

**Department of Legislative Services**

Maryland General Assembly

2007 Session

**FISCAL AND POLICY NOTE**

**Revised**

Senate Bill 974

(Chair, Judicial Proceedings Committee)

(By Request – Departmental – State Police)

Judicial Proceedings

Judiciary

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**Department of State Police - Disposal of Property - Holding Period**

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This departmental bill reduces, from six to three months, the period of time that personal property no longer needed for a prosecution is held by the Department of State Police (DSP) before DSP must give notice to specified persons, including a lienholder, of the sale of the property. The requirements relating to disposal of personal property in the possession of the Department of State Police do not apply to personal property retained by the department for use as evidence in a criminal prosecution and do not supersede statutory provisions for seizure and forfeiture.

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**Fiscal Summary**

**State Effect:** This bill would allow auction revenue to be deposited to the general fund once per year, rather than every 18 months. Accordingly, while this bill would promote and maintain operational efficiencies for DSP, it is not expected to significantly impact its overall operations or finances.

**Local Effect:** None.

**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. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Current Law:** DSP must hold personal property that comes into its possession until the property is no longer needed in connection with a prosecution. After such a determination, 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 it is determined 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 persons entitled to its possession and to lienholders whose names and addresses can be ascertained; and
- publish a description of the property and the time, place, and terms of its sale in a newspaper of general circulation in Baltimore City for 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 such property must be distributed in the following order of priority:

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

At any time within three years after the date of a sale of the property, 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, or an employee of DSP. These provisions do not apply to personal property purchased or otherwise acquired for use by DSP or to contraband.

Chapter 215 of 2003 provided that county sheriffs must possess lawfully confiscated property for at least one year before they can sell or dispose of the property. The Act also decreased from one year to 90 days the minimum time period that county sheriffs must possess abandoned or recovered property before they can sell or dispose of the property.

**Background:** Personal property not needed in connection with a prosecution that is recovered or found by State Troopers is maintained at the local barracks until disposed of by sale or destruction. The DSP Property Unit sells or disposes of about 2,500 items of such property annually – usually via auction. The department’s 23 barracks dispose of hundreds of additional items by auction locally.

The Property Unit’s auctions occur every 18 months, netting about \$30,000 at each one, which is deposited in the general fund. DSP advises that this bill would alleviate backlogs of storage space for the Property Unit and auctions could be held more frequently.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - March 12, 2007  
mll/jr Revised - Enrolled Bill - May 4, 2007

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