

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1106
Judiciary

(Delegate Clippinger)

Criminal Procedure - Search Warrants - Application and Affidavit

This bill (1) authorizes a court to seal an application for a search warrant or a search warrant for a period of up to 30 days; (2) authorizes a court to grant more than one 30-day extension of the time during which an application for a search warrant, an affidavit presented in support of a search warrant, or a search warrant is to remain sealed; and (3) requires specified documents related to a search warrant be unsealed and delivered following the expiration of an order by the court to keep them under seal.

Fiscal Summary

State Effect: The bill is procedural and does not materially affect State finances.

Local Effect: The bill is procedural and does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A circuit court or District Court judge may issue a search warrant whenever it is made to appear to the judge that there is probable cause to believe that (1) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the jurisdiction of the judge or (2) property subject to seizure is on the person or in or on the building, apartment, premises, place, or thing.

An application for a search warrant must be in (1) writing; (2) signed and sworn to by the applicant; and (3) accompanied by an affidavit that sets forth the basis for probable cause and contains facts within the personal knowledge of the affiant that there is probable cause.

A law enforcement officer may request, in an application for a search warrant, that a building, apartment, premises, place, or thing be searched without the officer having to provide notice of the officer's authority or purpose. To execute such a warrant (also referred to as a "no-knock" warrant), the officer must have a reasonable suspicion that, without the authorization, the property subject to search or seizure may be destroyed, disposed of, or secreted, or the life or safety of the executing officer or another person may be in danger. This warrant authorizes the executing law enforcement officer to enter the building, apartment, premises, place, or to search a thing without giving notice of the officer's authority or purpose.

Any search and seizure made under the authority of a search warrant must be made within 15 calendar days after the day the warrant was issued. A search warrant is void after this 15-day period.

A judge who issues a search warrant must retain a copy of the warrant, application, and supporting affidavit. A judge may order a supporting affidavit to be sealed for up to 30 days under certain circumstances. The warrant, application, affidavit, and other supporting documentation may not be filed with the clerk of the court until the search warrant is returned executed. Generally, an executed search warrant must be returned to the issuing judge or a judge in the same circuit or district as promptly as possible or within 10 days after the date the warrant was executed. The judge to whom the warrant is returned must attach specified supporting documentation and file the papers with the clerk of the county in which the property was seized. The papers filed with the clerk must be sealed and may only be opened for inspection upon order of the court. The clerk must maintain a confidential index of search warrants. A warrant that is not executed within the 15-day time period must be promptly returned to the issuing judge, who may destroy it.

Additional Information

Prior Introductions: HB 1475 of 2012, a similar bill, was referred to the House Rules Committee. No further action was taken.

Cross File: None.

Information Source(s): Baltimore City; Kent, Montgomery, Washington, and Worcester counties; Department of Natural Resources; Department of General Services; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

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mc/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510