

HOUSE BILL 27

E2
HB 38/23 – JUD

(PRE–FILED)

4lr0492

By: **Delegate Acevero**

Requested: August 14, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **No–Knock Warrants**

3 FOR the purpose of repealing the authority for the issuance and execution of a no–knock
4 search warrant; establishing procedures for the issuance and execution of a search
5 warrant; and generally relating to search warrants.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section 1–203
9 Annotated Code of Maryland
10 (2018 Replacement Volume and 2023 Supplement)

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

13 **Article – Criminal Procedure**

14 1–203.

15 (a) (1) [In this subsection, “no–knock search warrant” means a search warrant
16 that authorizes the executing law enforcement officer to enter a building, apartment,
17 premises, place, or thing to be searched without giving notice of the officer’s authority or
18 purpose.

19 (2)] A circuit court judge or District Court judge may issue forthwith a
20 search warrant whenever it is made to appear to the judge, by application as described in
21 paragraph [(3)] **(2)** of this subsection, that there is probable cause to believe that:

22 (i) a misdemeanor or felony is being committed by a person or in a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or

(ii) property subject to seizure under the criminal laws of the 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:

1. in writing;

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

3. 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.

(ii) An application for a search warrant may be submitted to a judge:

1. by in-person delivery of the application, the affidavit, and a proposed search warrant;

2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or

3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

(iii) The applicant and the judge may converse about the search warrant application:

1. in person;

2. via telephone; or

3. via video.

(iv) The judge may issue the search warrant:

1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;

2. by signing the search warrant, writing the date and time

1 of issuance on the search warrant, and sending complete and printable images of the signed
2 and dated search warrant, the application, and the affidavit to the applicant by secure fax;
3 or

4 3. by signing the search warrant, either electronically or in
5 writing, indicating the date and time of issuance on the search warrant, and sending
6 complete and printable images of the signed and dated search warrant, the application, and
7 the affidavit to the applicant by secure electronic mail.

8 (v) The judge shall file a copy of the signed and dated search
9 warrant, the application, and the affidavit with the court.

10 [(vi) 1. If approved in writing by a police supervisor and the
11 State's Attorney, an application for a search warrant may contain a request that the search
12 warrant be a no-knock search warrant, on the ground that there is reasonable suspicion to
13 believe that, without the authorization the life or safety of the executing officer or another
14 person may be endangered.

15 2. An application for a no-knock search warrant under this
16 subparagraph shall contain:

17 A. a description of the evidence in support of the application;

18 B. an explanation of the investigative activities that have
19 been undertaken and the information that has been gathered to support the request for a
20 no-knock search warrant;

21 C. an explanation of why the affiant is unable to detain the
22 suspect or search the premises using other, less invasive methods;

23 D. acknowledgment that any police officers who will execute
24 the search warrant have successfully completed the same training in breach and call-out
25 entry procedures as SWAT team members;

26 E. a statement as to whether the search warrant can
27 effectively be executed during daylight hours and, if not, what facts or circumstances
28 preclude effective execution in daylight hours; and

29 F. a list of any additional occupants of the premises by age
30 and gender, as well as an indication as to whether any individuals with cognitive or physical
31 disabilities or pets reside at the premises, if known.

32 3. A no-knock search warrant shall be executed between
33 8:00 a.m. and 7:00 p.m., absent exigent circumstances.]

34 [(4)] (3) (I) The search warrant shall:

1 [(i)] 1. be directed to a duly constituted [police] LAW
2 ENFORCEMENT officer, the State Fire Marshal, or a full-time investigative and inspection
3 assistant of the Office of the State Fire Marshal and authorize the [police] LAW
4 ENFORCEMENT officer, the State Fire Marshal, or a full-time investigative and inspection
5 assistant of the Office of the State Fire Marshal to search the suspected person, building,
6 apartment, premises, place, or thing and to seize any property found subject to seizure
7 under the criminal laws of the State; AND

8 [(ii)] 2. name or describe, with reasonable particularity:

9 [1.] A. the person, building, apartment, premises, place, or
10 thing to be searched;

11 [2.] B. the grounds for the search; and

12 [3.] C. the name of the applicant on whose application the
13 search warrant was issued[]; and

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

18 (II) THE SEARCH WARRANT MAY NOT AUTHORIZE A LAW
19 ENFORCEMENT OFFICER EXECUTING THE WARRANT TO ENTER A BUILDING, AN
20 APARTMENT, A PREMISES, OR A PLACE TO BE SEARCHED WITHOUT FIRST
21 ANNOUNCING THE LAW ENFORCEMENT OFFICER'S PURPOSE AND AUTHORITY.

22 [(5)] (4) (i) The search and seizure under the authority of a search
23 warrant shall be made within 10 calendar days after the day that the search warrant is
24 issued.

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

27 (5) THE SEARCH WARRANT MAY BE EXECUTED ONLY BETWEEN 8:00
28 A.M. AND 7:00 P.M.

29 (6) The executing law enforcement officer shall give a copy of the search
30 warrant, the application, and the affidavit to an authorized occupant of the premises
31 searched or leave a copy of the search warrant, the application, and the affidavit at the
32 premises searched.

33 (7) (i) The executing law enforcement officer shall prepare a detailed
34 search warrant return which shall include the date and time of the execution of the search

1 warrant.

2 (ii) The executing law enforcement officer shall:

3 1. give a copy of the search warrant return to an authorized
4 occupant of the premises searched or leave a copy of the return at the premises searched;
5 and

6 2. file a copy of the search warrant return with the court in
7 person, by secure fax, or by secure electronic mail.

8 (8) (i) In this paragraph, “exigent circumstances” retains its judicially
9 determined meaning.

10 (ii) While executing a search warrant, a [police] LAW
11 ENFORCEMENT officer shall be clearly recognizable and identifiable as a [police] LAW
12 ENFORCEMENT officer, wearing a uniform, badge, and tag bearing the name and
13 identification number of the [police] LAW ENFORCEMENT officer.

14 (iii) 1. This subparagraph applies to a [police] LAW
15 ENFORCEMENT officer whose law enforcement agency requires the use of body-worn
16 cameras.

17 2. A [police] LAW ENFORCEMENT officer executing a search
18 warrant shall use a body-worn camera during the course of the search in accordance with
19 the policies established by the [police] LAW ENFORCEMENT officer’s law enforcement
20 agency.

21 (iv) 1. [Unless executing a no-knock search warrant, a]
22 BEFORE ENTERING A BUILDING, AN APARTMENT, A PREMISES, OR A PLACE TO BE
23 SEARCHED UNDER THE AUTHORITY OF THE SEARCH WARRANT, A LAW
24 ENFORCEMENT OFFICER EXECUTING THE WARRANT SHALL GIVE NOTICE
25 REASONABLY CALCULATED TO ALERT ANY OCCUPANTS WITHIN THE BUILDING,
26 APARTMENT, PREMISES, OR PLACE OF THE LAW ENFORCEMENT OFFICER’S
27 AUTHORITY AND PURPOSE.

28 2. A [police] LAW ENFORCEMENT officer shall allow a
29 minimum of 20 seconds for the occupants of a residence to respond and open the door before
30 the [police] LAW ENFORCEMENT officer attempts to enter the residence, absent exigent
31 circumstances.

32 (v) A [police] LAW ENFORCEMENT officer may not use flashbang,
33 stun, distraction, or other similar military-style devices when executing a search warrant,
34 absent exigent circumstances.

(b) (1) A circuit court judge or District Court judge shall cause property taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, it appears that:

(i) the property taken is not the same as that described in the search warrant;

(ii) there is no probable cause for believing the existence of the grounds on which the search warrant was issued; or

(iii) the property was taken under a search warrant issued more than [15] 10 calendar days before the seizure.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return is based on any ground described in paragraph (1) of this subsection.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority seizing the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

(5) If the judge finds that the property taken is the same as that described in the search warrant and that there is probable cause for believing the existence of the grounds on which the search warrant was issued, the judge shall order the property to be retained in the custody of the police authority seizing it or to be otherwise disposed of according to law.

(c) (1) This subsection does not apply to contraband or other property prohibited by law from being recoverable.

(2) Property seized under a search warrant issued under subsection (a) of this section may be returned to the person to whom the property belongs without the necessity of that person bringing an action for replevin or any other proceeding against the unit with custody of the property if:

(i) the criminal case in which the property was seized is disposed of because of a nolle prosequi, dismissal, or acquittal;

(ii) the State does not appeal the criminal case in which the property was seized; or

(iii) the time for appeal has expired.

(d) (1) A circuit court judge or District Court judge shall cause property rightfully taken under a search warrant to be restored to the person from whom it was taken if, at any time, on application to the judge, the judge finds that the property is being wrongfully withheld after there is no further need for retention of the property.

(2) The judge may receive an oral motion made in open court at any time making application for the return of seized property if the application for return is based on the ground that the property, although rightfully taken under a search warrant, is being wrongfully withheld after there is no further need for retention of the property.

(3) If the judge grants the oral motion described in paragraph (2) of this subsection, the order of the court shall be in writing and a copy of the order shall be sent to the State's Attorney.

(4) Court costs may not be assessed against the person from whom the property was taken if:

(i) the judge denies the oral motion and requires the person from whom the property was taken to proceed for return of the seized property by petition and an order to show cause to the police authority wrongfully withholding the property; and

(ii) it is later ordered that the property be restored to the person from whom it was taken.

(e) (1) Notwithstanding any provision of the Maryland Rules, a circuit court judge or District Court judge, on a finding of good cause, may order that an affidavit presented in support of a search and seizure warrant be sealed for a period not exceeding 30 days.

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

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

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

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

1 2. impair the continuation of the investigation; or

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

3 (3) A court may grant one 30-day extension of the time that an affidavit
4 presented in support of a search and seizure warrant is to remain sealed if:

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

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

8 (4) After the order sealing the affidavit expires, the affidavit shall be:

9 (i) unsealed; and

10 (ii) delivered within 15 days:

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2024.