

HOUSE BILL 429

E4

8lr1841
CF SB 265

By: **Chair, Anne Arundel County Delegation (By Request – County Executive)**

Introduced and read first time: January 24, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County – Personal Property – Possession and Release**

3 FOR the purpose of authorizing, in Anne Arundel County, a certain law enforcement agency
4 to retain, donate, or dispose of certain personal property under certain
5 circumstances; providing that if certain property is retained or donated, a certain
6 certificate is sufficient evidence of title for certain purposes; and generally relating
7 to Anne Arundel County and the possession and release of personal property by law
8 enforcement.

9 BY repealing and reenacting, with amendments,
10 Article – Public Safety
11 Section 3–505
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2017 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Public Safety**

17 3–505.

18 (a) In this section, “local law enforcement agency” means the police department
19 of a county or municipal corporation in the State.

20 (b) (1) This section does not apply to personal property purchased or otherwise
21 acquired for use by a local law enforcement agency or to contraband.

22 (2) This section does not apply to personal property retained by a local law
23 enforcement agency for use as evidence in a criminal prosecution.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) This section does not supersede the provisions for seizure and forfeiture
2 contained in Titles 12 and 13 of the Criminal Procedure Article.

3 (c) (1) Except as provided in paragraph (2) of this subsection, the local law
4 enforcement agency shall hold personal property that comes into the possession of the local
5 law enforcement agency until the local law enforcement agency determines that:

6 (i) the property is no longer needed in connection with a
7 prosecution; or

8 (ii) if the property is not connected to a prosecution, retention of the
9 property is no longer relevant to the local law enforcement agency.

10 (2) Personal property that is used as evidence in a criminal prosecution
11 shall be retained by a local law enforcement agency in the same manner as other evidence
12 retained by the agency.

13 (d) (1) After a local law enforcement agency determines that personal property
14 is no longer needed in connection with a prosecution or retention of the property is no longer
15 relevant to the local law enforcement agency, the local law enforcement agency shall notify
16 the owner of the property that the local law enforcement agency is in possession of the
17 property.

18 (2) After notification, the owner of the property has up to 30 days to secure
19 the immediate release of the property to the owner or the owner's designee with proper
20 identification.

21 (e) (1) At any time after personal property has been in the possession of a local
22 law enforcement agency for 3 months and the local law enforcement agency determines that
23 the property is no longer needed in connection with a prosecution or retention of the
24 property is no longer relevant to the local law enforcement agency, the local law
25 enforcement agency shall:

26 (i) give notice of the sale of the property by registered or certified
27 mail to those persons entitled to its possession and to those lienholders whose names and
28 addresses can be ascertained by the exercise of reasonable diligence; and

29 (ii) publish a description of the property and the time, place, and
30 terms of the sale of the property in a newspaper of general circulation in the county or
31 municipal corporation in each of two successive weeks.

32 (2) After complying with the requirements of paragraph (1) of this
33 subsection, the local law enforcement agency may sell the property at public auction.

34 (3) The terms and manner of sale may be established by rule.

1 (f) (1) IN ANNE ARUNDEL COUNTY, IN ADDITION TO SELLING THE
2 PROPERTY AT PUBLIC AUCTION UNDER SUBSECTION (E) OF THIS SECTION, AT ANY
3 TIME AFTER PERSONAL PROPERTY HAS BEEN IN THE POSSESSION OF A LOCAL LAW
4 ENFORCEMENT AGENCY FOR 3 MONTHS AND THE LOCAL LAW ENFORCEMENT
5 AGENCY DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED IN CONNECTION
6 WITH A PROSECUTION OR RETENTION OF THE PROPERTY IS NO LONGER RELEVANT
7 TO THE LOCAL LAW ENFORCEMENT AGENCY, THE LOCAL LAW ENFORCEMENT
8 AGENCY SHALL GIVE NOTICE OF THE RETENTION, DONATION, OR DISPOSAL OF THE
9 PROPERTY BY REGISTERED OR CERTIFIED MAIL TO THOSE PERSONS ENTITLED TO
10 ITS POSSESSION AND TO THOSE LIENHOLDERS WHOSE NAMES AND ADDRESSES CAN
11 BE ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE.

12 (2) AFTER COMPLYING WITH THE REQUIREMENTS OF PARAGRAPH (1)
13 OF THIS SUBSECTION, THE LOCAL LAW ENFORCEMENT AGENCY MAY:

14 (I) RETAIN THE PROPERTY FOR USE BY ANNE ARUNDEL
15 COUNTY;

16 (II) DONATE THE PROPERTY TO A NONPROFIT ORGANIZATION;
17 OR

18 (III) IF THE PROPERTY HAS NO OR NOMINAL VALUE, DISPOSE OF
19 THE PROPERTY IN A MANNER DETERMINED BY THE COUNTY.

20 (G) (1) The certificate of the local law enforcement agency that personal
21 property has been sold under this section is sufficient evidence of title to the property for
22 all purposes, including the right to obtain a certificate of title or registration from an
23 appropriate unit of the State.

24 (2) IN ANNE ARUNDEL COUNTY, IF THE PERSONAL PROPERTY IS
25 RETAINED OR DONATED UNDER SUBSECTION (F) OF THIS SECTION, THE
26 CERTIFICATE OF THE LOCAL LAW ENFORCEMENT AGENCY THAT THE PERSONAL
27 PROPERTY HAS BEEN RETAINED OR DONATED IS SUFFICIENT EVIDENCE OF TITLE
28 TO THE PROPERTY FOR ALL PURPOSES, INCLUDING THE RIGHT TO OBTAIN A
29 CERTIFICATE OF TITLE OR REGISTRATION FROM AN APPROPRIATE UNIT OF THE
30 STATE.

31 [(g)] (H) (1) The amount received from the sale of personal property in
32 accordance with this section shall be distributed in the following order of priority:

33 (i) first, to the local law enforcement agency in an amount equal to
34 the expense of sale and all expenses incurred while the property was in the possession of
35 the local law enforcement agency;

1 (ii) second, to lienholders in order of their priority; and

2 (iii) third, to the general fund of the county or municipal corporation,
3 subject to paragraphs (2) and (3) of this subsection.

4 (2) At any time within 3 years after the date of a sale under this section, a
5 person who submits satisfactory proof of the right to possession of the property shall be
6 paid, without interest, the amount distributed to the general fund of the county or
7 municipal corporation under paragraph (1)(iii) of this subsection.

8 (3) A claim under paragraph (2) of this subsection is barred if more than 3
9 years has passed since the date of a sale under this section.

10 **[(h)] (I)** This section does not create or recognize any cause, action, or defense
11 or abridge any immunity now or in the future held by a local law enforcement agency or an
12 employee of a local law enforcement agency.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2018.