

HOUSE BILL 651

E4, E2

2lr1899

By: **Delegate Grammer**

Introduced and read first time: January 31, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – No-Knock Search Warrants – Repeal**

3 FOR the purpose of repealing provisions of law relating to no-knock search warrants; and
4 generally relating to no-knock search warrants.

5 BY repealing and reenacting, with amendments,
6 Article – Criminal Procedure
7 Section 1–203
8 Annotated Code of Maryland
9 (2018 Replacement Volume and 2021 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Public Safety
12 Section 3–207(a)(24) and 3–525(a) and (b)
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2021 Supplement)

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

17 **Article – Criminal Procedure**

18 1–203.

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

23 (2)] A circuit court judge or District Court judge may issue forthwith a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 search warrant whenever it is made to appear to the judge, by application as described in
2 paragraph ~~[(3)]~~ **(2)** of this subsection, that there is probable cause to believe that:

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

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

8 ~~[(3)]~~ **(2)** (i) An application for a search warrant shall be:

9 1. in writing;

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

11 3. accompanied by an affidavit that:

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

14 B. contains facts within the personal knowledge of the affiant
15 that there is probable cause.

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

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

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

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

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

25 1. in person;

26 2. via telephone; or

27 3. via video.

28 (iv) The judge may issue the search warrant:

29 1. by signing the search warrant, indicating the date and

1 time of issuance on the search warrant, and physically delivering the signed and dated
2 search warrant, the application, and the affidavit to the applicant;

3 2. by signing the search warrant, writing the date and time
4 of issuance on the search warrant, and sending complete and printable images of the signed
5 and dated search warrant, the application, and the affidavit to the applicant by secure fax;
6 or

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

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

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

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

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

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

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

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

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

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

35 3. A no-knock search warrant shall be executed between

1 8:00 a.m. and 7:00 p.m., absent exigent circumstances.]

2 (VI) A SEARCH WARRANT MAY NOT AUTHORIZE A LAW
3 ENFORCEMENT OFFICER TO ENTER THE BUILDING, APARTMENT, PREMISES, PLACE,
4 OR THING TO BE SEARCHED WITHOUT FIRST GIVING NOTICE OF THE OFFICER'S
5 AUTHORITY AND PURPOSE.

6 [(4)] (3) The search warrant shall:

7 (i) be directed to a duly constituted police officer, the State Fire
8 Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire
9 Marshal and authorize the police officer, the State Fire Marshal, or a full-time
10 investigative and inspection assistant of the Office of the State Fire Marshal to search the
11 suspected person, building, apartment, premises, place, or thing and to seize any property
12 found subject to seizure under the criminal laws of the State; AND

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

14 1. the person, building, apartment, premises, place, or thing
15 to be searched;

16 2. the grounds for the search; and

17 3. the name of the applicant on whose application the search
18 warrant was issued[]; and

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

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

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

28 [(6)] (5) The executing law enforcement officer shall give a copy of the
29 search warrant, the application, and the affidavit to an authorized occupant of the premises
30 searched or leave a copy of the search warrant, the application, and the affidavit at the
31 premises searched.

32 [(7)] (6) (i) The executing law enforcement officer shall prepare a
33 detailed search warrant return which shall include the date and time of the execution of
34 the search warrant.

1 (ii) The executing law enforcement officer shall:

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

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

7 ~~[(8)]~~ (7) (i) In this paragraph, “exigent circumstances” retains its
8 judicially determined meaning.

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

12 (iii) 1. This subparagraph applies to a police officer whose law
13 enforcement agency requires the use of body-worn cameras.

14 2. A police officer executing a search warrant shall use a
15 body-worn camera during the course of the search in accordance with the policies
16 established by the police officer’s law enforcement agency.

17 (iv) **A POLICE OFFICER EXECUTING A SEARCH WARRANT MAY**
18 **NOT, FOR THE PURPOSE OF EXECUTING THE WARRANT, ENTER THE BUILDING,**
19 **APARTMENT, PREMISES, PLACE, OR THING SPECIFIED IN THE WARRANT TO BE**
20 **SEARCHED UNLESS REASONABLE NOTICE OF THE OFFICER’S AUTHORITY AND**
21 **PURPOSE HAS BEEN GIVEN TO ANY INDIVIDUAL INSIDE THE BUILDING, APARTMENT,**
22 **PREMISES, PLACE, OR THING SPECIFIED IN THE WARRANT.**

23 (v) [Unless executing a no-knock search warrant, a] A police officer
24 shall allow a minimum of 20 seconds for the occupants of a residence to respond and open
25 the door before the police officer attempts to enter the residence, absent exigent
26 circumstances.

27 ~~[(v)]~~ (vi) A police officer may not use flashbang, stun, distraction,
28 or other similar military-style devices when executing a search warrant, absent exigent
29 circumstances.

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

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

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

3 (iii) the property was taken under a search warrant issued more than
4 15 calendar days before the seizure.

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

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

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

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

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

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

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

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

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

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

33 (iii) the time for appeal has expired.

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

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

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

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

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

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

19 (e) (1) Notwithstanding any provision of the Maryland Rules, a circuit court
20 judge or District Court judge, on a finding of good cause, may order that an affidavit
21 presented in support of a search and seizure warrant be sealed for a period not exceeding
22 30 days.

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

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

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

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

32 2. impair the continuation of the investigation; or

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

34 (3) A court may grant one 30-day extension of the time that an affidavit

1 presented in support of a search and seizure warrant is to remain sealed if:

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

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

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

6 (i) unsealed; and

7 (ii) delivered within 15 days:

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

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

11 Article – Public Safety

12 3–207.

13 (a) The Commission has the following powers and duties:

14 (24) to consult and cooperate with commanders of SWAT teams to develop
15 standards for training and deployment of SWAT teams [and of law enforcement officers
16 who are not members of a SWAT team who conduct no–knock warrant service in the State]
17 based on best practices in the State and nationwide.

18 3–525.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Law enforcement agency” has the meaning stated in § 3–201 of this
21 title.

22 (3) [“No–knock search warrant” means a search warrant authorizing entry
23 into a building, an apartment, a premises, a place, or a thing to be searched without giving
24 notice of the officer’s authority or purpose.

25 (4)] “Police officer” has the meaning stated in § 3–201 of this title.

26 [(5)] (4) “SWAT team” means a special unit composed of two or more
27 police officers within a law enforcement agency trained to deal with unusually dangerous
28 or violent situations and having special equipment and weapons, including rifles more
29 powerful than those carried by regular police officers.

1 (b) A law enforcement agency shall report the following information relating to
2 search warrants executed by the law enforcement agency during the prior calendar year to
3 the Governor's Office of Crime Prevention, Youth, and Victim Services using the format
4 developed under subsection (c) of this section:

5 [(1) the number of times a no-knock search warrant was executed in the
6 previous year;

7 (2) the name of the county and municipal corporation and the zip code of
8 the location where each no-knock search warrant was executed;]

9 [(3) (1) for each search warrant executed, the number of days from the
10 issuance until the execution of the search warrant[, disaggregated by whether the search
11 warrant was a no-knock search warrant];

12 [(4) the legal basis for each no-knock search warrant issued;]

13 [(5) (2) the number of times a search warrant was executed under
14 circumstances in which a police officer made forcible entry into the building, apartment,
15 premises, place, or thing to be searched specified in the warrant;

16 [(6) (3) the number of times a SWAT team was deployed to execute a
17 search warrant;

18 [(7) (4) the number of arrests made, if any, during the execution of a
19 search warrant;

20 [(8) (5) the number of times property was seized during the execution of
21 a search warrant;

22 [(9) (6) the number of times a weapon was discharged by a police officer
23 during the execution of a search warrant; and

24 [(10) (7) the number of times a person or domestic animal was injured or
25 killed during the execution of a search warrant, disaggregated by whether the person or
26 animal was injured or killed by a police officer.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2022.