

SB0419/363623/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 419
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “**Maryland Police Accountability Act of 2021 – Search Warrants**”; in line 3, strike “repealing” and substitute “altering”; strike beginning with “providing” in line 6 down through “circumstances;” in line 11 and substitute “requiring an application for a certain search warrant to contain certain information; providing that an application for a search warrant may contain a request authorizing the executing law enforcement officer to enter a building, an apartment, a premises, a place, or a thing to be searched during certain hours only under certain circumstances; requiring a search warrant to specify if it authorizes a law enforcement officer to enter a certain building, apartment, premises, place, or thing to be searched during certain hours; authorizing a judge to put certain restrictions on a search warrant under certain circumstances; altering the time period during which a search warrant is valid;”; in line 15, strike “notice;” and substitute “notice or without certain review and approval by a certain State’s Attorney and a certain law enforcement official; requiring a police officer participating in the execution of a certain search warrant to wear a certain uniform or clothing under certain circumstances; prohibiting a certain police officer from entering a certain building, apartment, premises, place, or thing to be searched during certain hours without a certain authorization; requiring a law enforcement agency to report certain information to the Governor’s Office of Crime Prevention, Youth, and Victim Services using a certain format; requiring the Maryland Police Training and Standards Commission, in consultation with the Governor’s Office of Crime Prevention, Youth, and Victim Services, to develop a standardized format for certain law enforcement agencies to use in reporting certain data relating to search warrants to the Governor’s Office of Crime Prevention, Youth, and Victim Services and to certain local officials; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the Governor’s Office of Crime Prevention, Youth, and Victim”

(Over)

SB0419/363623/1 Judicial Proceedings Committee
Amendments to SB 419
Page 2 of 11

Services and certain local governments before a certain date; requiring the Governor’s Office of Crime Prevention, Youth, and Victim Services to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before a certain date each year and publish the report on its website; providing that, if a law enforcement agency fails to comply with the reporting provisions of this Act, the Governor’s Office of Crime Prevention, Youth, and Victim Services shall report the noncompliance to the Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with this Act under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting provisions within a certain period after being contacted by the Commission, the Governor’s Office of Crime Prevention, Youth, and Victim Services and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly;”; strike beginning with “elimination” in line 16 down through “warrants” in line 17 and substitute “execution of search warrants”; in line 20, strike “1–203(a)(2)(vi) and” and substitute “1–203(a)(2)(i) and (vi).”; in the same line, after “(3)” insert “, and (4)”; and after line 22, insert:

“BY adding to

Article – Criminal Procedure

Section 1–203(a)(2)(vii) and 2–109

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 8, insert:

“(a) (2) (i) An application for a search warrant shall [be]:

1. BE in writing;

2. BE signed, dated, and sworn to by the applicant; [and]

3. BE accompanied by an affidavit that:

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

B. contains facts within the personal knowledge of the affiant that there is probable cause; AND

4. IF THE APPLICATION CONTAINS A REQUEST THAT THE SEARCH WARRANT AUTHORIZE THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER'S AUTHORITY OR PURPOSE, CONTAIN ANY INFORMATION KNOWN TO THE APPLICANT ABOUT THE PRESENCE OF MINORS, VULNERABLE ADULTS AS DEFINED IN § 14-101 OF THE FAMILY LAW ARTICLE, AND INDIVIDUALS WITH DISABILITIES WHO MAY BE ENCOUNTERED DURING THE EXECUTION OF THE WARRANT.”;

in line 9, strike “(a)(2)”; in the same line, strike “NOT”; in line 11, after “searched” insert “DURING A PERIOD OF TIME BETWEEN 6:00 A.M. AND 10:00 P.M.”; in lines 12 and 17, in each instance, strike the bracket; after line 17, insert:

“(VII) AN APPLICATION FOR A SEARCH WARRANT MAY CONTAIN A REQUEST THAT THE SEARCH WARRANT AUTHORIZE THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER'S AUTHORITY OR PURPOSE DURING A PERIOD OF TIME BETWEEN 10:00 P.M. AND 6:00 A.M., INCLUSIVE, ON THE GROUNDS STATED IN SUBPARAGRAPH (VI) OF THIS PARAGRAPH ONLY IF THE APPLICATION STATES:

(Over)

1. THE PERIOD OF TIME THAT THE SEARCH WARRANT IS INTENDED TO BE EXECUTED; AND

2. THE REASON FOR EXECUTING THE SEARCH WARRANT DURING THE PERIOD OF TIME STATED IN THE APPLICATION.”;

in line 24, strike “AND”; in line 30, strike the bracket; in the same line, strike “and”; and in line 33, after “searched” insert “**DURING A PERIOD OF TIME BETWEEN 6:00 A.M. AND 10:00 P.M.**”.

On page 3, in line 1, strike the bracket; in the same line, strike the period and substitute “;

(IV) IF WARRANTED BY THE APPLICATION AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, AUTHORIZE THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED DURING A PERIOD OF TIME BETWEEN 10:00 P.M. AND 6:00 A.M., INCLUSIVE, IF GOOD CAUSE EXISTS TO AUTHORIZE THE EXECUTION OF THE SEARCH WARRANT DURING THE PERIOD OF TIME STATED IN THE APPLICATION; AND

(V) IF DETERMINED BY THE ISSUING JUDGE TO BE JUSTIFIED BY INFORMATION CONCERNING THE PRESENCE OF MINORS, VULNERABLE ADULTS AS DEFINED IN § 14-101 OF THE FAMILY LAW ARTICLE, OR INDIVIDUALS WITH DISABILITIES IN THE APPLICATION FOR A SEARCH WARRANT AUTHORIZING THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER’S AUTHORITY OR PURPOSE, RESTRICT THE TIME, PLACE, AND CIRCUMSTANCES UNDER WHICH THE WARRANT MAY BE EXECUTED.

(4) (i) 1. [The] EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE search and seizure under the authority of a search warrant shall be made within 15 calendar days after the day that the search warrant is issued.

2. A SEARCH AND SEIZURE UNDER THE AUTHORITY OF A SEARCH WARRANT AUTHORIZING THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER'S AUTHORITY OR PURPOSE SHALL BE MADE WITHIN:

A. 10 CALENDAR DAYS AFTER THE DAY THAT THE SEARCH WARRANT IS ISSUED; OR

B. 15 CALENDAR DAYS AFTER THE DAY THAT THE SEARCH WARRANT IS ISSUED IF, AT THE TIME OF ISSUING THE WARRANT, THE ISSUING JUDGE DETERMINED THAT THERE WAS GOOD CAUSE TO ALLOW FOR THE SEARCH AND SEIZURE TO BE MADE 15 CALENDAR DAYS AFTER THE DAY THE SEARCH WARRANT IS ISSUED.

(ii) After the expiration of the [15-day] APPLICABLE period, the search warrant is void.

2-109.

(A) IN THIS SECTION, "NO-KNOCK WARRANT" MEANS A WARRANT AUTHORIZING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER'S AUTHORITY OR PURPOSE.

(Over)

(B) A POLICE OFFICER MAY NOT EXECUTE A NO-KNOCK WARRANT UNLESS THE STATE'S ATTORNEY, OR THE STATE'S ATTORNEY'S DESIGNEE, FOR THE JURISDICTION IN WHICH THE SEARCH WARRANT IS TO BE EXECUTED AND A MEMBER OF THE COMMAND STAFF FOR A LAW ENFORCEMENT AGENCY INVOLVED IN THE EXECUTION OF THE SEARCH WARRANT HAS:

(1) REVIEWED THE SEARCH WARRANT;

(2) BEEN INFORMED BY THE APPLICANT WHO APPLIED FOR THE WARRANT OF THE CIRCUMSTANCES UNDER WHICH THE SEARCH WARRANT WILL BE EXECUTED; AND

(3) APPROVED THE EXECUTION OF THE SEARCH WARRANT BEFORE ANY OFFICER ENTERS THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE SEARCH WARRANT.

(C) A POLICE OFFICER MAKING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED DURING THE EXECUTION OF A NO-KNOCK WARRANT:

(1) SHALL WEAR A UNIFORM OR OTHER CLOTHING THAT MAKES THE POLICE OFFICER IMMEDIATELY RECOGNIZABLE AS A POLICE OFFICER AT ALL TIMES WHILE THE POLICE OFFICER IS PARTICIPATING IN THE EXECUTION OF THE SEARCH WARRANT; AND

(2) MAY NOT, FOR THE PURPOSE OF EXECUTING THE WARRANT, ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE SEARCH WARRANT BETWEEN THE HOURS OF 10:00

P.M. AND 6:00 A.M., INCLUSIVE, UNLESS SPECIFICALLY AUTHORIZED IN THE SEARCH WARRANT.

(D) (1) WHILE MAKING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED SPECIFIED IN A NO-KNOCK WARRANT, A POLICE OFFICER SHALL GIVE NOTICE THAT IS REASONABLY CALCULATED TO ALERT ANY INDIVIDUAL INSIDE THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE SEARCH WARRANT THAT A SEARCH WARRANT IS BEING EXECUTED.

(2) WHEN EXECUTING A NO-KNOCK WARRANT, AFTER MAKING ENTRY INTO AND SECURING, BUT BEFORE SEARCHING, THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE SEARCH WARRANT, AN OFFICER PARTICIPATING IN THE EXECUTION OF THE SEARCH WARRANT SHALL GIVE A COPY OF THE SEARCH WARRANT RETURN TO AN AUTHORIZED OCCUPANT OR LEAVE A COPY OF THE SEARCH WARRANT RETURN AT THE PREMISES AS REQUIRED BY § 1-203 OF THIS ARTICLE.”.

AMENDMENT NO. 3

On page 3, strike in their entirety lines 10 through 13, inclusive, and substitute:

“(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3-101 OF THIS TITLE.

(3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS

(Over)

SECTION.

(4) “NO-KNOCK WARRANT” MEANS A WARRANT AUTHORIZING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER’S AUTHORITY OR PURPOSE.

(5) “SWAT TEAM” MEANS A SPECIAL UNIT COMPOSED OF TWO OR MORE LAW ENFORCEMENT OFFICERS WITHIN A LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS, INCLUDING RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR LAW ENFORCEMENT OFFICERS.

(B) A LAW ENFORCEMENT AGENCY SHALL REPORT THE FOLLOWING INFORMATION RELATING TO SEARCH WARRANTS EXECUTED BY THE LAW ENFORCEMENT AGENCY DURING THE PRIOR CALENDAR YEAR TO THE GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE NUMBER OF TIMES A NO-KNOCK WARRANT WAS EXECUTED BY LAW ENFORCEMENT OFFICERS EMPLOYED BY THE LAW ENFORCEMENT AGENCY IN THE PREVIOUS YEAR;

(2) THE NAME OF THE COUNTY OR COUNTY AND MUNICIPAL CORPORATION AND THE ZIP CODE OF THE LOCATION WHERE EACH NO-KNOCK WARRANT WAS EXECUTED BY OFFICERS EMPLOYED BY THE LAW ENFORCEMENT AGENCY;

(3) FOR EACH SEARCH WARRANT EXECUTED, THE NUMBER OF DAYS FROM THE ISSUANCE UNTIL THE EXECUTION OF THE WARRANT,

DISAGGREGATED BY WHETHER THE WARRANT WAS A NO-KNOCK WARRANT;

(4) THE LEGAL BASIS FOR EACH NO-KNOCK WARRANT ISSUED TO LAW ENFORCEMENT OFFICERS EMPLOYED BY THE LAW ENFORCEMENT AGENCY;

(5) THE NUMBER OF TIMES A SEARCH WARRANT WAS EXECUTED UNDER CIRCUMSTANCES IN WHICH A LAW ENFORCEMENT OFFICER EMPLOYED BY THE LAW ENFORCEMENT AGENCY MADE FORCIBLE ENTRY INTO THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE WARRANT;

(6) THE NUMBER OF TIMES A SWAT TEAM WAS DEPLOYED TO SERVE A SEARCH WARRANT;

(7) THE NUMBER OF ARRESTS MADE, IF ANY, DURING THE EXECUTION OF A SEARCH WARRANT;

(8) THE NUMBER OF TIMES PROPERTY WAS SEIZED DURING THE EXECUTION OF A SEARCH WARRANT;

(9) THE NUMBER OF TIMES A WEAPON WAS DISCHARGED BY A LAW ENFORCEMENT OFFICER DURING THE EXECUTION OF A SEARCH WARRANT; AND

(10) THE NUMBER OF TIMES A PERSON OR DOMESTIC ANIMAL WAS INJURED OR KILLED DURING THE EXECUTION OF A SEARCH WARRANT, DISAGGREGATED BY WHETHER THE PERSON OR ANIMAL WAS INJURED OR KILLED BY AN INDIVIDUAL WHO WAS A LAW ENFORCEMENT OFFICER OR NOT A LAW ENFORCEMENT OFFICER.

(C) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION,

(Over)

IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, SHALL DEVELOP A STANDARDIZED FORMAT FOR EACH LAW ENFORCEMENT AGENCY TO USE IN REPORTING DATA TO THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH 1-YEAR PERIOD AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) NOT LATER THAN JANUARY 15 EACH YEAR, SUBMIT THE REPORT TO:

(I) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION.

(E) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL ANALYZE AND SUMMARIZE THE REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) BEFORE SEPTEMBER 1 EACH YEAR, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL:

(i) SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, EACH LAW ENFORCEMENT AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY; AND

(ii) PUBLISH THE REPORT ON ITS WEBSITE.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REPORT THE NONCOMPLIANCE TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION WITH A REQUEST TO COMPLY, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES AND THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY."