

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1067

(Delegate Anderson, *et al.*) (By Request – Baltimore City
Administration)

Judiciary

Judicial Proceedings

Local Law Enforcement Agencies - Disposal of Personal Property

This bill provides for the disposal of personal property in the possession of a local law enforcement unit after the property is no longer needed for a prosecution or, if the property is not connected with a prosecution, retention is no longer relevant to the agency. Personal property that is used as evidence in a criminal prosecution must be retained by a local law enforcement agency in the same manner as other evidence retained by the agency.

Fiscal Summary

State Effect: None.

Local Effect: This bill would eliminate the need for Baltimore City to privately warehouse unneeded property, producing an annual savings of about \$102,000. The bill's provisions would also lead to additional auction proceeds for the city, which cannot be reliably quantified at this time and would tend to vary from year to year. The bill is not expected to produce any measurable change in revenues or expenditures for other jurisdictions.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires that a county or municipal law enforcement agency hold personal property that comes into the possession of the agency until the agency

determines that the property is no longer needed for a prosecution or, if the property is not connected with a prosecution, retention is no longer relevant to the agency. After such a determination is made, the local law enforcement agency must notify the owner of the property that the agency is in possession of the property. After notification, the owner of the property has up to 30 days to secure the immediate release of the property to the owner or the owner's designee with proper identification.

At any time after personal property has been in the possession of a local law enforcement agency for three months and after the agency determines that the property is no longer needed for a prosecution or, if the property is not connected with a prosecution, retention is no longer relevant to the agency, the local law enforcement agency is required to:

- 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 the county or municipality for two successive weeks.

The bill provides for when a local law enforcement agency may subsequently sell the property at public auction, including how rights to title or certification of title of the property may be obtained. The distribution of any proceeds from a sale is required to be made in a specified priority order.

At any time within three years after the date of a sale under the provisions of the bill, a person who submits satisfactory proof of the right to possession of the property must be paid, without interest, the amount distributed to a county or municipal general fund. Such a claim is barred if more than three years have passed.

These provisions do not create or recognize any cause, action, or defense or abridge any immunity now or in the future held by a local law enforcement agency or an employee of a local law enforcement agency. These provisions do not apply to (1) personal property purchased or otherwise acquired for use by a local law enforcement agency or to contraband; or (2) personal property retained for use as evidence in a criminal prosecution. The bill does not supersede statutory provisions governing seizure and forfeiture.

Current Law: Similar provisions now apply only to the Department of State Police (DSP).

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.

Background: Baltimore City reports that its Evidence Control Room, which houses all property recovered by city police officers, is currently full. Retention of incoming property is now being outsourced. Currently, to hold the overflow of personal property,

Baltimore City rents a warehouse and office space at an annual cost of \$102,425. The annual payment includes liability insurance, security and the payment of utilities.

Baltimore City also reports that the last public auction of any city held property was conducted in August 2006 and generated approximately \$50,000 in revenue. Auctions in the city are generally held every six to eight months and on average generate about \$20,000 in revenue.

Additional Information

Prior Introductions: None.

Cross File: SB 662 (Senators McFadden and Gladden) (By Request – Baltimore City Administration) – Judicial Proceedings.

Information Source(s): City of College Park, Baltimore City, Somerset County, Montgomery County, Prince George's County, Charles County, Baltimore County, Frederick County, Department of Public Safety and Correctional Services, Department of Legislative Services

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