

HOUSE BILL 241

E4

1lr1442

(PRE-FILED)

By: **Delegate Wilson**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Search Warrants – Requirements**

3 FOR the purpose of repealing a provision of law authorizing an application for a search
4 warrant to contain a request authorizing the executing law enforcement officer to
5 enter a building, an apartment, a premises, a place, or a thing to be searched without
6 giving notice of the officer's authority or purpose under certain circumstances;
7 providing that an application for a search warrant may not contain a request that
8 the search warrant authorize the executing law enforcement officer to enter the
9 building, apartment, premises, place, or thing to be searched without giving a certain
10 notice; authorizing an application for a search warrant to contain a request
11 authorizing the execution of the warrant during a certain time of day; repealing a
12 provision of law requiring the issuance of a search warrant exempting a law
13 enforcement officer from providing certain notice under certain circumstances;
14 requiring the issuance of a search warrant authorizing the execution of the warrant
15 during a certain time of day; repealing a provision of law requiring the Maryland
16 Police Training and Standards Commission to consult and cooperate with
17 commanders of SWAT teams to develop certain standards; prohibiting a police officer
18 from entering a certain building, apartment, premises, place, or thing without
19 providing certain notice; requiring a police officer participating in the execution of a
20 certain warrant to use a certain body-worn camera and wear a certain uniform or
21 clothing under certain circumstances; providing that a police officer may not execute
22 a certain warrant at a certain time of day, with a certain exception; providing for the
23 application of this Act; and generally relating to search warrants.

24 BY repealing and reenacting, with amendments,
25 Article – Criminal Procedure
26 Section 1-203(a)(2)(vi) and (3)
27 Annotated Code of Maryland
28 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Criminal Procedure
 3 Section 1–203(a)(2)(vii)
 4 Annotated Code of Maryland
 5 (2018 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Public Safety
 8 Section 3–207(a)(24)
 9 Annotated Code of Maryland
 10 (2018 Replacement Volume and 2020 Supplement)

11 BY adding to
 12 Article – Public Safety
 13 Section 3–523
 14 Annotated Code of Maryland
 15 (2018 Replacement Volume and 2020 Supplement)

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

18 **Article – Criminal Procedure**

19 1–203.

20 (a) (2) (vi) An application for a search warrant may **NOT** contain a request
 21 that the search warrant authorize the executing law enforcement officer to enter the
 22 building, apartment, premises, place, or thing to be searched without giving notice of the
 23 officer’s authority or purpose], on the grounds that there is reasonable suspicion to believe
 24 that, without the authorization:

- 25 1. the property subject to seizure may be destroyed, disposed
 26 of, or secreted; or
- 27 2. the life or safety of the executing officer or another person
 28 may be endangered].

29 **(VII) AN APPLICATION FOR A SEARCH WARRANT MAY CONTAIN A**
 30 **REQUEST THAT THE SEARCH WARRANT AUTHORIZE THE EXECUTING LAW**
 31 **ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE,**
 32 **OR THING TO BE SEARCHED DURING THE PERIOD OF TIME BETWEEN SUNSET AND**
 33 **SUNRISE ON THE GROUNDS THAT THERE IS GOOD CAUSE FOR THE AUTHORIZATION.**

34 (3) The search warrant shall:

- 35 (i) be directed to a duly constituted police officer, the State Fire

1 Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire
 2 Marshal and authorize the police officer, the State Fire Marshal, or a full-time
 3 investigative and inspection assistant of the Office of the State Fire Marshal to search the
 4 suspected person, building, apartment, premises, place, or thing and to seize any property
 5 found subject to seizure under the criminal laws of the State;

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

7 1. the person, building, apartment, premises, place, or thing
 8 to be searched;

9 2. the grounds for the search; and

10 3. the name of the applicant on whose application the search
 11 warrant was issued; and

12 (iii) [if warranted by application as described in paragraph (2) of this
 13 subsection, authorize the executing law enforcement officer to enter the building,
 14 apartment, premises, place, or thing to be searched without giving notice of the officer's
 15 authority or purpose] **IF GOOD CAUSE IS SHOWN IN THE APPLICATION AS DESCRIBED
 16 IN PARAGRAPH (2)(VII) OF THIS SUBSECTION, AUTHORIZE THE EXECUTING LAW
 17 ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE,
 18 OR THING TO BE SEARCHED DURING THE PERIOD OF TIME BETWEEN SUNSET AND
 19 SUNRISE.**

20 Article – Public Safety

21 3–207.

22 (a) The Commission has the following powers and duties:

23 (24) to consult and cooperate with commanders of SWAT teams to develop
 24 standards for training and deployment of SWAT teams [and of law enforcement officers
 25 who are not members of a SWAT team who conduct no-knock warrant service in the State]
 26 based on best practices in the State and nationwide.

27 **3–523.**

28 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A POLICE
 29 OFFICER WHO IS EXECUTING A SEARCH WARRANT MAY NOT, FOR THE PURPOSE OF
 30 EXECUTING THE WARRANT, ENTER THE BUILDING, APARTMENT, PREMISES, PLACE,
 31 OR THING SPECIFIED IN THE WARRANT TO BE SEARCHED UNLESS REASONABLE
 32 NOTICE THAT A WARRANT IS BEING EXECUTED HAS BEEN GIVEN TO ANY INDIVIDUAL
 33 INSIDE THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING SPECIFIED IN THE
 34 WARRANT.**

1 **(2) NOTICE PROVIDED BY THE POLICE OFFICER SHALL BE:**

2 **(I) REASONABLY CALCULATED TO ALERT OCCUPANTS OF THE**
3 **BUILDING, APARTMENT, PREMISES, PLACE, OR THING SPECIFIED IN THE WARRANT**
4 **THAT A WARRANT IS BEING EXECUTED; AND**

5 **(II) GIVEN AT LEAST 30 SECONDS BEFORE ANY OFFICER ENTERS**
6 **THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING SPECIFIED IN THE**
7 **WARRANT.**

8 **(B) A POLICE OFFICER PARTICIPATING IN THE EXECUTION OF A WARRANT**
9 **AUTHORIZING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR**
10 **A THING TO BE SEARCHED SHALL:**

11 **(1) USE A BODY-WORN CAMERA THAT IS ACTIVATED AND RECORDING**
12 **AUDIO AND VIDEO:**

13 **(I) AT ALL TIMES WHILE THE POLICE OFFICER IS:**

14 **1. PARTICIPATING IN THE EXECUTION OF THE**
15 **WARRANT; AND**

16 **2. INVOLVED IN THE ARREST OF AN INDIVIDUAL IN**
17 **RELATION TO THE WARRANT EXECUTION; AND**

18 **(II) AT LEAST 5 MINUTES BEFORE AND 5 MINUTES AFTER THE**
19 **WARRANT IS EXECUTED; AND**

20 **(2) WEAR A UNIFORM OR OTHER CLOTHING THAT MAKES THE POLICE**
21 **OFFICER IMMEDIATELY RECOGNIZABLE AS A POLICE OFFICER AT ALL TIMES WHILE**
22 **THE POLICE OFFICER IS PARTICIPATING IN THE EXECUTION OF THE WARRANT.**

23 **(C) A POLICE OFFICER MAY NOT EXECUTE A WARRANT TO SEARCH A**
24 **BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING DURING THE PERIOD**
25 **OF TIME BETWEEN SUNSET AND SUNRISE UNLESS SPECIFICALLY AUTHORIZED IN**
26 **THE WARRANT.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
28 apply only prospectively and may not be applied or interpreted to have any effect on or
29 application to any application for a search warrant made before the effective date of this
30 Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2021.