

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 241 (Delegate Wilson)
 Judiciary

Criminal Procedure - Search Warrants - Requirements

This bill prohibits no-knock warrants and establishes that a law enforcement officer who is executing a search warrant may not, for the purpose of executing the warrant, enter the building, apartment, premises, place, or thing specified in the warrant to be searched without giving reasonable notice that a warrant is being executed, as specified. The bill also prohibits execution of a search warrant between sunset and sunrise unless specified requirements are met. Also, the bill requires a police officer to be in uniform or wear identifying clothing and use an activated and recording body-worn camera (BWC) while executing a search warrant. The bill may only be applied prospectively and may not be interpreted to have any effect on or any application to any application for a search warrant made before the bill’s October 1, 2021 effective date.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$4.8 million in FY 2022, which only reflects costs for specified State agencies. Future year expenditures reflect annualization and ongoing costs. State law enforcement operations are also affected. Revenues are not affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4.8	2.7	2.8	2.8	2.8
Net Effect	(\$4.8)	(\$2.7)	(\$2.8)	(\$2.8)	(\$2.8)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures increase for local law enforcement agencies to comply with the bill’s requirements, as described below. The bill also has an operational impact on local law enforcement agencies. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Application and Authorization for a Search Warrant

The bill makes several conforming changes to prohibit no-knock warrants and effectuate its notice requirements. First, the bill repeals a provision in current law that allows an application for a search warrant to request authorization for the executing law enforcement officer to enter the building, apartment, premises, place, or thing specified in the warrant to be searched without giving notice of the officer's authority or purpose on the grounds that there is reasonable suspicion to believe that, without the authorization (1) the property subject to seizure may be destroyed, disposed of, or secreted or (2) the life or safety of the executing officer or another person may be endangered. Second, the bill specifically prohibits an application for a search warrant from containing a request for such an authorization. Third, the bill repeals a requirement that a search warrant must authorize the executing law enforcement officer to engage in the aforementioned actions if the warrant application justifies the request on the grounds specified above. Finally, the bill repeals a reference to "no-knock" warrant service in statutory provisions regarding the Maryland Police Training and Standards Commission.

Execution of a Search Warrant between Sunset and Sunrise

The bill authorizes an application for a search warrant to 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 between sunset and sunrise on the grounds there is good cause for the authorization. If good cause is shown in the application, the search warrant must authorize the executing law enforcement officer to engage in this activity. A police officer may not engage in this activity unless it is specifically authorized in the warrant.

Reasonable Notice, Body-worn Cameras, and Uniforms

The bill prohibits a police officer who is executing a search warrant from entering the building, apartment, premises, place, or thing specified in the warrant to be searched (the premises) unless reasonable notice that a warrant is being executed has been given to any individual inside the premises specified in the warrant. This notice must be (1) reasonably calculated to alert occupants of the premises specified in the warrant that a warrant is being executed and (2) given at least 30 seconds before any officer enters the premises specified in the warrant.

A police officer participating in the execution of a warrant authorizing entry into the premises to be searched must use a BWC that is activated and recording audio and video at all times while the police officer is participating in the execution of the warrant, involved in the arrest of an individual in relation to the warrant execution, and at least five minutes before and five minutes after the warrant is executed. The police officer must wear a uniform or other clothing that makes the police officer immediately recognizable as a police officer at all times while participating in the execution of the warrant.

Current Law: A circuit court or District Court judge may issue a search warrant whenever a warrant application makes it apparent 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, dated, 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 justify the request for 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. If the warrant application justifies this request on these grounds, the search warrant must authorize the executing law enforcement officer to engage in these actions.

State Expenditures: General fund expenditures increase by at least \$4.8 million in fiscal 2022 for State law enforcement agencies to comply with the bill's requirements, particularly the BWC requirement. The expenditures listed below are for the Department of State Police (DSP) and the Department of Public Safety and Correctional Services (DPSCS). Additional expenditures (multiple fund types) may be incurred by other State agencies that execute search warrants but are not reflected in this analysis.

The bill's requirements and restrictions on search warrants also have an operational impact on investigations and routine operations for affected law enforcement agencies.

Department of State Police

General fund expenditures for DSP increase by at least \$3.8 million in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost to purchase BWC equipment as well as the cost of hiring one lead technician, three technicians, and four administrative specialists to manage the BWC program and handle related requests. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	8.0
Salaries and Fringe Benefits	\$420,424
BWC Equipment and Training	3,322,095
Automobiles	62,000
Other Operating Expenses	<u>3,930</u>
Minimum FY 2022 DSP Expenditures	\$3,808,449

According to DSP, the bill essentially requires the department to establish a BWC program. Every trooper is authorized to apply for and execute a warrant. Troopers often work with investigators of DSP and other agencies to serve search warrants. To ensure a body camera is present at all search warrant events where a trooper may be present, DSP needs to purchase a body camera system for 1,490 sworn positions.

The information and assumptions used in calculating the estimate are stated below:

- Two vehicles are needed for technicians to travel to provide maintenance and support to officers using BWCs.
- There are currently approximately 1,490 law enforcement officers within DSP that require BWCs, at a cost of approximately \$3.3 million (\$2,200 per device). Additional first year operating costs for user management, licensing, and storage of BWC footage are estimated at \$3,375.

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Also included are continued BWC user management and BWC storage costs. To the extent that additional BWC training, maintenance, and storage are needed, expenditures increase further.

Department of Public Safety and Correctional Services

General fund expenditures for DPSCS increase by at least \$955,190 in fiscal 2022 and by approximately \$260,000 annually thereafter. This estimate reflects the cost to purchase BWC equipment (\$2,200 per device) for 32 officers in the Division of Parole and Probation’s Warrant Apprehension Unit and 50 officers in the Intelligence and

Investigation Division. The estimate also reflects the purchase of 10 centralized charging stations at a cost of \$1,495 each. Additional first year operating costs for user management and storage of BWC footage are estimated at \$759,840. Future year expenditures reflect ongoing data storage and user management fees. DPSCS expenditures may increase further should additional BWC training, maintenance, and storage be needed.

Local Expenditures: Local expenditures increase for local law enforcement agencies to comply with warrant procedures under the bill. These costs vary based on existing resources and the level and nature of warrant activity in the jurisdiction. For example, the City of Annapolis advises that the bill's alteration of warrant procedures increases overtime and equipment costs; the city estimates associated costs at approximately \$53,300 in fiscal 2022 and \$13,000 to \$15,000 annually thereafter. As with State agencies, the bill's provisions also have an operational impact on investigations and other related duties conducted by local law enforcement agencies.

Although several local jurisdictions currently operate BWC programs, to the extent local jurisdictions must purchase BWCs as a result of the bill, local expenditures increase, perhaps significantly in some jurisdictions. Caroline County advises that the bill is not expected to have a substantive fiscal impact, since the county has planned and budgeted for the use of BWCs by its law enforcement officers prior to the bill's effective date. In response to other legislation that requires the use of BWCs, Baltimore City and Howard, Montgomery, Prince George's, and Wicomico counties advised that BWC programs are currently operational and budgeted within their respective jurisdictions. However, other jurisdictions, including Harford and Talbot counties, indicated the potential for increased costs.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Caroline, Montgomery, and Prince George's counties; City of Annapolis; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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