

HOUSE BILL 1109

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By: **Delegates Swain, Anderson, Arora, Carter, Clippinger, Cluster, Conaway, Dumais, Hough, K. Kelly, McComas, McDermott, Niemann, Rosenberg, Valderrama, Vallario, Waldstreicher, and A. Washington**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Search Warrants – Procedures**

3 FOR the purpose of requiring an application for a search warrant to be dated;
4 providing the ways in which an application for a search warrant may be
5 submitted to a judge; providing the ways in which an applicant for a search
6 warrant and a judge may converse about a search warrant application;
7 providing the ways in which a judge may issue a search warrant; requiring a
8 judge to file a copy of a certain search warrant, application, and affidavit with
9 the court; requiring a certain law enforcement officer to give a copy of a certain
10 search warrant, application, and affidavit to a certain occupant or leave a copy
11 of the warrant, application, and affidavit at certain premises; requiring a
12 certain law enforcement officer to prepare a certain return which shall include a
13 certain date and time; requiring a certain law enforcement officer to give a copy
14 of a certain return to a certain occupant or leave a copy at certain premises;
15 requiring a certain law enforcement officer to file a copy of a certain return with
16 the court; and generally relating to search warrants.

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Procedure
19 Section 1–203(a)
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2013 Supplement)

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

24 **Article – Criminal Procedure**

25 1–203.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) A circuit court judge or District Court judge may issue forthwith a
2 search warrant whenever it is made to appear to the judge, by application as described
3 in paragraph (2) of this subsection, that there is probable cause to believe that:

4 (i) a misdemeanor or felony is being committed by a person or
5 in a building, apartment, premises, place, or thing within the territorial jurisdiction of
6 the judge; or

7 (ii) property subject to seizure under the criminal laws of the
8 State is on the person or in or on the building, apartment, premises, place, or thing.

9 (2) (i) An application for a search warrant shall be:

10 1. in writing;

11 2. signed, **DATED**, and sworn to by the applicant; and

12 3. accompanied by an affidavit that:

13 A. sets forth the basis for probable cause as described in
14 paragraph (1) of this subsection; and

15 B. contains facts within the personal knowledge of the
16 affiant that there is probable cause.

17 **(II) AN APPLICATION FOR A SEARCH WARRANT MAY BE**
18 **SUBMITTED TO A JUDGE:**

19 **1. BY IN-PERSON DELIVERY OF THE APPLICATION,**
20 **THE AFFIDAVIT, AND A PROPOSED SEARCH WARRANT;**

21 **2. BY FAX, IF A COMPLETE AND PRINTABLE IMAGE**
22 **OF THE APPLICATION, THE AFFIDAVIT, AND A PROPOSED SEARCH WARRANT ARE**
23 **SUBMITTED; OR**

24 **3. BY ELECTRONIC MAIL, IF A COMPLETE AND**
25 **PRINTABLE IMAGE OF THE APPLICATION, THE AFFIDAVIT, AND A PROPOSED**
26 **SEARCH WARRANT ARE SUBMITTED.**

27 **(III) THE APPLICANT AND THE JUDGE MAY CONVERSE**
28 **ABOUT THE SEARCH WARRANT APPLICATION:**

29 **1. IN PERSON;**

1 2. VIA TELEPHONE; OR

2 3. VIA VIDEO.

3 **(IV) THE JUDGE MAY ISSUE THE SEARCH WARRANT:**

4 1. BY SIGNING THE SEARCH WARRANT, INDICATING
5 THE DATE AND TIME OF ISSUANCE ON THE SEARCH WARRANT, AND PHYSICALLY
6 DELIVERING THE SIGNED AND DATED SEARCH WARRANT, THE APPLICATION,
7 AND THE AFFIDAVIT TO THE APPLICANT;

8 2. BY SIGNING THE SEARCH WARRANT, WRITING THE
9 DATE AND TIME OF ISSUANCE ON THE SEARCH WARRANT, AND SENDING
10 COMPLETE AND PRINTABLE IMAGES OF THE SIGNED AND DATED SEARCH
11 WARRANT, THE APPLICATION, AND THE AFFIDAVIT TO THE APPLICANT BY FAX;
12 OR

13 3. BY SIGNING THE SEARCH WARRANT, EITHER
14 ELECTRONICALLY OR IN WRITING, INDICATING THE DATE AND TIME OF
15 ISSUANCE ON THE SEARCH WARRANT, AND SENDING COMPLETE AND
16 PRINTABLE IMAGES OF THE SIGNED AND DATED SEARCH WARRANT, THE
17 APPLICATION, AND THE AFFIDAVIT TO THE APPLICANT BY ELECTRONIC MAIL.

18 **(V) THE JUDGE SHALL FILE A COPY OF THE SIGNED AND**
19 **DATED SEARCH WARRANT, THE APPLICATION, AND THE AFFIDAVIT WITH THE**
20 **COURT.**

21 **[(ii)] (VI)** An application for a search warrant may contain a
22 request that the search warrant authorize the executing law enforcement officer to
23 enter the building, apartment, premises, place, or thing to be searched without giving
24 notice of the officer's authority or purpose, on the grounds that there is reasonable
25 suspicion to believe that, without the authorization:

26 1. the property subject to seizure may be destroyed,
27 disposed of, or secreted; or

28 2. the life or safety of the executing officer or another
29 person may be endangered.

30 **(3) The search warrant shall:**

31 **(i)** be directed to a duly constituted police officer, the State Fire
32 Marshal, or a full-time investigative and inspection assistant of the Office of the State
33 Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time
34 investigative and inspection assistant of the Office of the State Fire Marshal to search

1 the suspected person, building, apartment, premises, place, or thing and to seize any
2 property found subject to seizure under the criminal laws of the State;

3 (ii) name or describe, with reasonable particularity:

4 1. the person, building, apartment, premises, place, or
5 thing to be searched;

6 2. the grounds for the search; and

7 3. the name of the applicant on whose application the
8 search warrant was issued; and

9 (iii) if warranted by application as described in paragraph (2) of
10 this subsection, authorize the executing law enforcement officer to enter the building,
11 apartment, premises, place, or thing to be searched without giving notice of the
12 officer's authority or purpose.

13 (4) (i) The search and seizure under the authority of a search
14 warrant shall be made within 15 calendar days after the day that the search warrant
15 is issued.

16 (ii) After the expiration of the 15-day period, the search
17 warrant is void.

18 **(5) THE EXECUTING LAW ENFORCEMENT OFFICER SHALL GIVE A**
19 **COPY OF THE SEARCH WARRANT, THE APPLICATION, AND THE AFFIDAVIT TO AN**
20 **AUTHORIZED OCCUPANT OF THE PREMISES SEARCHED OR LEAVE A COPY OF**
21 **THE SEARCH WARRANT, THE APPLICATION, AND THE AFFIDAVIT AT THE**
22 **PREMISES SEARCHED.**

23 **(6) (I) THE EXECUTING LAW ENFORCEMENT OFFICER SHALL**
24 **PREPARE A DETAILED SEARCH WARRANT RETURN WHICH SHALL INCLUDE THE**
25 **DATE AND TIME OF THE EXECUTION OF THE SEARCH WARRANT.**

26 **(II) THE EXECUTING LAW ENFORCEMENT OFFICER SHALL:**

27 1. **GIVE A COPY OF THE SEARCH WARRANT RETURN**
28 **TO AN AUTHORIZED OCCUPANT OF THE PREMISES SEARCHED OR LEAVE A COPY**
29 **OF THE RETURN AT THE PREMISES SEARCHED; AND**

30 2. **FILE A COPY OF THE SEARCH WARRANT RETURN**
31 **WITH THE COURT.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2014.