

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 615
Judiciary

(Delegate Anderson, *et al.*)

Criminal Procedure - Evidence - Exclusionary Rule

This bill prohibits a court from recognizing an exception to the exclusionary rule for (1) good faith exercised by police or other governmental agents obtaining evidence; (2) the doctrine of inevitable discovery; (3) the doctrine of attenuation; (4) a criminal defendant's lack of standing; or (5) a criminal defendant's lack of a reasonable expectation of privacy.

The following terms retain their judicially determined meanings: attenuation; exclusionary rule; good faith; hearsay; inevitable discovery; reasonable expectation of privacy; and standing.

Fiscal Summary

State Effect: The bill is procedural and is not expected to materially affect State finances.

Local Effect: The bill is procedural and is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Bill Summary: A court may not limit the scope of the exclusionary rule to hearsay that is testimonial; hearsay that is sworn, certified, or solemn; or formalized testimonial materials.

The court may only review probable cause of a search warrant by *de novo* review, and each criminal defendant has standing to file a motion to suppress evidence or exclude illegally or unconstitutionally obtained evidence. Also, a court may not admit evidence directly or

indirectly obtained in violation of a defendant's right to confront and cross-examine witnesses against the defendant.

Current Law: Maryland does not have a codified version of the exclusionary rule. In general, the exclusionary rule requires that if evidence was obtained in violation of constitutional search and seizure protections, the evidence is inadmissible at trial.

“Standing” typically refers to an individual's capacity to participate in a lawsuit. In order to demonstrate standing, an individual usually has to demonstrate that he/she experienced an adverse effect from the law or action in question, which will continue unless the court grants relief.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of State Police, *Black's Law Dictionary*, Department of Legislative Services

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kb/kdm

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