

Department of Legislative Services  
Maryland General Assembly

FISCAL NOTE

House Bill 706 (Delegates Rosenberg and Genn)

Judiciary

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**Criminal Procedure - Anticipatory Search Warrants - Applications**

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This bill allows the issuance of a search warrant if there is probable cause that a crime will be committed at a particular location or that certain property will be located at a particular place.

Under current law, a search warrant can be issued if there is probable cause that a crime is being committed at a particular location or that certain property is located at a particular place.

The bill also authorizes a judge to issue a search warrant based on an application that is communicated over the telephone or by other appropriate means, including facsimile transmission, if circumstances make it reasonable to dispense with a written application or affidavit.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund expenditures for the Judiciary and efficiency savings for the State Police. No effect on revenues.

**Local Effect:** Potential minimal increase in expenditures for the Judiciary and efficiency savings for local law enforcement. No effect on revenues.

**Small Business Effect:** None.

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**Fiscal Analysis**

**State Expenditures:** The bill would add to the Judiciary's workload to the extent that use is made of the telephonic search warrant application procedure. In addition to the normal functions of reviewing the application and determining whether probable cause exists, the judge could be required to actually write out the search warrant, as dictated by the officer

over the telephone. This could be a lengthy task. The judge would also be required to make arrangements to record or transcribe any telephone conversation. Costs could be incurred by the State if stenographers are used and/or recording devices are purchased by the District Court for this purpose. In addition, the judge would be required to later certify to the accuracy of the transcript that is produced.

Although the bill would save State Police officers trips to the courthouse, it would not change their paperwork obligations. In fact, the bill may actually add to law enforcement's workload in that an officer using this procedure must obtain prior approval of the State's Attorney or Attorney General, and must arrange for transcription and delivery of any voice recording of the telephone conference with the judge.

Because it is expected that the telephonic search warrant application procedure would not be used frequently, a resulting need for additional personnel is not anticipated.

The anticipatory search warrant aspect of the bill could result in efficiency savings for the State Police. Sometimes, especially in drug trafficking cases, investigating officers know in advance that a crime is going to be committed (e.g., a planned drug delivery). However, under current law, a warrant cannot be issued until a crime actually occurs. This can hinder law enforcement officers from apprehending criminals and can require law enforcement officers to spend time waiting until a crime is committed before obtaining a warrant from a judge. If a judge is not available immediately after the crime is committed, there could be an additional delay. Anticipatory search warrants could enable law enforcement to be ready to apprehend criminals earlier and reduce waiting time for law enforcement in some situations.

**Local Expenditures:** Costs could be incurred by circuit courts if stenographers are used and/or recording devices purchased to record the telephone conversations authorized by the bill.

The bill would affect the workload of, and provide efficiency savings for, local law enforcement units in a similar manner as for the State Police.

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**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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