

HOUSE BILL 1106

E2
HB 1475/12 – HRU

3lr2615

By: **Delegate Clippinger**

Introduced and read first time: February 8, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Search Warrants – Application and Affidavit**

3 FOR the purpose of authorizing a court to seal an application for a search warrant or a
4 search warrant under certain circumstances; authorizing the court to grant
5 multiple 30–day extensions of the time that certain documents are to remain
6 sealed under certain circumstances; requiring certain documents to be unsealed
7 and delivered to certain persons after the expiration of a certain time period;
8 making certain conforming changes; and generally relating to search warrants.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 1–203(a) and (e)
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2012 Supplement)

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

16 **Article – Criminal Procedure**

17 1–203.

18 (a) (1) A circuit court judge or District Court judge may issue forthwith a
19 search warrant whenever it is made to appear to the judge, by application as described
20 in paragraph (2) of this subsection, that there is probable cause to believe that:

21 (i) a misdemeanor or felony is being committed by a person or
22 in a building, apartment, premises, place, or thing within the territorial jurisdiction of
23 the judge; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) property subject to seizure under the criminal laws of the
2 State is on the person or in or on the building, apartment, premises, place, or thing.

3 (2) (i) An application for a search warrant shall be:

4 1. in writing;

5 2. signed and sworn to by the applicant; and

6 3. accompanied by an affidavit that:

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

9 B. contains facts within the personal knowledge of the
10 affiant that there is probable cause.

11 (ii) An application for a search warrant may contain a request
12 that the search warrant authorize the executing law enforcement officer to enter the
13 building, apartment, premises, place, or thing to be searched without giving notice of
14 the officer's authority or purpose, on the grounds that there is reasonable suspicion to
15 believe that, without the authorization:

16 1. the property subject to seizure may be destroyed,
17 disposed of, or secreted; or

18 2. the life or safety of the executing officer or another
19 person may be endangered.

20 (3) The search warrant shall:

21 (i) be directed to a duly constituted police officer, the State Fire
22 Marshal, or a full-time investigative and inspection assistant of the Office of the State
23 Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time
24 investigative and inspection assistant of the Office of the State Fire Marshal to search
25 the suspected person, building, apartment, premises, place, or thing and to seize any
26 property found subject to seizure under the criminal laws of the State;

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

28 1. the person, building, apartment, premises, place, or
29 thing to be searched;

30 2. the grounds for the search; and

31 3. the name of the applicant on whose application the
32 search warrant was issued; and

1 (iii) if warranted by application as described in paragraph (2) of
2 this subsection, authorize the executing law enforcement officer to enter the building,
3 apartment, premises, place, or thing to be searched without giving notice of the
4 officer's authority or purpose.

5 (4) (i) The search and seizure under the authority of a search
6 warrant shall be made within 15 calendar days after the day that the search warrant
7 is issued.

8 (ii) After the expiration of the 15-day period, the search
9 warrant is void.

10 (e) (1) Notwithstanding any provision of the Maryland Rules, a circuit
11 court judge or District Court judge, on a finding of good cause, may order that an
12 **APPLICATION FOR A SEARCH WARRANT, AN** affidavit presented in support of a
13 search [and seizure] warrant, **OR A SEARCH WARRANT** be sealed for a period not
14 exceeding 30 days.

15 (2) A finding of good cause required by paragraph (1) of this subsection
16 is established by evidence that:

17 (i) the criminal investigation to which the affidavit is related is
18 of a continuing nature and likely to yield further information that could be of use in
19 prosecuting alleged criminal activities; and

20 (ii) the failure to maintain the confidentiality of the
21 investigation would:

22 1. jeopardize the use of information already obtained in
23 the investigation;

24 2. impair the continuation of the investigation; or

25 3. jeopardize the safety of a source of information.

26 (3) A court may grant [one] 30-day [extension] **EXTENSIONS** of the
27 time that an **APPLICATION FOR A SEARCH WARRANT, AN** affidavit presented in
28 support of a search [and seizure] warrant, **OR A SEARCH WARRANT** is to remain
29 sealed if:

30 (i) law enforcement provides continued evidence as described in
31 paragraph (2) of this subsection; and

32 (ii) the court makes a finding of good cause based on the
33 evidence.

1 (4) After the order sealing the **APPLICATION FOR A SEARCH**
2 **WARRANT**, affidavit **PRESENTED IN SUPPORT OF A SEARCH WARRANT, OR**
3 **SEARCH WARRANT** expires, the **APPLICATION, affidavit, OR SEARCH WARRANT**
4 shall be:

5 (i) unsealed; and

6 (ii) delivered within 15 days:

7 1. to the person from whom the property was taken; or

8 2. if that person is not on the premises at the time of
9 delivery, to the person apparently in charge of the premises from which the property
10 was taken.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2013.