

HOUSE BILL 278

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1998 Regular Session
8r1524
CF 8r1525

By: **Chairman, Judiciary Committee (Maryland Judicial Conference)**

Introduced and read first time: January 28, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Search Warrants - Territorial Jurisdictional Limits**

3 FOR the purpose of repealing a territorial limitation on issuance of search warrants

4 by judges; and generally relating to search warrants.

5 BY repealing and reenacting, with amendments,

6 Article 27 - Crimes and Punishments

7 Section 551(a)

8 Annotated Code of Maryland

9 (1996 Replacement Volume and 1997 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article 27 - Crimes and Punishments**

13 551.

14 (a) Whenever it be made to appear to any judge of any of the circuit courts in
15 the counties of this State, or to any judge of the District Court, by written application
16 signed and sworn to by the applicant, accompanied by an affidavit or affidavits
17 containing facts within the personal knowledge of the affiant or affiants, that there is
18 probable cause, the basis of which shall be set forth in said affidavit or affidavits, to
19 believe that any misdemeanor or felony is being committed by any individual or in
20 any building, apartment, premises, place or thing [within the territorial jurisdiction
21 of such judge,] or that any property subject to seizure under the criminal laws of the
22 State is situated or located on the person of any such individual or in or on any such
23 building, apartment, premises, place or thing, then the judge may forthwith issue a
24 search warrant directed to any duly constituted policeman, or police officer
25 authorizing him to search such suspected individual, building, apartment, premises,
26 place or thing, and to seize any property found liable to seizure under the criminal
27 laws of this State, provided that any such search warrant shall name or describe, with
28 reasonable particularity, the individual, building, apartment, premises, place or thing
29 to be searched, the grounds for such search and the name of the applicant on whose
30 written application as aforesaid the warrant was issued, and provided further that

1 any search or seizure under the authority of such search warrant, shall be made
2 within 15 calendar days from the date of the issuance thereof and after the expiration
3 of the 15-day period said warrant shall be null and void. If, at any time, on
4 application to a judge of the circuit court of any county or judge of the District Court,
5 it appears that the property taken is not the same as that described in the warrant or
6 that there is no probable cause for believing the existence of the grounds on which the
7 warrant was issued, or that the property was taken under a warrant issued more
8 than 15 calendar days prior to the seizure, said judge must cause it to be restored to
9 the person from whom it was taken. In the discretion of the judge, an oral motion
10 made in open court may be received at any time making application for the return of
11 seized property if the application for return is based on the grounds that the property
12 taken is not the same as that described in the warrant, or that there is no probable
13 cause for believing the existence of the grounds on which the warrant was issued, or
14 that the property was taken under a warrant issued more than 15 calendar days prior
15 to the seizure. If the judge grants the oral motion, the order of the court shall be in
16 writing and a copy of the order shall be sent to the State's Attorney. If the judge
17 rejects the proffer on an oral motion and requires the person from whom the property
18 was taken to proceed for return of the seized property by petition and an order to
19 show cause to the police authority seizing the property and it is subsequently ordered
20 that the property be restored to the person from whom it was taken, court costs shall
21 not be assessed against the petitioner. However, if it appears that the property taken
22 is the same as that described in the warrant and that there is probable cause for
23 believing the existence of the grounds on which the warrant was issued, then said
24 judge shall order the same retained in the custody of the person seizing it or to be
25 otherwise disposed of according to law.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1998.