

**Department of Legislative Services**  
Maryland General Assembly  
2021 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 599

(Senators Smith and West)

Judicial Proceedings

Judiciary

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**Maryland Police Accountability Act of 2021 - Surplus Military Equipment**

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This bill prohibits a law enforcement agency from receiving the following equipment from a surplus program operated by the federal government: (1) a weaponized aircraft, drone, or vehicle; (2) a “destructive device”; (3) a “firearm silencer”; or (4) a grenade launcher.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State expenditures, as discussed below. Revenues are not affected.

**Local Effect:** The bill is not anticipated to materially affect local expenditures, as discussed below. Revenues are not affected.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*Relevant Definitions*

The Criminal Law Article defines “destructive device” as explosive material, incendiary material, or toxic material that is (1) combined with a delivery or detonating apparatus so as to be capable of inflicting injury to persons or damage to property or (2) deliberately modified, containerized, or otherwise equipped with a special delivery, activation, or detonation component that gives the material destructive characteristics of a military ordinance. “Destructive device” includes a bomb, grenade, mine, shell, missile,

flamethrower, poison gas, Molotov cocktail, pipe bomb, and petroleum-soaked ammonium nitrate.

The Criminal Law Article defines “firearm silencer” as a device that is designed for silencing, muffling, or diminishing the report of a firearm. “Firearm silencer” includes a combination of parts designed, redesigned, or intended for use in assembling or fabricating a firearm silencer or muffler.

#### *Report on the Acquisition of Equipment by Law Enforcement Agencies*

The Department of State Police (DSP), by February 1 each year, must 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.

#### *Prohibition on the Procurement of Specified Military Equipment – Johns Hopkins University Police Department*

Chapter 25 of 2019, among other things, authorizes Johns Hopkins University to create a police department and to set forth related requirements. If the university establishes a police department, the police department may not acquire any military grade vehicles or military grade hardware, including (1) an armored *or weaponized aircraft, drone, or vehicle* or (2) a weapon designated as a Title II weapon under the National Firearms Act. Generally, Title II weapons include machine guns, silencers, short barreled-rifles, short barreled-shotguns, and destructive devices. In addition, the police department may not accept any of the specified items from a program operated by the federal government for the transfer of surplus military equipment to a law enforcement agency. However, if the specified armored or weaponized vehicles are available for commercial sale in the State, Johns Hopkins University, at its own expense, may purchase the items for the police department.

#### *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.

**State/Local Expenditures:** DSP advises that federal regulations prohibit the transfer of weaponized vehicles to state and local law enforcement agencies. DSP further advises that State and local law enforcement agencies in Maryland do not currently acquire destructive devices, firearm silencers, or grenade launchers from federal surplus programs. Accordingly, the bill is not anticipated to materially affect State or local government expenditures.

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### **Additional Information**

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

**Designated Cross File:** None.

**Information Source(s):** Prince George's County; cities of Annapolis and Bowie; Maryland Municipal League; St. Mary's College of Maryland; Department of General Services; Department of Natural Resources; Department of State Police; Military Department; U.S. Department of Defense; Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2021  
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