

SENATE BILL 496

E2

(2lr2753)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by ~~Senator Gladden~~ Senators Gladden and Middleton

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Unexecuted Warrant, Summons, or Other Criminal**
3 **Process – Invalidation and Destruction**

4 FOR the purpose of authorizing a law enforcement agency to make a certain request to
5 a certain State’s Attorney to have a certain unexecuted warrant, summons, or
6 other criminal process invalidated and destroyed under certain circumstances;
7 *authorizing the State’s Attorney to petition a certain administrative judge for the*
8 *invalidation and destruction of a certain unexecuted warrant, summons, or other*
9 *criminal process;* requiring the State’s Attorney to petition a certain
10 administrative judge for the invalidation and destruction of a certain
11 unexecuted warrant, summons, or other criminal process; authorizing the
12 State’s Attorney to argue against the invalidation and destruction of a certain
13 unexecuted warrant, summons, or other criminal process under certain
14 circumstances; providing for the manner in which a court may order the
15 invalidation and destruction of a certain unexecuted warrant, summons, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 other criminal process; prohibiting an arrest from being made under the
 2 authority of a certain warrant, *summons*, or other criminal process; authorizing
 3 the State's Attorney to enter a nolle prosequi or place a certain case on the stet
 4 docket at a certain time; providing for the application of this Act; and generally
 5 relating to the invalidation and destruction of unexecuted warrants, summons,
 6 or other criminal processes.

7 BY adding to

8 Article – Criminal Procedure

9 Section 4–109

10 Annotated Code of Maryland

11 (2008 Replacement Volume and 2011 Supplement)

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

14 **Article – Criminal Procedure**

15 **4–109.**

16 (A) A LAW ENFORCEMENT AGENCY MAY MAKE A WRITTEN REQUEST FOR
 17 THE STATE'S ATTORNEY WITHIN THE JURISDICTION OF THE LAW
 18 ENFORCEMENT AGENCY TO PETITION THE ADMINISTRATIVE JUDGE OF THE
 19 DISTRICT TO HAVE ~~AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE,~~
 20 ~~SUMMONS, OR OTHER CRIMINAL PROCESS IN THE POSSESSION OF THE LAW~~
 21 ~~ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF~~
 22 ~~THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND~~
 23 ~~UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES.~~

24 ~~(B) ON RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS~~
 25 ~~SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE~~
 26 ~~JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE~~
 27 ~~UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS~~ A WARRANT,
 28 SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE IN
 29 THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND
 30 DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR
 31 OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR
 32 OTHER SPECIAL CIRCUMSTANCES, IF:

33 (1) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS
 34 ISSUED FOR THE ARREST OF THE DEFENDANT IN ORDER THAT THE DEFENDANT
 35 MIGHT STAND FOR TRIAL AND HAS REMAINED UNEXECUTED FOR AT LEAST 5
 36 YEARS;

1 (2) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS
2 ISSUED FOR THE FAILURE OF THE DEFENDANT TO MAKE A DEFERRED PAYMENT
3 OF A FINE OR COSTS AS ORDERED BY THE COURT AND HAS REMAINED
4 UNEXECUTED FOR AT LEAST 5 YEARS;

5 (3) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS
6 ISSUED FOR A VIOLATION OF PROBATION AND HAS REMAINED UNEXECUTED FOR
7 AT LEAST 5 YEARS;

8 (4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION, THE
9 WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE
10 ARREST OF THE DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR
11 AS DIRECTED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 5
12 YEARS; OR

13 (5) THE DEFENDANT WAS RELEASED ON BAIL POSTED BY A
14 PRIVATE SURETY, AND THE WARRANT WAS ISSUED FOR THE ARREST OF THE
15 DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR AS DIRECTED BY
16 THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 10 YEARS.

17 (B) (1) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(1),
18 (A)(2), (A)(3), OR (A)(4) OF THIS SECTION, THE STATE'S ATTORNEY:

19 (I) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL
20 PROCESS HAS REMAINED UNEXECUTED FOR MORE THAN 5 YEARS BUT LESS
21 THAN 7 YEARS, MAY PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT
22 FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT,
23 SUMMONS, OR OTHER PROCESS; AND

24 (II) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL
25 PROCESS HAS REMAINED UNEXECUTED FOR AT LEAST 7 YEARS, SHALL PETITION
26 THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND
27 DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER PROCESS.

28 (2) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(5)
29 OF THIS SECTION, THE STATE'S ATTORNEY SHALL PETITION THE
30 ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND
31 DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL
32 PROCESS.

33 (C) THE STATE'S ATTORNEY MAY ARGUE AGAINST THE INVALIDATION
34 AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER
35 CRIMINAL PROCESS DUE TO A JUSTIFIABLE CONTINUING ACTIVE
36 INVESTIGATION OF THE CASE.

1 **(D) UNLESS PRESERVATION IS DETERMINED BY THE COURT TO BE**
 2 **JUSTIFIABLE, THE COURT SHALL ORDER THE INVALIDATION AND DESTRUCTION**
 3 **OF AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE, SUMMONS, OR**
 4 **OTHER CRIMINAL PROCESS IN ACCORDANCE WITH § 1-605 OF THE COURTS AND**
 5 **JUDICIAL PROCEEDINGS ARTICLE.**

6 **(E) AN ARREST MAY NOT BE MADE UNDER THE AUTHORITY OF A**
 7 **WARRANT OR OTHER CRIMINAL PROCESS THAT HAS BEEN ORDERED**
 8 **INVALIDATED AND DESTROYED.**

9 **(F) THE STATE'S ATTORNEY MAY ENTER A NOLLE PROSEQUI OR PLACE**
 10 **THE CASE ON THE STET DOCKET AT THE TIME OF THE COURT ORDER UNDER**
 11 **THIS SECTION.**

12 **(G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:**

13 **(1) PREVENT THE REISSUANCE OF A WARRANT, SUMMONS, OR**
 14 **OTHER CRIMINAL PROCESS;**

15 **(2) AFFECT THE TIME WITHIN WHICH A PROSECUTION FOR A**
 16 **MISDEMEANOR MAY BE COMMENCED; OR**

17 **(3) AFFECT ANY PENDING CRIMINAL CHARGE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 19 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.