

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 38
Judiciary

(Delegate Acevero)

No-Knock Warrants

This bill repeals the authority to issue and execute a no-knock search warrant and alters procedures for the issuance and execution of a search warrant. The bill (1) establishes that a search warrant may not authorize an officer executing the warrant to enter a building, apartment, premises, or place to be searched without first announcing the officer's purpose and authority; (2) specifies that a search warrant may be executed only between 8:00 a.m. and 7:00 p.m.; and (3) requires an officer executing a search warrant to, prior to entering the building, apartment, premises, or place to be searched under the warrant's authority, give notice reasonably calculated to alert any occupants within of the officer's authority and purpose.

Fiscal Summary

State Effect: While the bill does not materially affect State finances, it may necessitate changes to operations within affected State law enforcement agencies.

Local Effect: While the bill does not materially affect local finances, it may necessitate changes to operations within affected local law enforcement agencies.

Small Business Effect: None.

Analysis

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 (1) in 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 life or safety of the executing officer or another person may be in danger. An application for a no-knock search warrant must contain specified information and must be approved in writing by a police supervisor and the State's Attorney. 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 no-knock search warrant must be executed between 8:00 a.m. and 7:00 p.m., absent exigent circumstances.

An officer must be clearly recognizable and identifiable as a police officer while executing a search warrant. If an officer's law enforcement agency requires the use of body-worn cameras, the officer must use such a camera during the course of the search in accordance with the applicable policies. Unless executing a no-knock search warrant, a police officer must allow a minimum of 20 seconds for the occupants of a residence to respond and open the door before the police officer attempts to enter the residence, absent exigent circumstances.

A search and seizure under the authority of a search warrant must be made within 10 calendar days after the day that the search warrant is issued. After the expiration of the 10-day period, the search warrant is void. Additional prohibitions and requirements regarding search warrants are specified in statute.

Additional Comments: The bill also requires a circuit court judge or District Court judge to restore property taken under a search warrant to the person from whom it was taken if the property was taken under a search warrant issued more than *10 calendar days* before the seizure. The existing statutory requirement refers to *15 days*. This appears to be a conforming change, since Chapter 62 of 2021 reduced, from 15 days to 10 days, the time within which a search warrant must be executed after issuance.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 532 of 2022.

Designated Cross File: None.

Information Source(s): Caroline and Prince George's counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510