
By: **Senator McFadden**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Search and Seizure Warrants - Sealed Affidavit**

3 FOR the purpose of repealing a certain limitation on the applicability of certain
4 provisions authorizing a court to order that a certain affidavit be sealed under
5 certain circumstances; increasing the time period for which a certain affidavit
6 may be sealed under certain circumstances; providing that a court may grant
7 one or more extensions of time that a certain affidavit is to remain sealed under
8 certain circumstances; and generally relating to search and seizure warrants.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Procedure
11 Section 1-203(e)
12 Annotated Code of Maryland
13 (2001 Volume and 2004 Supplement)

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

16 **Article - Criminal Procedure**

17 1-203.

18 (e) (1) [This subsection applies to criminal investigations conducted by a
19 law enforcement unit, grand jury, or State's Attorney under Article 10, § 39A of the
20 Code into alleged criminal activities in violation of:

21 (i) §§ 5-601 through 5-609, §§ 5-612 through 5-614, § 5-617, §
22 5-619, or § 5-628 of the Criminal Law Article, relating to controlled dangerous
23 substances;

24 (ii) § 2-201 or § 2-204 of the Criminal Law Article, relating to
25 murder; or

26 (iii) § 11-207 or § 11-208 of the Criminal Law Article, relating to
27 pornography.]

1 [(2)] Notwithstanding any provision of the Maryland Rules, a circuit court
2 judge or District Court judge, on a finding of good cause, may order that an affidavit
3 presented in support of a search and seizure warrant be sealed for a period not
4 exceeding [30] 60 days.

5 [(3)] (2) A finding of good cause required by paragraph [(2)] (1) of this
6 subsection is established by evidence that:

7 (i) the criminal investigation to which the affidavit is related is of
8 a continuing nature and likely to yield further information that could be of use in
9 prosecuting alleged criminal activities; and

10 (ii) the failure to maintain the confidentiality of the investigation
11 would:

12 1. jeopardize the use of information already obtained in the
13 investigation;

14 2. impair the continuation of the investigation; or

15 3. jeopardize the safety of a source of information.

16 (3) A COURT MAY GRANT ONE OR MORE 45-DAY EXTENSIONS OF THE
17 TIME THAT AN AFFIDAVIT PRESENTED IN SUPPORT OF A SEARCH AND SEIZURE
18 WARRANT IS TO REMAIN SEALED IF:

19 (I) LAW ENFORCEMENT PROVIDES CONTINUED EVIDENCE AS
20 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

21 (II) THE COURT MAKES A FINDING OF GOOD CAUSE BASED ON THE
22 EVIDENCE.

23 (4) After the order sealing the affidavit expires, the affidavit shall be:

24 (i) unsealed; and

25 (ii) delivered within 15 days:

26 1. to the person from whom the property was taken; or

27 2. if that person is not on the premises at the time of delivery,
28 to the person apparently in charge of the premises from which the property was
29 taken.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2005.