

Chapter 525

(Senate Bill 496)

AN ACT concerning

Criminal Procedure – Unexecuted Warrant, Summons, or Other Criminal Process – Invalidation and Destruction

FOR the purpose of authorizing a law enforcement agency to make a certain request to a certain State's Attorney to have a certain unexecuted warrant, summons, or other criminal process invalidated and destroyed under certain circumstances; authorizing the State's Attorney to petition a certain administrative judge for the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process; requiring the State's Attorney to petition a certain administrative judge for the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process; authorizing the State's Attorney to argue against the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process under certain circumstances; providing for the manner in which a court may order the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process; prohibiting an arrest from being made under the authority of a certain warrant, summons, or other criminal process; authorizing the State's Attorney to enter a nolle prosequi or place a certain case on the stet docket at a certain time; providing for the application of this Act; and generally relating to the invalidation and destruction of unexecuted warrants, summons, or other criminal processes.

BY adding to

Article – Criminal Procedure

Section 4–109

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

4–109.

(A) A LAW ENFORCEMENT AGENCY MAY MAKE A WRITTEN REQUEST FOR THE STATE'S ATTORNEY WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY TO PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT TO HAVE ~~AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE,~~

~~SUMMONS, OR OTHER CRIMINAL PROCESS IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES.~~

~~(B) ON RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS~~ A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES, IF:

(1) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE ARREST OF THE DEFENDANT IN ORDER THAT THE DEFENDANT MIGHT STAND FOR TRIAL AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(2) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE FAILURE OF THE DEFENDANT TO MAKE A DEFERRED PAYMENT OF A FINE OR COSTS AS ORDERED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(3) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR A VIOLATION OF PROBATION AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION, THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE ARREST OF THE DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR AS DIRECTED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS; OR

(5) THE DEFENDANT WAS RELEASED ON BAIL POSTED BY A PRIVATE SURETY, AND THE WARRANT WAS ISSUED FOR THE ARREST OF THE DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR AS DIRECTED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 10 YEARS.

(B) (1) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(1), (A)(2), (A)(3), OR (A)(4) OF THIS SECTION, THE STATE'S ATTORNEY:

(I) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS HAS REMAINED UNEXECUTED FOR MORE THAN 5 YEARS BUT LESS THAN 7 YEARS, MAY PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER PROCESS; AND

(II) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS HAS REMAINED UNEXECUTED FOR AT LEAST 7 YEARS, SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER PROCESS.

(2) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(5) OF THIS SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS.

(C) THE STATE'S ATTORNEY MAY ARGUE AGAINST THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS DUE TO A JUSTIFIABLE CONTINUING ACTIVE INVESTIGATION OF THE CASE.

(D) UNLESS PRESERVATION IS DETERMINED BY THE COURT TO BE JUSTIFIABLE, THE COURT SHALL ORDER THE INVALIDATION AND DESTRUCTION OF AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE, SUMMONS, OR OTHER CRIMINAL PROCESS IN ACCORDANCE WITH § 1-605 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(E) AN ARREST MAY NOT BE MADE UNDER THE AUTHORITY OF A WARRANT OR OTHER CRIMINAL PROCESS THAT HAS BEEN ORDERED INVALIDATED AND DESTROYED.

(F) THE STATE'S ATTORNEY MAY ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE STET DOCKET AT THE TIME OF THE COURT ORDER UNDER THIS SECTION.

(G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

(1) PREVENT THE REISSUANCE OF A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS;

(2) AFFECT THE TIME WITHIN WHICH A PROSECUTION FOR A MISDEMEANOR MAY BE COMMENCED; OR

(3) AFFECT ANY PENDING CRIMINAL CHARGE.

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

Approved by the Governor, May 22, 2012.