

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 475

(Senator McFadden)

Judicial Proceedings

Judiciary

Criminal Procedure - Search and Seizure Warrants - Sealed Affidavit

This bill repeals the limitation on the applicability of provisions authorizing a court to seal an affidavit in support of a search and seizure warrant. The bill also authorizes a court to grant one 30-day extension of the time that an affidavit may remain sealed if law enforcement provides continued evidence that the investigation is continuing in nature and that failure to maintain its confidentiality would jeopardize the use of the information, impair the continuation of the investigation, or jeopardize the source of the information.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect governmental operations or expenditures.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: A court may order an affidavit presented in support of a search and seizure warrant be sealed for a period not exceeding 30 days. Affidavits may only be sealed in investigations into criminal activities involving controlled dangerous substances, murder, or pornography.

There must be evidence that the criminal investigation is of a continuing nature and likely to yield further information and that failure to maintain the confidentiality of the

investigation would (1) jeopardize the use of information already obtained in the investigation; (2) impair the continuation of the investigation; or (3) jeopardize the safety of a source of information.

After the order sealing the affidavit expires, the affidavit must be unsealed and delivered within 15 days to the person from whom property was taken or the person apparently in charge of the premises from which the property was taken.

Additional Information

Prior Introductions: None.

Cross File: HB 1059 (Delegate Marriott) (By Request – Baltimore City Administration) – Judiciary.

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

Fiscal Note History: First Reader - February 22, 2005
mp/jr Revised - Enrolled Bill - May 3, 2005

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