

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1085  
Judiciary

(Delegate W. Fisher, *et al.*)

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**Criminal Procedure - Appeals - Unlawful Possession of a Firearm**

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This bill expands the list of cases in which the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of seized property to include cases under §§ 5-133 (unlawful possession of a regulated firearm), 5-205 (unlawful possession of a rifle or shotgun by a person – general), and 5-206 (unlawful possession of a rifle or shotgun by a person with specified prior convictions) of the Public Safety Article.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances or operations.

**Local Effect:** The bill is not expected to materially affect local finance or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** In a case involving a crime of violence as defined in § 14-101 of the Criminal Law Article, and in cases involving specified controlled dangerous substances offenses, the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights. The appeal must be made before jeopardy attaches to the defendant. However, in all cases, the appeal must be taken no more than 15 days after the decision has been rendered and must be diligently prosecuted.

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## **Additional Information**

**Prior Introductions:** HB 692 of 2018, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. SB 126 of 2018, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 1264 of 2016, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 965, passed the Senate with amendments but received an unfavorable report from the House Judiciary Committee.

**Designated Cross File:** SB 468 (Senator West) - Judicial Proceedings.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2020  
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