

# HOUSE BILL 1475

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By: **Delegate Clippinger**

Rules suspended

Introduced and read first time: March 16, 2012

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Search Warrants – Application and Affidavit**

3 FOR the purpose of repealing the requirement that an affidavit accompanying a  
4 search warrant contain certain facts within the personal knowledge of the  
5 affiant; authorizing a court to seal an application for a search warrant or a  
6 search warrant under certain circumstances; authorizing the court to grant  
7 multiple 30–day extensions of the time that certain documents are to remain  
8 sealed under certain circumstances; requiring certain documents to be unsealed  
9 and delivered to certain persons after the expiration of a certain time period;  
10 making certain conforming changes; and generally relating to search warrants.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Procedure  
13 Section 1–203(a) and (e)  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2011 Supplement)

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

18 **Article – Criminal Procedure**

19 1–203.

20 (a) (1) A circuit court judge or District Court judge may issue forthwith a  
21 search warrant whenever it is made to appear to the judge, by application as described  
22 in paragraph (2) of this subsection, that there is probable cause to believe that:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) a misdemeanor or felony is being committed by a person or  
2 in a building, apartment, premises, place, or thing within the territorial jurisdiction of  
3 the judge; or

4 (ii) property subject to seizure under the criminal laws of the  
5 State is on the person or in or on the building, apartment, premises, place, or thing.

6 (2) (i) An application for a search warrant shall be:

7 1. in writing;

8 2. signed and sworn to by the applicant; and

9 3. accompanied by an affidavit that[:

10 A.] sets forth the basis for probable cause as described in  
11 paragraph (1) of this subsection[; and

12 B. contains facts within the personal knowledge of the  
13 affiant that there is probable cause].

14 (ii) An application for a search warrant may contain a request  
15 that the search warrant authorize the executing law enforcement officer to enter the  
16 building, apartment, premises, place, or thing to be searched without giving notice of  
17 the officer's authority or purpose, on the grounds that there is reasonable suspicion to  
18 believe that, without the authorization:

19 1. the property subject to seizure may be destroyed,  
20 disposed of, or secreted; or

21 2. the life or safety of the executing officer or another  
22 person may be endangered.

23 (3) The search warrant shall:

24 (i) be directed to a duly constituted police officer, the State Fire  
25 Marshal, or a full-time investigative and inspection assistant of the Office of the State  
26 Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time  
27 investigative and inspection assistant of the Office of the State Fire Marshal to search  
28 the suspected person, building, apartment, premises, place, or thing and to seize any  
29 property found subject to seizure under the criminal laws of the State;

30 (ii) name or describe, with reasonable particularity:

31 1. the person, building, apartment, premises, place, or  
32 thing to be searched;



1 (ii) the court makes a finding of good cause based on the  
2 evidence.

3 (4) After the order sealing the **APPLICATION FOR A SEARCH**  
4 **WARRANT, affidavit PRESENTED IN SUPPORT OF A SEARCH WARRANT, OR**  
5 **SEARCH WARRANT** expires, the **APPLICATION, affidavit, OR SEARCH WARRANT**  
6 shall be:

7 (i) unsealed; and

8 (ii) delivered within 15 days:

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

10 2. if that person is not on the premises at the time of  
11 delivery, to the person apparently in charge of the premises from which the property  
12 was taken.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2012.