

---

By: **Delegates Rosenberg and Zirkin**  
Introduced and read first time: February 9, 2000  
Assigned to: Judiciary

---

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Issuance of Search Warrants - Anticipatory Warrants**

3 FOR the purpose of altering the provisions regarding the issuance of search warrants  
4 to allow warrants to be issued if there is probable cause that certain crimes will  
5 be committed or that certain property subject to seizure will be situated or  
6 located under certain circumstances; adding to the required contents of the  
7 search warrant under certain circumstances; providing for the application of  
8 this Act; and generally relating to criminal procedure and the issuance of  
9 anticipatory search warrants.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 551(a)  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1999 Supplement)

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

17 **Article 27 - Crimes and Punishments**

18 551.

19 (a) Whenever it be made to appear to any judge of any of the circuit courts in  
20 the counties of this State, or to any judge of the District Court, by written application  
21 signed and sworn to by the applicant, accompanied by an affidavit or affidavits  
22 containing facts within the personal knowledge of the affiant or affiants, that there is  
23 probable cause, the basis of which shall be set forth in said affidavit or affidavits, to  
24 believe that any misdemeanor or felony is being, OR WILL BE, committed by any  
25 individual or in any building, apartment, premises, place or thing within the  
26 territorial jurisdiction of such judge, or that any property subject to seizure under the  
27 criminal laws of the State is, OR WILL BE, situated or located on the person of any  
28 such individual or in or on any such building, apartment, premises, place or thing,  
29 then the judge may forthwith issue a search warrant directed to any duly constituted  
30 policeman, or police officer authorizing him to search such suspected individual,

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
33 construed only prospectively and may not be applied or interpreted to have any effect  
34 on or application to any search warrant issued before the effective date of this Act.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 2000.