

SENATE BILL 30

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01r0722

(PRE-FILED)

By: **Senator Muse**

Requested: October 8, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Search Warrant – Deployment of SWAT Team**

3 FOR the purpose of establishing the requirements for a search warrant to be executed
4 in the deployment of a SWAT team; establishing that a certain judge may issue
5 a certain search warrant if there is probable cause to believe a felony is being
6 committed by a person or in a certain location; requiring an application for a
7 certain search warrant be reviewed, signed, and sworn to by a certain State's
8 Attorney; requiring the application to contain a request that the search warrant
9 authorize the executing law enforcement agency to deploy a certain SWAT
10 team; making technical changes; defining a certain term; providing for the
11 application of this Act; and generally relating to the issuance of a search
12 warrant to be executed in the deployment of a SWAT team.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 1–203(a)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

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

20 **Article – Criminal Procedure**

21 1–203.

22 (a) (1) **(I) IN THIS SUBSECTION, “SWAT TEAM” MEANS A SPECIAL**
23 **UNIT COMPOSED OF TWO OR MORE LAW ENFORCEMENT OFFICERS WITHIN A**
24 **LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS**
25 **OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS,**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SUCH AS RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR POLICE
2 OFFICERS.

3 (II) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF
4 THIS PARAGRAPH, A circuit court judge or District Court judge may issue forthwith a
5 search warrant whenever it is made to appear to the judge, by application as described
6 in paragraph [(2)] (2)(I) of this subsection, that there is probable cause to believe
7 that:

8 [(i)] 1. a misdemeanor or felony is being committed by a
9 person or in a building, apartment, premises, place, or thing within the territorial
10 jurisdiction of the judge; or

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

14 (III) A CIRCUIT COURT JUDGE OR DISTRICT COURT JUDGE
15 MAY ISSUE A SEARCH WARRANT TO BE EXECUTED BY DEPLOYMENT OF A SWAT
16 TEAM WHENEVER IT IS MADE TO APPEAR TO THE JUDGE, BY APPLICATION AS
17 DESCRIBED IN PARAGRAPH (2)(II) OF THIS SUBSECTION, THAT THERE IS
18 PROBABLE CAUSE TO BELIEVE THAT A FELONY IS BEING COMMITTED BY A
19 PERSON OR IN A BUILDING, APARTMENT, PREMISES, PLACE, LOCATION, OR
20 AREA WITHIN THE TERRITORIAL JURISDICTION OF THE JUDGE.

21 (2) (i) [An] EXCEPT AS REQUIRED BY SUBPARAGRAPH (II) OF
22 THIS PARAGRAPH, AN application for a search warrant shall be:

23 1. in writing;

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

25 3. accompanied by an affidavit that:

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

28 B. contains facts within the personal knowledge of the
29 affiant that there is probable cause.

30 (II) AN APPLICATION FOR A SEARCH WARRANT UNDER
31 PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL:

32 1. BE IN WRITING;

33 2. BE SIGNED AND SWORN TO BY THE APPLICANT;

1 **3. BE REVIEWED, SIGNED, AND SWORN TO BY THE**
2 **STATE'S ATTORNEY FOR THE COUNTY IN WHICH THE WARRANT WILL BE**
3 **EXECUTED;**

4 **4. CONTAIN A REQUEST THAT THE SEARCH**
5 **WARRANT AUTHORIZE THE EXECUTING LAW ENFORCEMENT AGENCY TO DEPLOY**
6 **A SWAT TEAM; AND**

7 **5. BE ACCOMPANIED BY AN AFFIDAVIT THAT:**

8 **A. SETS FORTH THE BASIS FOR PROBABLE CAUSE AS**
9 **DESCRIBED IN PARAGRAPH (1)(III) OF THIS SUBSECTION; AND**

10 **B. CONTAINS FACTS WITHIN THE PERSONAL**
11 **KNOWLEDGE OF THE AFFIANT THAT THERE IS PROBABLE CAUSE.**

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

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

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

21 (3) The search warrant shall:

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

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

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

31 2. the grounds for the search; and

1 3. the name of the applicant on whose application the
2 search warrant was issued; and

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

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

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply only prospectively and may not be applied or interpreted to have
14 any effect on or application to any search warrant issued before the effective date of
15 this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2010.