

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 818

(Senator Mooney, *et al.*)

Judicial Proceedings

Public Safety - Law Enforcement Agencies - Return of Personal Property to Owner

This bill provides for the return of personal property by a law enforcement agency to the owner of the property.

Fiscal Summary

State Effect: None. The bill's provisions could be accommodated with existing budgeted resources of State law enforcement units.

Local Effect: None. The bill's provisions could be accommodated with existing budgeted resources of local law enforcement units.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a law enforcement agency to hold personal property that comes into the possession of the agency until the agency determines that the property is no longer needed in connection with a prosecution. After the law enforcement agency determines that personal property is no longer needed in connection with a prosecution, the agency must deliver the property to the person who satisfactorily establishes the right to possession of the property and gives a proper receipt for the property.

A person who is identified on the law enforcement agency's records as the party from whom the personal property was stolen, seized, or otherwise taken is presumed to have satisfactorily established the right of possession to the property. Within 30 days after

personal property has been in the possession of the law enforcement agency and the agency determines that the property is no longer needed in connection with a prosecution but may not be returned to the owner of the personal property due to a legal disqualification to possess the personal property, the agency must: (1) give notice to the owner that the owner may sell or transfer title to the property to a third party who is not disqualified to possess the personal property; and (2) release the property to the third party on receipt of written notice of the sale or transfer by the owner.

These provisions do not apply to:

- personal property in the possession of the Department of State Police (DSP);
- personal property purchased or otherwise acquired for use by a law enforcement agency; or
- contraband.

Current Law: DSP is the only law enforcement unit in the State covered by a return of personal property provision. DSP must hold personal property that comes into its possession until DSP determines that the property is no longer needed in connection with a prosecution. After DSP determines that personal property is no longer so needed, DSP must deliver the property to the person who satisfactorily establishes the right to possession of the property and gives a proper receipt for the property.

At any time after personal property has been in the possession of DSP for six months and DSP determines that the property is no longer needed in connection with a prosecution, DSP must:

- give notice of the sale of the property by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence; and
- publish a description of the property and the time, place, and terms of the sale of the property in a newspaper of general circulation in Baltimore City in each of two successive weeks.

After complying with these requirements, DSP may sell the property at public auction. The terms and manner of sale may be established by rule. The certificate of DSP that personal property has been sold under these provisions is sufficient evidence of title to the property for all purposes, including the right to obtain a certificate of title or registration from an appropriate unit of the State.

The amount received from the sale of personal property in accordance with these provisions must be distributed in the following order of priority:

- to the department in an amount equal to the expense of sale and all expenses incurred while the property was in the possession of the department;
- to lienholders in order of their priority; and
- to the general fund.

At any time within three years after the date of a sale, a person who submits satisfactory proof of the right to possession of the property must be paid, without interest, the amount distributed to the general fund. A claim under this provision is barred if more than three years has passed since the date of a sale.

These provisions do not create or recognize any cause, action, or defense or abridge any immunity now or in the future held by DSP, the Secretary of State Police, or an employee of DSP. These provisions do not apply to personal property purchased or otherwise acquired for use by DSP or to contraband.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Department of Natural Resources, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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mp/jr

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