

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

Senate Bill 419

(Senator Carter)

Judicial Proceedings

Judiciary

Maryland Police Accountability Act of 2021 - Search Warrants

This bill alters provisions of law relating to the application for and issuance and execution of search warrants authorizing 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. The bill establishes requirements for information that must be contained in the application for such warrants and alters the period of time within which these warrants must be executed after the date of issuance, subject to a specified exception. The bill also establishes specified requirements for law enforcement officers executing these warrants and establishes reporting requirements. 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 \$63,600 in FY 2022. Future years reflect annualization and ongoing expenditures. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	63,600	43,100	44,200	45,900	47,600
Net Effect	(\$63,600)	(\$43,100)	(\$44,200)	(\$45,900)	(\$47,600)

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

**Local Effect:** Local expenditures may increase for local law enforcement agencies to comply with the bill’s reporting requirements. Otherwise, the bill is procedural and is not expected to materially affect local finances or operations.

**Small Business Effect:** None.

## Analysis

### Bill Summary:

#### *Presence of Certain Individuals*

If an application for a search warrant contains a request that the search warrant authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose, the application must contain any information known to the applicant about the presence of minors, vulnerable adults, and individuals with disabilities who may be encountered during the execution of the warrant.

The search warrant must restrict the time, place, and circumstances under which the warrant may be executed if the issuing judge determines that the restrictions are justified by the information concerning the presence of these individuals contained in the application for the search warrant.

#### *Execution of a Search Warrant during Certain Hours*

An application for a search warrant may 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 during a period of time between 6:00 a.m. and 10:00 p.m. 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. If an application for a search warrant seeks authorization to engage in these actions for the same reasons during a period of time between 10:00 p.m. and 6:00 a.m., inclusive, the application must state the period of time that the search warrant is intended to be executed and the reason for executing the search warrant during the period of time stated in the application.

If warranted by the application, the search warrant must authorize the executing officer to engage in the aforementioned actions during a period of time between 6:00 a.m. and 10:00 p.m. The search warrant must authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched between 10:00 p.m. and 6:00 a.m. if (1) warranted by the application for the search warrant *and* (2) good cause exists to authorize execution of the search warrant during the period of time stated in the application.

### *Timing of Execution*

A search and seizure under the authority of a search warrant authorizing 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, must be made within 10 calendar days after the day the search warrant is issued or 15 calendar days after the day that the search warrant is issued if, at the time the warrant was issued, the issuing judge determined that there was good cause to allow for this extended deadline.

### *Requirements for Execution*

A "no-knock warrant" is a warrant authorizing entry into a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose. A police officer may not execute a no-knock warrant unless the State's Attorney (or a designee) and a member of the command staff for a law enforcement agency involved in the execution of the warrant has (1) reviewed the search warrant; (2) been informed by the applicant for the warrant of the circumstances under which the search warrant will be executed; and (3) approved the execution of the search warrant before any officer enters the building, apartment, premises, place, or thing to be searched specified in the warrant.

A police officer making entry into a building, apartment, premises, place, or thing to be searched during the execution of a no-knock warrant (1) must wear a uniform or other clothing that makes the officer immediately recognizable as a police officer and (2) may not, for the purpose of executing the warrant, enter the building, apartment, premises, place, or thing to be searched between the hours of 10:00 p.m. and 6:00 a.m., inclusive, unless specifically authorized in the warrant.

While making entry into a building, apartment, premises, place, or thing to be searched specified in a no-knock warrant, a police officer must give notice that is reasonably calculated to alert any individual inside that a search warrant is being executed. The bill also contains provisions requiring an officer participating in the execution of a no-knock warrant to give a copy of the search warrant return to an authorized occupant or leave a copy, as specified.

### *Reporting Requirements and Other Provisions*

The bill requires a law enforcement agency to report specified data relating to search warrants executed by the agency during the prior calendar year to the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS). The Maryland Police Training and Standards Commission (MPTSC), in consultation with GOCPYVS, is required to develop a standardized format for each law enforcement agency to use in

reporting this data to GOCPYVS. A law enforcement agency must compile the specified data for each one-year period as a report in a specified format. By January 15 of each year, the law enforcement agency is required to submit the report to GOCPYVS and the local governing body of the jurisdiction served by the agency or, if the jurisdiction served is a municipal corporation, the chief executive officer of the jurisdiction.

GOCPYVS must analyze and summarize the submitted reports. By September 1 of each year, GOCPYVS must (1) submit a report of the analyses and summaries of the submitted reports to the Governor, each law enforcement agency, and the General Assembly and (2) publish the report on its website.

If a law enforcement agency fails to comply with the reporting provisions of the bill, GOCPYVS must report the noncompliance to MPTSC. On receipt of a report of noncompliance, MPTSC must contact the law enforcement agency and request that the agency comply with the reporting requirement. If the law enforcement agency fails to comply within 30 days after being contacted by MPTSC, GOCPYVS and MPTSC must jointly report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.

The bill also repeals a requirement that MPTSC consult and cooperate with commanders of “SWAT teams” to develop standards for training and deployment of SWAT teams and of law enforcement officers who are not members of a SWAT team who conduct no-knock warrant service in the State based on best practices in the State and nationwide. Instead, under the bill, MPTSC must consult and cooperate with SWAT team commanders regarding the deployment of SWAT teams based on State and national best practices.

**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.

A search and seizure under the authority of a search warrant must be made within 15 calendar days after the day that the search warrant is issued. After the expiration of the 15-day period, the search warrant is void.

**State Expenditures:** General fund expenditures increase by \$63,643 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost for GOCPYVS to create an automated reporting system and hire one part-time administrative employee to assist the office with collection, compilation, and reporting of warrant-related data in accordance with the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$33,307
Computer Programming	25,000
One-time Start-up Costs and Operating Expenses	5,336
<b>Total FY 2022 State Expenditures</b>	<b>\$63,643</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

MPTSC can implement the bill with existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Frederick County; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of State Police; Governor’s Office of Crime Prevention, Youth, and Victim Services; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:**  
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