

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1288
Judiciary

(Delegate Buckel, *et al.*)

Criminal Procedure - Forfeiture of Firearms - Sale to Dealer

This bill authorizes a law enforcement unit that sought forfeiture of a firearm in relation to a violation of a gun law to sell, exchange, or transfer the forfeited firearm to a federally licensed firearms dealer.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from the sale of forfeited firearms. The bill's changes can be handled with existing budgeted resources.

Local Effect: Potential minimal increase in local revenues from the sale of forfeited firearms. The bill's changes can be handled with existing local resources.

Small Business Effect: Minimal.

Analysis

Current Law: Whenever property is forfeited in relation to a violation of a gun law, the law enforcement unit that sought forfeiture of the property may only (1) order the property retained for the official use of the law enforcement unit; (2) destroy the forfeited property; or (3) sell, exchange, or transfer the forfeited property to another law enforcement unit for official use by that unit. Within 30 days after disposing of forfeited property, a law enforcement unit must send to the Secretary of State Police (1) a description of the property forfeited; (2) the type of disposition made; and (3) the identity of the person to whom the property was transferred for disposal, retention, or official use.

Background: In *Serio v. Baltimore County*, the Court of Appeals of Maryland held that felons who have had firearms seized by the police retain a property interest in the firearms even though they are not allowed to possess them. (*Serio v. Baltimore County*, 384 Md. 373 (2004)). The Court applied Article 24 of the Maryland Declaration of Rights in holding that the petitioner was entitled to due process protection against the wrongful retention of his property. The firearms were not contraband *per se* and the petitioner had not been convicted of possession of the firearms, so Baltimore County had no right to retain them without compensating the owner.

Additional Information

Prior Introductions: SB 664 of 2019 passed the Senate, as amended, and was referred to the House Rules and Executive Nominations Committee, but no further action was taken. Its cross file, HB 1146, received a hearing in the House Judiciary Committee, but no further action was taken. SB 604 of 2018, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 724, received a hearing in the House Judiciary Committee, but no further action was taken.

Designated Cross File: SB 290 (Senator Edwards, *et al.*) - Judicial Proceedings.

Information Source(s): Montgomery, Washington, and Worcester counties; cities of Salisbury and Westminster; towns of Bel Air and Leonardtown; Department of Natural Resources; Department of State Police; Department of Legislative Services

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