any indictment, information, presentment, or inquisition. The State may appeal from a final judgment if the State alleges that the trial judge (1) failed to impose the sentence specifically mandated by the Maryland Code or (2) imposed or modified a sentence in violation of the Maryland Rules.

In a case involving a crime of violence as defined in § 14-101 of the Criminal Law Article, and in cases involving specified controlled dangerous substances offenses, the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights.

The appeal must be made before jeopardy attaches to the defendant. However, in all cases, the appeal must be taken no more than 15 days after the decision has been rendered and must be diligently prosecuted.

State Fiscal Effect: The Judiciary advises that it does not anticipate a significant fiscal or operational impact on the courts from the bill. The Department of Legislative Services advises that any additional appeals resulting from the bill can be managed with the existing resources of the Office of the Attorney General and the Office of the Public Defender.

Additional Information

Prior Introductions: None.

Cross File: Although SB 965 (Senator McFadden - Judicial Proceedings) is designated as a cross file, it is not identical.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2016
kb/kdm

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