

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 68 (Senator Middleton)
Judicial Proceedings

**Criminal Procedure - Reports to Crime Stoppers Organization - Inadmissibility
and Confidentiality**

This bill renders inadmissible in a court proceeding evidence of or information contained in communication between an individual reporting alleged criminal activity to a “Crime Stoppers” organization and the individual who accepts the report on behalf of the organization. The bill also prohibits a law enforcement agency from revealing the identity of an individual who reported information concerning alleged criminal activity to a “Crime Stoppers” organization under a promise of anonymity.

Fiscal Summary

State Effect: None. The change is procedural/technical in nature and does not directly affect governmental finances.

Local Effect: None. The change is procedural/technical in nature and does not directly affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “Crime Stoppers” organization as a private nonprofit Maryland corporation governed by a civilian volunteer board of directors operated on a local or statewide level that (1) offers anonymity to individuals who provide information to the corporation; (2) accepts and distributes cash rewards for information concerning alleged criminal activity that the corporation forwards to appropriate law enforcement

agencies; and (3) is established as part of a cooperative alliance between the news media, the community, and law enforcement officials.

Current Law: There are no provisions in State law that specifically exclude from evidence reports made to organizations that help law enforcement agencies solve crimes or the identities of individuals who provide tips to these organizations under a promise of anonymity.

Under the Public Information Act, a custodian may deny inspection of investigatory records if the inspection would disclose the identity of a confidential source, would endanger the life or physical safety of an individual, or would constitute an unwarranted invasion of personal privacy. (*See* State Government Article, §10-618.)

In a criminal case, the prosecution has a duty to disclose material, exculpatory evidence to the defense. However, information pertaining to confidential informants not intending to testify is not discoverable.

The State may withhold the identity of an informant “to further and protect the public’s interest in effective law enforcement.” *Faulkner v. State*, 73 Md. App. 511, 519, 534 A.2d 1380, 1384 (1988) quoting *Howard v. Smith*, 66 Md. App. 273, 285-86, 503 A.2d 739 (1986). However, this privilege may be rebutted by a preponderance of the evidence showing that information concerning the informant is necessary and relevant to a fair defense. The court does not have to exercise this discretion unless the defense properly demands the disclosure of an informant’s identity. Courts have also distinguished informants who actively participated in the crime or activities associated with the crime from tipsters who were removed from the crime and merely provided pertinent information to law enforcement or affiliated organizations.

Background: Several organizations exist in Maryland that fit the bill’s definition of a “Crime Stoppers” organization. These organizations solicit tips from the public on alleged crimes to assist law enforcement agencies. The organizations offer cash rewards if the information provided leads to a particular outcome, usually an arrest or indictment for the crime in question. One of the inducements for individuals to provide claims to these organizations is the promise of anonymity. Tipsters are not required to provide their names, and some organizations offer identification numbers to individuals who contact them. Typically, tips can be made by telephone, text messaging, or the Internet.

Some states have enacted statutes to protect the anonymity of tipsters and tips provided to Crime Solvers organizations from efforts by defense attorneys during the discovery process. Louisiana, New Mexico, South Carolina, Texas, and Virginia all have laws that provide some level of statutory protection for information gathered by these types of

organizations. The North Carolina Governor's Crime Commission included similar legislation in its *2009 Legislative and Policy Agenda*.

Additional Information

Prior Introductions: SB 375 of 2009 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 286, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Cecil, Carroll, Harford, and Montgomery counties; Judiciary (Administrative Office of the Courts); Texas Crime Stoppers; North Carolina Governor's Crime Commission, *2009 Legislative Policy Agenda*; Office of the Attorney General, *Maryland Public Information Act Manual (11th Ed.)* October 2008; Department of State Police; Department of Legislative Services

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