

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 773

(Chairman, Judiciary Committee)

(By Request – Departmental – State Police)

Judiciary

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

This departmental bill allows the State to introduce an affidavit of the owner of a motor vehicle as evidence that the motor vehicle was stolen and that the defendant did not have permission to operate, use, or possess the motor vehicle. The State must provide the defendant with a copy of the affidavit and written notice that the State intends to rely on the affidavit, as opposed to the testimony of the owner, at least 30 days before trial. The defendant may require that the State compel the attendance of the owner by notifying the court and the State at least 20 days before trial. If the defendant files notice, the affidavit is inadmissible at trial without the attendance and testimony of the owner. The failure of the defendant to file notice constitutes a waiver of the right to confront the owner and compel testimony.

Fiscal Summary

State Effect: None. The change would not materially affect governmental operations or finances.

Local Effect: None – see above.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

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.

Affidavits, without the appearance and testimony of the affiant, are generally inadmissible at trial. In some cases, an affidavit could fall under the catch-all exception to the hearsay rule. In order for a statement that does not fall under any exceptions to the hearsay rule to be admissible, it must (1) be offered as evidence of a material fact; (2) be more probative on the point for which it was offered than any other evidence that the proponent could obtain with reasonable efforts; and (3) serve the general interest of the rules and justice if admitted into evidence.

Background: In 2003, there were 35,627 vehicle thefts in Maryland. Ninety percent of the thefts were reported in Anne Arundel, Baltimore, Montgomery, and Prince George's counties and Baltimore City.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 4, 2005
ncs/jr

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