

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 341
Judicial Proceedings

(Senator Mooney)

**Criminal Law - Theft or Unauthorized Use of Motor Vehicle - Admissibility of
Owner Affidavit**

This bill provides that, under certain circumstances, the State may introduce an affidavit by the lawful owner of a motor vehicle involved in a motor vehicle theft case as substantive evidence that the vehicle was taken from the lawful owner and operated, used, or possessed without the owner's authorization.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on judicial operations or finances.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Bill Summary: An affidavit by the owner of a motor vehicle that is the subject of a criminal prosecution for alleged theft, taking, or unauthorized use may be introduced into evidence to show that:

- the vehicle was taken unlawfully from the owner without the owner's authorization; and
- the defendant did not have permission of the owner to operate, use, or possess the motor vehicle.

At least 30 days before a trial in which the State plans to introduce an affidavit, the State must provide written evidence to the defendant that it intends to:

- rely on the affidavit; and
- introduce the affidavit into evidence at the proceeding.

If the defendant files a written demand at least 20 days before the trial, the State must require the affiant to be present as a prosecution witness at the proceeding. A defendant's failure to provide timely notice to the court and to the State constitutes a waiver of the defendant's right to confront the owner and compel the owner's attendance and testimony at trial.

Current Law: The Sixth Amendment to the U.S. Constitution and Article 21 of the Maryland Declaration of Rights grant criminal defendants the right to be confronted with the witnesses against them.

Background: In fiscal 2003, the District Court received 5,362 cases with a charge of motor vehicle theft. The circuit courts received 194 such cases for adults and an additional 150 juvenile cases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), State's Attorneys' Association, Department of Legislative Services

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mh/jr

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