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By: **Senator McFadden**

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Committee Report: Favorable

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Search and Seizure Warrants - Sealed Affidavit**

3 FOR the purpose of repealing a certain limitation on the applicability of certain  
4 provisions authorizing a court to order that a certain affidavit be sealed under  
5 certain circumstances; increasing the time period for which a certain affidavit  
6 may be sealed under certain circumstances; providing that a court may grant  
7 one or more extensions of time that a certain affidavit is to remain sealed under  
8 certain circumstances; and generally relating to search and seizure warrants.

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Procedure  
11 Section 1-203(e)  
12 Annotated Code of Maryland  
13 (2001 Volume and 2004 Supplement)

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

16 **Article - Criminal Procedure**

17 1-203.

18 (e) (1) [This subsection applies to criminal investigations conducted by a  
19 law enforcement unit, grand jury, or State's Attorney under Article 10, § 39A of the  
20 Code into alleged criminal activities in violation of:

1 (i) §§ 5-601 through 5-609, §§ 5-612 through 5-614, § 5-617, §  
2 5-619, or § 5-628 of the Criminal Law Article, relating to controlled dangerous  
3 substances;

4 (ii) § 2-201 or § 2-204 of the Criminal Law Article, relating to  
5 murder; or

6 (iii) § 11-207 or § 11-208 of the Criminal Law Article, relating to  
7 pornography.]

8 [(2)] Notwithstanding any provision of the Maryland Rules, a circuit court  
9 judge or District Court judge, on a finding of good cause, may order that an affidavit  
10 presented in support of a search and seizure warrant be sealed for a period not  
11 exceeding [30] 60 days.

12 [(3)] (2) A finding of good cause required by paragraph [(2)] (1) of this  
13 subsection is established by evidence that:

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

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

19 1. jeopardize the use of information already obtained in the  
20 investigation;

21 2. impair the continuation of the investigation; or

22 3. jeopardize the safety of a source of information.

23 (3) A COURT MAY GRANT ONE OR MORE 45-DAY EXTENSIONS OF THE  
24 TIME THAT AN AFFIDAVIT PRESENTED IN SUPPORT OF A SEARCH AND SEIZURE  
25 WARRANT IS TO REMAIN SEALED IF:

26 (I) LAW ENFORCEMENT PROVIDES CONTINUED EVIDENCE AS  
27 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

28 (II) THE COURT MAKES A FINDING OF GOOD CAUSE BASED ON THE  
29 EVIDENCE.

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

31 (i) unsealed; and

32 (ii) delivered within 15 days:

33 1. to the person from whom the property was taken; or

