

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 138  
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

---

**Law Enforcement – Federal Military Surplus Program – Equipment Acquisition**

---

This bill requires the Department of State Police (DSP), by February 1 each year, to report to the Governor and the General Assembly on the acquisition of equipment by law enforcement agencies through “surplus programs” within the preceding calendar year. DSP must include in a prominent location on its public website a link to the Defense Logistics Agency’s report listing excess Department of Defense (DOD) property transfers to law enforcement agencies through the Law Enforcement Support Office. **The bill terminates September 30, 2022.**

---

**Fiscal Summary**

**State Effect:** DSP can post and report the required information with existing resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

---

**Analysis**

**Bill Summary:** “Surplus program” means a program operated by the federal government for the transfer of surplus military equipment to a law enforcement agency.

**Current Law/Background:** State and local law enforcement agencies can obtain excess federal property at little or no cost through the 1033 Program, the 1122 Program, and the Surplus Property Donation Program.

*The 1033 Program:* The National Defense Authorization Act (NDAA) specifies the budget and expenditures of DOD. The authorization bill determines the agencies responsible for defense, establishes funding levels, and sets the policies under which money will be spent. In the NDAA for federal fiscal 1990 and 1991, the U.S. Congress authorized the transfer, without charge, of excess DOD personal property to federal and state agencies for use in counter-drug activities. The U.S. Congress later passed the NDAA for federal fiscal 1997, in which Section 1033 granted permanent authorization for all law enforcement agencies to acquire property for bona fide law enforcement purposes, especially counter-drug and counter-terrorism activities. The program is commonly referred to as the 1033 Program. The program has allowed law enforcement agencies to acquire vehicles (land, air, and sea), weapons, computer equipment, fingerprint equipment, night-vision equipment, radios and televisions, first-aid equipment, tents and sleeping bags, and photographic equipment, among other items.

*The 1122 Program:* The NDAA for federal fiscal 1994 contained Section 1122, which allows state and local governments to purchase new law enforcement equipment for counter-drug activities through the federal government. The law allows transfer of excess DOD property that might otherwise be destroyed to law enforcement agencies across the United States and its territories.

*Surplus Property Donation Program:* The Federal Surplus Property Donation Program enables certain nonfederal organizations, such as local jurisdictions (states, cities, counties, towns, and villages) and nonprofit organizations, to obtain surplus property from the federal government based on an application process. Law enforcement agencies enrolled in the 1033 Program are among the governmental agencies eligible to obtain property from the program.

Personal property includes all types and categories of property, except land and real property, certain naval vessels, and records of the federal government. Examples of surplus property are (1) communication and electronic equipment, including computers; (2) furniture/motor vehicles/clothing/medical equipment supplies; (3) hand and machine tools, appliances, hardware, and boats; and (4) construction equipment and airplanes/generators.

**Additional Comments:** DSP has been designated as the primary point of contact for federal military surplus program acquisitions within the State. Thus, all property received into the State from such programs goes through DSP. DSP receives the equipment and then forwards it to the requesting agency. DSP retains a list of all property acquired through the programs and which agency received the equipment.

## **Additional Information**

**Prior Introductions:** HB 240 of 2018 passed the House with amendments, but received no further action from the Senate Judicial Proceedings Committee. Its cross file, SB 661, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** SB 210 (Senator Lee) - Judicial Proceedings.

**Information Source(s):** Cities of Bowie and Takoma Park; Comptroller's Office; University System of Maryland; St. Mary's College of Maryland; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; U.S. Department of Justice; Defense Logistics Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2019  
mm/lgc Third Reader - March 14, 2019  
Revised - Amendment(s) - March 14, 2019  
Enrolled - April 5, 2019  
Revised - Amendment(s) - April 5, 2019

---

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510