

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 23-254

BY SENATOR(S) Fields and Gonzales, Bridges, Buckner, Coleman, Cutter, Danielson, Exum, Fenberg, Jaquez Lewis, Kolker, Moreno, Rodriguez, Winter F., Hansen, Marchman, Sullivan;
also REPRESENTATIVE(S) Epps and Weissman, Bacon, deGruy Kennedy, English, Garcia, Gonzales-Gutierrez, Jodeh, Lindsay, Mabrey, Sharbini, Velasco, Woodrow, Amabile, Boesenecker, Brown, Dickson, Herod, Lindstedt, Michaelson Jenet, Sirota, Story, Valdez, Vigil, Willford, McCluskie.

CONCERNING ENTRY INTO A DWELLING BY A PEACE OFFICER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 16-3-303, **amend** (6); and **add** (4)(a.5) as follows:

16-3-303. Search warrants - application - definition. (4) A no-knock search warrant shall be issued only if the affidavit for such warrant:

(a.5) ESTABLISHES THAT A NO-KNOCK ENTRY IS NECESSARY BECAUSE OF A CREDIBLE THREAT TO THE LIFE OF ANY PERSON, INCLUDING THE PEACE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

OFFICERS EXECUTING THE WARRANT;

(6) For the purposes of this section, unless the context otherwise requires, "no-knock search warrant" means a search warrant ~~served by entry without prior identification~~ THAT DOES NOT REQUIRE COMPLIANCE WITH SECTION 16-3-305 (7)(d).

SECTION 2. In Colorado Revised Statutes, 16-3-305, **amend** (1); and **add** (1.5) and (7) as follows:

16-3-305. Search warrants - direction - execution and return - legislative declaration. (1) ~~Except as otherwise provided in this section, a search warrant shall be directed to any officer authorized by law to execute it in the county wherein the property is located.~~ THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) ~~WHEN LAW ENFORCEMENT ENTERS A DWELLING, THE SAFETY AND PRESERVATION OF LIFE OF ALL OCCUPANTS AND LAW ENFORCEMENT OFFICERS IS PARAMOUNT;~~

(b) ~~A NO-KNOCK ENTRY INTO A DWELLING CAN INCREASE DANGER AND CONFUSION BECAUSE OCCUPANTS MAY NOT RECOGNIZE LAW ENFORCEMENT IS MAKING ENTRY AND MAY MISTAKE THE ENTRY AS ENTRY BY AN UNLAWFUL INTRUDER;~~

(c) ~~NO-KNOCK ENTRIES INTO DWELLINGS HAVE, IN SEVERAL INSTANCES ACROSS THE COUNTRY, INCLUDED NEGATIVE OUTCOMES AND THE LOSS OF LIFE;~~

(d) ~~MAKING NO-KNOCK ENTRIES TO PREVENT THE DESTRUCTION OF EVIDENCE, ESPECIALLY IN DRUG CASES, DOES NOT JUSTIFY THE RISK TO HUMAN LIFE;~~

(e) ~~NO-KNOCK ENTRIES SHOULD BE MADE ONLY WHEN DOING SO IS NECESSARY TO PROTECT HUMAN LIFE AND NOT WHEN DOING SO WOULD INCREASE THE RISK TO HUMAN LIFE; AND~~

(f) ~~THE STANDARD FOR WARRANTLESS NO-KNOCK ENTRIES SHOULD BE SUBSTANTIALLY THE SAME AS THE STANDARD FOR NO-KNOCK WARRANTS.~~

(1.5) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A SEARCH WARRANT SHALL BE DIRECTED TO ANY OFFICER AUTHORIZED BY LAW TO EXECUTE IT IN THE COUNTY WHEREIN THE PROPERTY IS LOCATED.

(7) WHEN A PEACE OFFICER, HAVING A WARRANT FOR THE SEARCH OF A DWELLING, EXECUTES THE SEARCH WARRANT, THE OFFICER SHALL:

(a) EXECUTE THE WARRANT BETWEEN THE HOURS OF 7 A.M. AND 7 P.M. UNLESS THE JUDGE, FOR GOOD CAUSE, EXPRESSLY AUTHORIZES EXECUTION AT ANOTHER TIME;

(b) BE READILY IDENTIFIABLE AS A LAW ENFORCEMENT OFFICER IN UNIFORM OR WEARING A VISIBLE LAW ENFORCEMENT BADGE AND CLEARLY IDENTIFY THEMSELVES AS A LAW ENFORCEMENT OFFICER;

(c) WEAR AND ACTIVATE A BODY-WORN CAMERA AS REQUIRED BY SECTION 24-31-902 (1)(a)(II)(A) WHEN ENTERING A PREMISES FOR THE PURPOSE OF ENFORCING THE LAW; AND

(d) KNOCK-AND-ANNOUNCE THE OFFICER'S PRESENCE AT A VOLUME LOUD ENOUGH FOR THE OFFICER TO REASONABLY BELIEVE THE OCCUPANTS INSIDE CAN HEAR, ALLOW A REASONABLE AMOUNT OF TIME BEFORE ENTERING GIVEN THE SIZE OF THE DWELLING FOR SOMEONE TO GET TO THE DOOR, AND DELAY ENTRY IF THE OFFICER HAS REASON TO BELIEVE THAT SOMEONE IS APPROACHING THE DWELLING'S ENTRANCE WITH THE INTENT OF VOLUNTARILY ALLOWING THE OFFICER TO ENTER THE DWELLING; EXCEPT THAT THIS SUBSECTION (7)(d) DOES NOT APPLY IF:

(I) A COURT AUTHORIZES A NO-KNOCK WARRANT PURSUANT TO SECTION 16-3-303; OR

(II) THE CIRCUMSTANCES KNOWN TO THE OFFICER AT THE TIME PROVIDE AN OBJECTIVELY REASONABLE BASIS TO BELIEVE THAT A NO-KNOCK ENTRY OR NOT WAITING A REASONABLE AMOUNT OF TIME IS NECESSARY BECAUSE OF AN EMERGENCY THREATENING THE LIFE OF OR GRAVE INJURY TO A PERSON, PROVIDED THAT THE IMMINENT DANGER IS NOT CREATED BY LAW ENFORCEMENT ITSELF.

SECTION 3. In Colorado Revised Statutes, **add** 16-3-312 as follows:

16-3-312. Warrantless entry of a dwelling. (1) WHEN A PEACE OFFICER MAKES A WARRANTLESS ENTRY INTO A DWELLING IN WHICH OCCUPANTS ARE UNAWARE LAW ENFORCEMENT IS PRESENT AND MAKING ENTRY, THE OFFICER SHALL:

(a) WEAR AND ACTIVATE A BODY-WORN CAMERA AS REQUIRED BY SECTION 24-31-902 (1)(a)(II)(A) WHEN ENTERING A PREMISES FOR THE PURPOSE OF ENFORCING THE LAW; AND

(b) KNOCK-AND-ANNOUNCE THE OFFICER'S PRESENCE AT A VOLUME LOUD ENOUGH FOR THE OFFICER TO REASONABLY BELIEVE THE OCCUPANTS INSIDE CAN HEAR, ALLOW A REASONABLE AMOUNT OF TIME BEFORE ENTERING GIVEN THE SIZE OF THE DWELLING FOR SOMEONE TO GET TO THE DOOR, AND DELAY ENTRY IF THE OFFICER HAS REASON TO BELIEVE THAT SOMEONE IS APPROACHING THE DWELLING'S ENTRANCE WITH THE INTENT OF VOLUNTARILY ALLOWING THE OFFICER TO ENTER THE DWELLING; EXCEPT THAT THIS SUBSECTION (1)(b) DOES NOT APPLY IF THE CIRCUMSTANCES KNOWN TO THE OFFICER AT THE TIME PROVIDE AN OBJECTIVELY REASONABLE BASIS TO BELIEVE THAT A NO-KNOCK ENTRY OR NOT WAITING A REASONABLE AMOUNT OF TIME IS NECESSARY BECAUSE:

(I) OF AN EMERGENCY THREATENING THE LIFE OF OR GRAVE INJURY TO A PERSON, PROVIDED THAT THE IMMINENT DANGER IS NOT CREATED BY LAW ENFORCEMENT ITSELF; OR

(II) THE OFFICER IS ENGAGED IN THE HOT PURSUIT OF A FLEEING SUSPECT.

(2) THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER WORKING IN AN UNDERCOVER CAPACITY.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO