

## Article - Criminal Procedure

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§1–203.

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

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

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

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

1. in writing;
2. signed, dated, and sworn to by the applicant; and
3. accompanied by an affidavit that:

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

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

(ii) An application for a search warrant may be submitted to a judge:

1. by in-person delivery of the application, the affidavit, and a proposed search warrant;

2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or

3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

(iii) The applicant and the judge may converse about the search warrant application:

1. in person;
2. via telephone; or
3. via video.

(iv) The judge may issue the search warrant:

1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;

2. by signing the search warrant, writing the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure fax; or

3. by signing the search warrant, either electronically or in writing, indicating the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure electronic mail.

(v) The judge shall file a copy of the signed and dated search warrant, the application, and the affidavit with the court.

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

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

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

(3) The search warrant shall:

(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the criminal laws of the State;

(ii) name or describe, with reasonable particularity:

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

2. the grounds for the search; and

3. the name of the applicant on whose application the search

warrant was issued; and

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

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

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

(5) The executing law enforcement officer shall give a copy of the search warrant, the application, and the affidavit to an authorized occupant of the premises searched or leave a copy of the search warrant, the application, and the affidavit at the premises searched.

(6) (i) The executing law enforcement officer shall prepare a detailed search warrant return which shall include the date and time of the execution of the search warrant.

(ii) The executing law enforcement officer shall:

1. give a copy of the search warrant return to an authorized occupant of the premises searched or leave a copy of the return at the premises searched; and

2. file a copy of the search warrant return with the court in person, by secure fax, or by secure electronic mail.

(b) (1) A circuit court judge or District Court judge shall cause property taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, it appears that:

(i) the property taken is not the same as that described in the search warrant;

(ii) there is no probable cause for believing the existence of the grounds on which the search warrant was issued; or

(iii) the property was taken under a search warrant issued more than 15 calendar days before the seizure.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return is based on any ground described in paragraph (1) of this subsection.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority seizing the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

(5) If the judge finds that the property taken is the same as that described in the search warrant and that there is probable cause for believing the existence of the grounds on which the search warrant was issued, the judge shall order the property to be retained in the custody of the police authority seizing it or to be otherwise disposed of according to law.

(c) (1) This subsection does not apply to contraband or other property prohibited by law from being recoverable.

(2) Property seized under a search warrant issued under subsection (a) of this section may be returned to the person to whom the property belongs without the necessity of that person bringing an action for replevin or any other proceeding against the unit with custody of the property if:

(i) the criminal case in which the property was seized is disposed of because of a nolle prosequi, dismissal, or acquittal;

(ii) the State does not appeal the criminal case in which the property was seized; or

(iii) the time for appeal has expired.

(d) (1) A circuit court judge or District Court judge shall cause property rightfully taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, the judge finds that the property is being wrongfully withheld after there is no further need for retention of the property.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return is based on the ground that the property, although rightfully taken under a search warrant, is being wrongfully withheld after there is no further need for retention of the property.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be

sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority wrongfully withholding the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

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

(2) A finding of good cause required by paragraph (1) of this subsection is established by evidence that:

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

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

1. jeopardize the use of information already obtained in the investigation;
2. impair the continuation of the investigation; or
3. jeopardize the safety of a source of information.

(3) A court may grant one 30-day extension of the time that an affidavit presented in support of a search and seizure warrant is to remain sealed if:

(i) law enforcement provides continued evidence as described in paragraph (2) of this subsection; and

(ii) the court makes a finding of good cause based on the evidence.

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

(i) unsealed; and

(ii) delivered within 15 days:

1. to the person from whom the property was taken; or
2. if that person is not on the premises at the time of delivery, to the person apparently in charge of the premises from which the property was taken.

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