

The Senate Committee on Judiciary Non-Civil offers the following substitute to SB 159:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to searches with warrants, so as to provide for the use of no-knock search warrants;  
3 to provide for definitions; to change provisions relating to the issuance of search warrants;  
4 to provide for written policies relating to no-knock search warrants; to change provisions  
5 relating to the use of force in executing a search warrant; to change provisions relating to  
6 quashing a search warrant or suppressing evidence due to technical deficiencies; to amend  
7 Code Section 15-12-71 of the Official Code of Georgia Annotated, relating to duties of the  
8 grand jury, so as to provide for oversight regarding the use of search warrants which contain  
9 no-knock provisions; to provide for related matters; to provide for an effective date; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

12 Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to  
13 searches with warrants, is amended by revising Code Section 17-5-21, relating to grounds  
14 for issuance of search warrants and scope of search pursuant to a search warrant, as follows:  
15 "17-5-21.  
16

17 (a) Except as provided in subsection (e) of this Code section, upon ~~Upon~~ the written  
18 complaint of any certified peace officer of this state or its political subdivisions charged  
19 with the duty of enforcing the criminal laws and otherwise as authorized in Code Section  
20 17-5-20 under oath or affirmation, which states facts sufficient to show probable cause that  
21 a crime is being committed or has been committed and which particularly describes the  
22 place or person, or both, to be searched and things to be seized, any judicial officer  
23 authorized to hold a court of inquiry to examine into an arrest of an offender against the  
24 penal laws, referred to in this Code section as 'judicial officer,' may issue a search warrant  
25 for the seizure of the following:

26 (1) Any instruments, articles, or things, including the private papers of any person, which  
 27 are designed, intended for use, or which have been used in the commission of the offense  
 28 in connection with which the warrant is issued;

29 (2) Any person who has been kidnapped in violation of the laws of this state, who has  
 30 been kidnapped in another jurisdiction and is now concealed within this state, or any  
 31 human fetus or human corpse;

32 (3) Stolen or embezzled property;

33 (4) Any item, substance, object, thing, or matter, the possession of which is unlawful; or

34 (5) Any item, substance, object, thing, or matter, other than the private papers of any  
 35 person, which is tangible evidence of the commission of the crime for which probable  
 36 cause is shown.

37 (b) When the peace officer is in the process of effecting a lawful search, nothing in this  
 38 Code section shall be construed to preclude ~~him~~ such officer from discovering or seizing  
 39 any stolen or embezzled property, any item, substance, object, thing, or matter, the  
 40 possession of which is unlawful, or any item, substance, object, thing, or matter, other than  
 41 the private papers of any person, which is tangible evidence of the commission of a crime  
 42 against the laws of this state.

43 (c) Any retired judge or judge emeritus of a state court may issue search warrants as  
 44 authorized by this Code section if authorized in writing to do so by an active judge of the  
 45 state court of the county wherein the warrants are to be issued.

46 (d) Notwithstanding any provisions of Code Section 17-5-20 or other provisions of this  
 47 Code section to the contrary, with respect to the execution of a search warrant by a certified  
 48 peace officer employed by a university, college, or school, which search warrant will be  
 49 executed beyond the arrest jurisdiction of a campus policeman pursuant to Code Section  
 50 20-3-72, the execution of such search warrant shall be made jointly by the certified peace  
 51 officer employed by a university, college, or school and a certified peace officer of a law  
 52 enforcement unit of the political subdivision wherein the search will be conducted.

53 (e)(1) As used in this subsection, the term:

54 (A) 'Law enforcement agency' means a governmental unit of one or more persons  
 55 employed full time or part time by this state, a state agency or department, or a political  
 56 subdivision which performs as its principal function activities relating to preventing and  
 57 detecting crime and enforcing state laws or local ordinances, employees of which unit  
 58 are authorized to make arrests for crimes while acting within the scope of their  
 59 authority.

60 (B) 'No-knock' means a provision in a search warrant that authorizes the executing  
 61 officer to enter without giving audible notice of the officer's presence, authority, and  
 62 purpose.

- 63 (2) No search warrant shall be issued which contains a no-knock unless:  
 64 (A) The law enforcement agency that employs the officer seeking such warrant has  
 65 adopted written policies for using no-knock that comply with paragraph (3) of this  
 66 subsection; and  
 67 (B) The affidavit or testimony supporting such warrant establishes by probable cause  
 68 that if an officer were to knock and announce identity and purpose before entry, such  
 69 act of knocking and announcing would be dangerous to human life or would inhibit the  
 70 effective investigation of an alleged crime by allowing the destruction of evidence.  
 71 (3) Not later than January 1, 2016, any law enforcement agency that may seek a  
 72 no-knock shall adopt guidelines and procedures that shall include, but shall not be limited  
 73 to:  
 74 (A) Designating the rank or status of an employee who may be qualified to serve as a  
 75 supervising officer;  
 76 (B) Requiring a supervising officer to review and approve an application for a  
 77 no-knock;  
 78 (C) Requiring a supervising officer to be present during the execution of a search  
 79 warrant which contains a no-knock;  
 80 (D) Having an operational plan for the execution of a search warrant which contains  
 81 a no-knock; and  
 82 (E) Having a training program relevant to applying for a no-knock and executing a  
 83 search warrant which contains a no-knock.  
 84 (4) Written policies adopted pursuant to this subsection shall be subject to public  
 85 disclosure and inspection notwithstanding any provision to the contrary in Article 4 of  
 86 Chapter 18 of Title 50."

## 87 **SECTION 2.**

88 Said article is further amended by revising Code Section 17-5-27, relating to the use of force  
 89 in the execution of a search warrant, as follows:

90 "17-5-27.

91 (a) As used in this Code section, the term 'no-knock' shall have the same meaning as set  
 92 forth in Code Section 17-5-21.

93 (b) When a search warrant does not contain a no-knock, all ~~At~~ necessary and reasonable  
 94 force may be used to effect an entry into any building or property or part thereof to execute  
 95 a ~~a~~ such search warrant if, after verbal notice or an attempt in good faith to give verbal notice  
 96 by the officer directed to execute the same of his or her authority and purpose:

97 (1) The officer ~~He~~ is refused admittance;

- 98 (2) No individual ~~The person or persons~~ within the building or property or part thereof  
 99 ~~refuse to acknowledge and answer~~ acknowledges and answers the verbal notice ~~or the~~  
 100 ~~presence of the person or persons therein;~~  
 101 (3) The presence of any individual within the building or property or part thereof is  
 102 unknown to the officer; or  
 103 ~~(3)(4)~~ The building or property or part thereof is not then occupied by any person  
 104 individual."

105 **SECTION 3.**

106 Said article is further amended by revising Code Section 17-5-31, relating to quashing a  
 107 warrant or suppressing evidence because of a technical irregularity not affecting substantial  
 108 rights of the accused, as follows:

109 "17-5-31.

110 No search warrant shall be quashed or evidence suppressed because of a technical  
 111 irregularity not affecting the substantial rights of the accused. The failure to comply with  
 112 written policies adopted pursuant to paragraph (3) of subsection (e) of Code Section  
 113 17-5-21 shall be considered a technical irregularity within the meaning of this Code  
 114 section."

115 **SECTION 3A.**

116 Code Section 15-12-71 of the Official Code of Georgia Annotated, relating to duties of the  
 117 grand jury, is amended by revising subsection (b) as follows:

118 "(b)(1) The grand jury shall at least once in each calendar year inspect the condition and  
 119 operations of the county jail. The grand jury shall at least once in every three calendar  
 120 years inspect and examine the offices and operations of the clerk of superior court, the  
 121 judge of the probate court, and the county treasurer or county depository. If the office of  
 122 the district attorney is located in the county in which the grand jury is impaneled, the  
 123 grand jury shall inspect and examine the offices of the district attorney at least once in  
 124 every three calendar years. If the offices of the district attorney are located in a county  
 125 other than the county in which the grand jury is impaneled, the grand jury may inspect  
 126 the offices of the district attorney as the grand jury deems necessary or desirable.

127 (2) In addition to the inspections provided for in paragraph (1) of this subsection, the  
 128 grand jury shall, whenever deemed necessary by eight or more of its members, appoint  
 129 a committee of its members to inspect or investigate any county office or county public  
 130 building or any public authority of the county or the office of any county officer, any  
 131 court or court official of the county, the county board of education, or the county school

132 superintendent or any of the records, accounts, property, or operations of any of the  
133 foregoing.

134 (3)(A) As used in this paragraph, the terms 'judicial officer' and 'no-knock' shall have  
135 the same meanings as set forth in Code Section 17-5-21.

136 (B) At the next succeeding term at which a grand jury is impaneled after the filing of  
137 a return or return of not executed of each search warrant that contains a no-knock that  
138 was issued, the judicial officer who issued such warrant and the law enforcement  
139 official who obtained such warrant shall appear before such grand jury to provide  
140 information regarding the usefulness of such warrant.

141 ~~(3)~~(4) The grand jury may prepare reports or issue presentments based upon its  
142 inspections as provided for in this subsection, and any such presentments shall be subject  
143 to publication as provided for in Code Section 15-12-80.

144 ~~(4)~~(5) The grand jury may appoint one citizen of the county to provide technical  
145 expertise to the grand jury in connection with inspections provided for in this Code  
146 section. Such citizen shall be compensated at the same rate that a grand juror is  
147 compensated."

148 **SECTION 4.**

149 This Act shall become effective on January 1, 2016.

150 **SECTION 5.**

151 All laws and parts of laws in conflict with this Act are repealed.