

HOUSE BILL 1220

E2

3lr2414

By: **Delegates Swain, Carter, Valderrama, Valentino-Smith, and Vallario**

Introduced and read first time: February 8, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Invalidation and Destruction of Unexecuted Warrant, Summons, or Other**
3 **Criminal Process – Failure to Appear Designation**

4 FOR the purpose of specifying that a certain provision of law relating to invalidation
5 and destruction of an unexecuted warrant, summons, or other criminal process
6 may not be construed to nullify or remove a failure to appear designation that
7 has been placed on an individual's driving record by the Motor Vehicle
8 Administration; limiting the circumstances under which a certain State's
9 Attorney may argue against the invalidation and destruction of a certain
10 warrant, summons, or other criminal process; making clarifying and stylistic
11 changes; and generally relating to invalidation and destruction of an
12 unexecuted warrant, summons, or other criminal process.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 4–109
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2012 Supplement)

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

20 **Article – Criminal Procedure**

21 4–109.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **(A) THIS SECTION APPLIES ONLY TO A WARRANT, SUMMONS, OR OTHER**
2 **CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE.**

3 ~~(A)~~ **(B)** A law enforcement agency may make a written request for the State's
4 Attorney within the jurisdiction of the law enforcement agency to petition the
5 administrative judge of the district to have a warrant, summons, or other criminal
6 process ~~for a misdemeanor offense~~ in the possession of the law enforcement agency
7 invalidated and destroyed due to the age of the unexecuted warrant, summons, or
8 other criminal process and unavailability of the defendant, or other special
9 circumstances, if:

10 (1) the warrant, summons, or other criminal process was issued for
11 the arrest of the defendant in order that the defendant might stand for trial and has
12 remained unexecuted for at least 5 years;

13 (2) the warrant, summons, or other criminal process was issued for
14 the failure of the defendant to make a deferred payment of a fine or costs as ordered by
15 the court and has remained unexecuted for at least 5 years;

16 (3) the warrant, summons, or other criminal process was issued for a
17 violation of probation and has remained unexecuted for at least 5 years;

18 (4) except as provided in item (5) of this subsection, the warrant,
19 summons, or other criminal process was issued for the arrest of the defendant for the
20 failure of the defendant to appear as directed by the court and has remained
21 unexecuted for at least 5 years; or

22 (5) the defendant was released on bail posted by a private surety, and
23 the warrant was issued for the arrest of the defendant for the failure of the defendant
24 to appear as directed by the court and has remained unexecuted for at least 10 years.

25 ~~(B)~~ **(C)** (1) On receipt of a request made under subsection ~~(A)~~ **(B)**(1), ~~(A)~~ **(B)**(2),
26 ~~(A)~~ **(B)**(3), or ~~(A)~~ **(B)**(4) of this section, the State's Attorney:

27 (i) if the warrant, summons, or other criminal process has
28 remained unexecuted for more than 5 years but less than 7 years, may petition the
29 Administrative Judge of the District for the invalidation and destruction of the
30 unexecuted warrant, summons, or other process; and

31 (ii) if the warrant, summons, or other criminal process has
32 remained unexecuted for at least 7 years, shall petition the Administrative Judge of
33 the District for the invalidation and destruction of the unexecuted warrant, summons,
34 or other process.

1 (2) On receipt of a request made under subsection ~~(a)~~ **(B)**(5) of this
2 section, the State's Attorney shall petition the Administrative Judge of the District for
3 the invalidation and destruction of the unexecuted warrant, summons, or other
4 criminal process.

5 ~~(c)~~ **(D)** The State's Attorney may argue against the invalidation and
6 destruction of [the unexecuted] A warrant, summons, or other criminal process **OF**
7 **WHICH THE STATE'S ATTORNEY HAS PETITIONED THE COURT FOR**
8 **INVALIDATION AND DESTRUCTION UNDER SUBSECTION ~~(B)~~ (C)(1)(II) OR (2) OF**
9 **THIS SECTION** due to a justifiable continuing active investigation of the case.

10 ~~(d)~~ **(E)** Unless preservation is determined by the court to be justifiable, the
11 court shall order the invalidation and destruction of [an] **THE** unexecuted warrant [for
12 a misdemeanor offense], summons, or other criminal process in accordance with §
13 1-605 of the Courts and Judicial Proceedings Article.

14 ~~(e)~~ **(F)** An arrest may not be made under the authority of a warrant,
15 **SUMMONS**, or other criminal process that has been ordered invalidated and destroyed.

16 ~~(f)~~ **(G)** The State's Attorney may enter a nolle prosequi or place the case on the
17 stet docket at the time of the court order under this section.

18 ~~(g)~~ **(H)** Nothing in this section may be construed to:

19 (1) prevent the reissuance of a warrant, summons, or other criminal
20 process;

21 (2) affect the time within which a prosecution for a misdemeanor may
22 be commenced; [or]

23 **(3) NULLIFY OR REMOVE A FAILURE TO APPEAR DESIGNATION**
24 **THAT HAS BEEN PLACED ON AN INDIVIDUAL'S DRIVING RECORD BY THE MOTOR**
25 **VEHICLE ADMINISTRATION; OR**

26 **[(3)] (4)** affect any pending criminal charge.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 June 1, 2013.