

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 219
Judiciary

(Delegate Parrott)

Criminal Procedure - No-Knock Search Warrants - Prior Notification of County

This bill prohibits a law enforcement officer who is employed by a law enforcement agency other than the primary law enforcement agency of the county where the officer intends to execute a search warrant from executing a search warrant without giving notice of the officer's authority or purpose. The bill contains exceptions to this prohibition (1) when the chief of the primary law enforcement agency of the county where the search is to be conducted is notified before the execution of the warrant or (2) there is a written agreement between the county where the search is to be conducted and the employing agency of the officer authorizing an officer of that agency to execute a search warrant in the county without giving notice of the officer's authority or purpose.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing State resources.

Local Effect: The bill's requirements can be handled with existing local resources.

Small Business Effect: None.

Analysis

Current Law: A circuit court or District Court judge may issue a search warrant whenever it is made to appear to the judge that there is probable cause to believe that (1) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the jurisdiction of the judge or (2) property subject to seizure is on the person or in or on the building, apartment, premises, place, or thing.

An application for a search warrant must be in (1) writing; (2) signed and sworn to by the applicant; and (3) accompanied by an affidavit that sets forth the basis for probable cause and contains facts within the personal knowledge of the affiant that there is probable cause.

A law enforcement officer may request, in an application for a search warrant, that a building, apartment, premises, place, or thing be searched without the officer having to provide notice of the officer's authority or purpose. To execute such a warrant (also referred to as a "no-knock" warrant), the officer must have a reasonable suspicion that, without the authorization, the property subject to search or seizure may be destroyed, disposed of, or secreted or the life or safety of the executing officer or another person may be in danger. This warrant authorizes the executing law enforcement officer to enter the building, apartment, premises, place, or to search a thing without giving notice of the officer's authority or purpose.

Any search and seizure made under the authority of a search warrant must be made within 15 calendar days after the day the warrant was issued. A search warrant is void after this 15-day period.

A judge who issues a search warrant must retain a copy of the warrant, application, and supporting affidavit. A judge may order a supporting affidavit to be sealed for up to 30 days under certain circumstances. The warrant, application, affidavit, and other supporting documentation may not be filed with the clerk of the court until the search warrant is returned executed. Generally, an executed search warrant must be returned to the issuing judge or a judge in the same circuit or district as promptly as possible or within 10 days after the date the warrant was executed. The judge to whom the warrant is returned must attach specified supporting documentation and file the papers with the clerk of the county in which the property was seized. The papers filed with the clerk must be sealed and may only be opened for inspection upon order of the court. The clerk must maintain a confidential index of search warrants. A warrant that is not executed within the 15-day time period must be promptly returned to the issuing judge, who may destroy it.

State Fiscal Effect: The Department of State Police (DSP) advises that it is current DSP policy to either inform local law enforcement of the execution of a no-knock search warrant or have local law enforcement accompany DSP officers when the no-knock warrant is executed.

Local Fiscal Effect: Carroll, Cecil, Harford, Montgomery, and Queen Anne's counties all advise that the bill does not have a fiscal impact on their jurisdictions. The Carroll County Sheriff's Office believes that nonprimary law enforcement agencies in the county are already providing the notice required under their current policies.

Additional Information

Prior Introductions: None.

Cross File: SB 259 (Senator Shank) - Judicial Proceedings.

Information Source(s): Carroll, Cecil, Harford, Montgomery, and Queen Anne's counties; Department of State Police; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mm/kdm

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