

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1127
Judiciary

(Prince George's County Delegation)

Prince George's County - Fire Investigators - Authorization to Execute Search
Warrants and Serve as Peace Officers
PG 311-05

This bill authorizes a Prince George's County Fire Investigator to receive and execute search warrants and to search places or persons and seize property. The bill authorizes a court to issue search warrants to such an investigator.

The bill also adds a Prince George's County Fire Investigator to the definition of a "peace officer" who is authorized to petition a court for an emergency evaluation of individuals.

Fiscal Summary

State Effect: Although this bill would result in the reprinting of some forms by the District Court, the attendant costs are assumed to be absorbable within existing budgeted resources.

Local Effect: Although this bill would result in the reprinting of some forms by the circuit courts, the attendant costs are assumed to be absorbable within existing budgeted resources. Any actual executions of search warrants by a county fire investigator could be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: A circuit court or District Court judge may issue a search warrant whenever the judge finds there is probable cause to believe that a crime is being

committed by a person or in a location within the judge's jurisdiction, or goods subject to criminal seizure are located within the judge's jurisdiction.

An application for a search warrant must be in writing, signed, and sworn to by the applicant. It must be accompanied by an affidavit that sets forth the basis for probable cause, which must be based on the affiant's personal knowledge.

A search warrant must:

- be directed to a duly constituted police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the State Fire Marshal and authorize that person to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the State's criminal laws; and
- name or describe, with reasonable particularity: (1) the person, building, apartment, premises, place, or thing to be searched; (2) the grounds for the search; and (3) the name of the applicant on whose application the search warrant was issued.

A physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, health officer, or health officer's designee may petition for an emergency evaluation of an individual he/she has examined if the petitioner has reason to believe that the individual has a mental disorder and that the individual presents a danger to the life or safety of the individual or others. Additionally, a peace officer who has personally observed the individual or the individual's behavior, or any other interested person, may petition for an emergency evaluation of an individual under the above circumstances.

A petitioner who is a physician, psychologist, clinical social worker, licensed clinical professional counselor, health officer, or health officer's designee must give the petition to a peace officer. The peace officer must explain the serious nature of the petition and the meaning and context of the petition to the petitioner.

A peace officer is a sheriff, deputy sheriff, State police officer, county police officer, municipal or other local police officer, or a Secret Service agent who is a sworn special agent of the U.S. Secret Service or Treasury Department.

If the peace officer has a petition that has been endorsed by a court within the last five days or is signed and submitted by a physician, psychologist, clinical social worker, licensed clinical professional counselor, health officer, health officer's designee, or peace officer, a peace officer must take an emergency evaluatee to the nearest emergency facility.

The State Fire Marshal, a full-time investigative and inspection assistant of the Office of the State Fire Marshal, as well as a Montgomery County fire and explosive investigator and a Prince George's County fire investigator may arrest a person without a warrant under certain circumstances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Judiciary (Maryland District Court, Administrative Office of the Courts), Department of Legislative Services

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mp/hlb

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