## **HOUSE BILL 38**

E23lr0961 HB 532/22 – JUD (PRE-FILED) By: Delegate Acevero Requested: November 18, 2022 Introduced and read first time: January 11, 2023 Assigned to: Judiciary A BILL ENTITLED AN ACT concerning **No-Knock Warrants** FOR the purpose of repealing the authority for the issuance and execution of a no-knock search warrant; establishing procedures for the issuance and execution of a search warrant; and generally relating to search warrants. BY repealing and reenacting, with amendments, Article – Criminal Procedure Section 1–203 Annotated Code of Maryland (2018 Replacement Volume and 2022 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows: Article - Criminal Procedure 1-203. In this subsection, "no-knock search warrant" means a search warrant that authorizes the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose. **(2)** 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 [(3)] (2) of this subsection, that there is probable cause to believe that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

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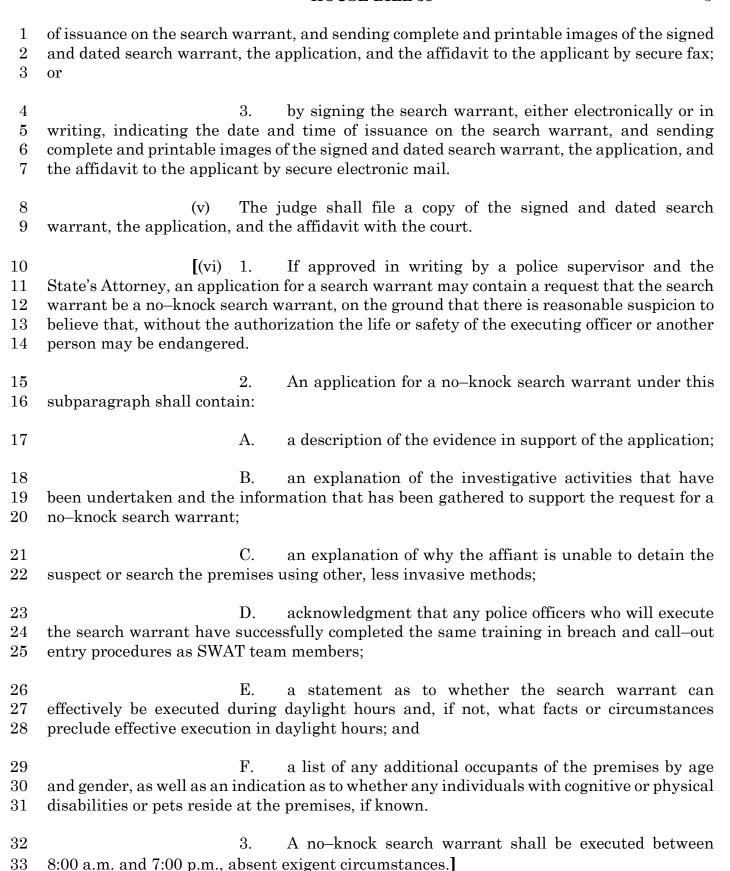
a misdemeanor or felony is being committed by a person or in a

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$\frac{1}{2}$	building, apartment, projudge; or	emises,	place, or thing within the territorial jurisdiction of the
3 4	(ii) is on the person or in or o		rty subject to seizure under the criminal laws of the State building, apartment, premises, place, or thing.
5	[(3)] <b>(2)</b>	(i)	An application for a search warrant shall be:
6		1.	in writing;
7		2.	signed, dated, and sworn to by the applicant; and
8		3.	accompanied by an affidavit that:
9 10	paragraph (1) of this sub	A. section	sets forth the basis for probable cause as described in ; and
11 12	that there is probable car	B. use.	contains facts within the personal knowledge of the affiant
13	(ii)	An ap	plication for a search warrant may be submitted to a judge:
14 15	a proposed search warra	1. nt;	by in-person delivery of the application, the affidavit, and
16 17	application, the affidavit	2. , and a	by secure fax, if a complete and printable image of the proposed search warrant are submitted; or
18 19	image of the application,	3. the aff	by secure electronic mail, if a complete and printable idavit, and a proposed search warrant are submitted.
20 21	(iii) warrant application:	The a	applicant and the judge may converse about the search
22		1.	in person;
23		2.	via telephone; or
24		3.	via video.
25	(iv)	The ju	adge may issue the search warrant:
26 27 28			by signing the search warrant, indicating the date and warrant, and physically delivering the signed and dated, and the affidavit to the applicant;

by signing the search warrant, writing the date and time

2.



The search warrant shall:

[(4)] (3)

**(I)** 

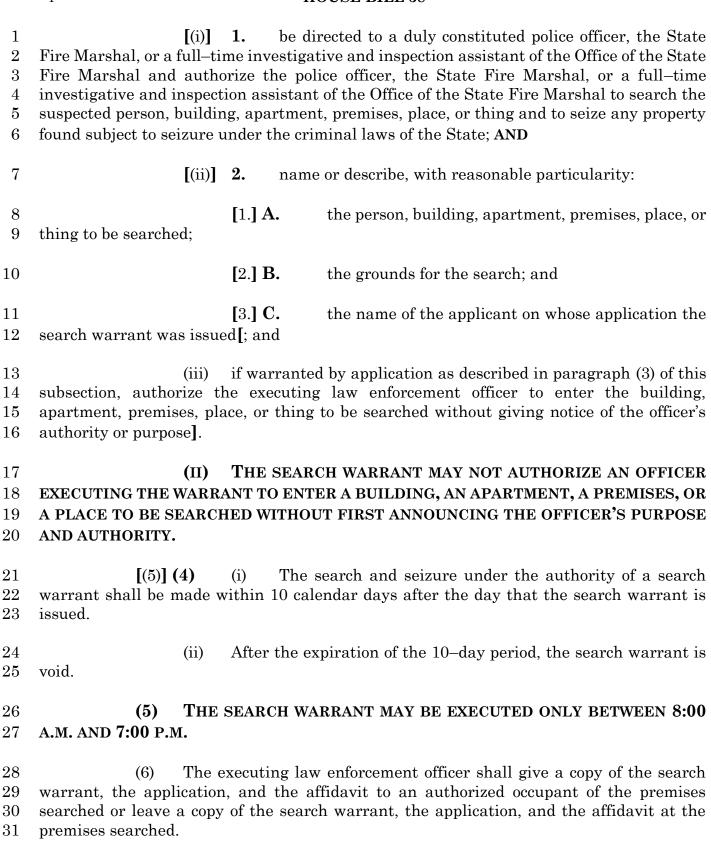
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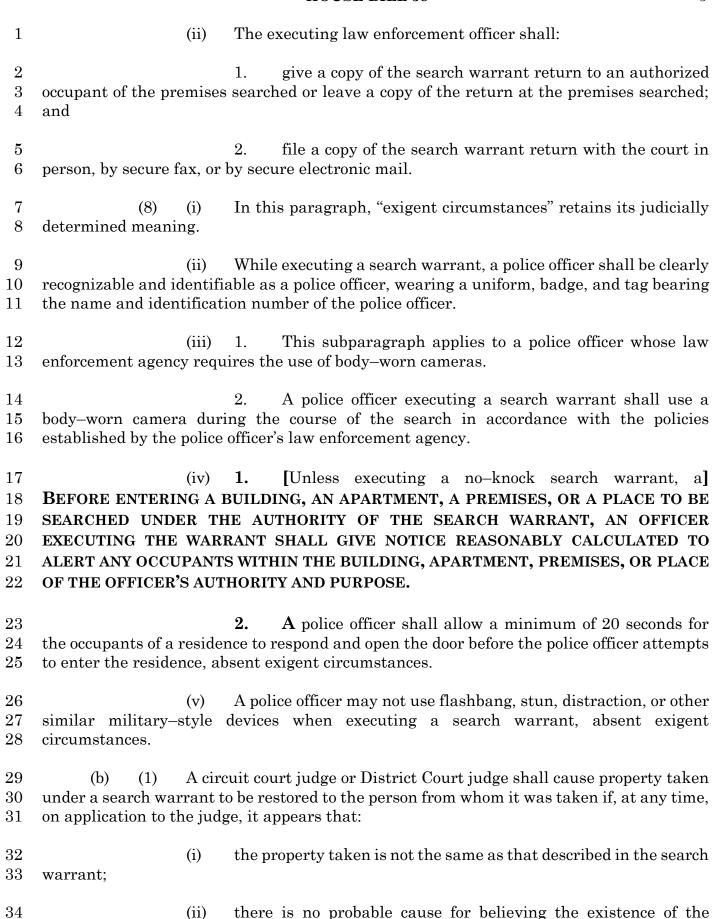
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warrant.



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



1 grounds on which the search warrant was issued; or

- 2 (iii) the property was taken under a search warrant issued more than 3 [15] 10 calendar days before the seizure.
- 4 (2) The judge may receive an oral motion made in open court at any time 5 making application for the return of seized property if the application for return is based 6 on any ground described in paragraph (1) of this subsection.
- 7 (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.
- 10 (4) Court costs may not be assessed against the person from whom the 11 property was taken if:
- 12 (i) the judge denies the oral motion and requires the person from 13 whom the property was taken to proceed for return of the seized property by petition and 14 an order to show cause to the police authority seizing the property; and
- 15 (ii) it is later ordered that the property be restored to the person from 16 whom it was taken.
- 17 (5) If the judge finds that the property taken is the same as that described 18 in the search warrant and that there is probable cause for believing the existence of the 19 grounds on which the search warrant was issued, the judge shall order the property to be 20 retained in the custody of the police authority seizing it or to be otherwise disposed of 21 according to law.
- 22 (c) (1) This subsection does not apply to contraband or other property 23 prohibited by law from being recoverable.
- 24 (2) Property seized under a search warrant issued under subsection (a) of 25 this section may be returned to the person to whom the property belongs without the 26 necessity of that person bringing an action for replevin or any other proceeding against the 27 unit with custody of the property if:
- 28 (i) the criminal case in which the property was seized is disposed of 29 because of a nolle prosequi, dismissal, or acquittal;
- 30 (ii) the State does not appeal the criminal case in which the property 31 was seized; or
- 32 (iii) the time for appeal has expired.
- 33 (d) (1) A circuit court judge or District Court judge shall cause property 34 rightfully taken under a search warrant to be restored to the person from whom it was

1 taken if, at any time, on application to the judge, the judge finds that the property is being 2 wrongfully withheld after there is no further need for retention of the property. 3 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 4 5 on the ground that the property, although rightfully taken under a search warrant, is being 6 wrongfully withheld after there is no further need for retention of the property. 7 If the judge grants the oral motion described in paragraph (2) of this 8 subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney. 9 10 Court costs may not be assessed against the person from whom the **(4)** 11 property was taken if: 12 (i) the judge denies the oral motion and requires the person from 13 whom the property was taken to proceed for return of the seized property by petition and 14 an order to show cause to the police authority wrongfully withholding the property; and 15 (ii) it is later ordered that the property be restored to the person from 16 whom it was taken. 17 (e) (1)Notwithstanding any provision of the Maryland Rules, a circuit court 18 judge or District Court judge, on a finding of good cause, may order that an affidavit 19 presented in support of a search and seizure warrant be sealed for a period not exceeding 20 30 days. 21(2)A finding of good cause required by paragraph (1) of this subsection is 22 established by evidence that: 23 (i) the criminal investigation to which the affidavit is related is of a 24continuing nature and likely to yield further information that could be of use in prosecuting 25alleged criminal activities; and 26 the failure to maintain the confidentiality of the investigation (ii) would: 2728 1. jeopardize the use of information already obtained in the

30 2. impair the continuation of the investigation; or

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investigation;

3. jeopardize the safety of a source of information.

32 (3) A court may grant one 30-day extension of the time that an affidavit 33 presented in support of a search and seizure warrant is to remain sealed if:

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1		(i)	law enforcement provides continued evidence as described in		
2	paragraph (2) of this subsection; and				
3		(ii)	the court makes a finding of good cause based on the evidence.		
4	(4)	After	the order sealing the affidavit expires, the affidavit shall be:		
5		(i)	unsealed; and		
6		(ii)	delivered within 15 days:		
7			1. to the person from whom the property was taken; or		
8			2. if that person is not on the premises at the time of delivery,		
9	to the person apparently in charge of the premises from which the property was taken.				
10	SECTION 2	2. AN	D BE IT FURTHER ENACTED, That this Act shall take effect		
11	October 1, 2023.				