

Senate Bill 45

By: Senators Fort of the 39th, Henson of the 41st, Davenport of the 44th, Tate of the 38th,
Seay of the 34th and others

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 a short title; to provide for a definition; to change provisions relating to the
4 issuance of search warrants; to change provisions relating to the use of force in executing a
5 search warrant; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as "Bou Bou's Law."

10 **SECTION 2.**

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

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

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

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

(3) Stolen or embezzled property;

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

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

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

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

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

(e)(1) As used in this subsection, the term 'no-knock' means a provision in a search warrant that authorizes the executing officer to enter without giving audible notice of the officer's presence, authority, and purpose.

(2) No search warrant shall be issued which contains a no-knock unless the affidavit or testimony supporting such warrant establishes by probable cause that if an officer were to knock and announce identity and purpose before entry, such act of knocking and announcing would likely pose a significant and imminent danger to human life or imminent danger of evidence being destroyed."

SECTION 3.

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

"17-5-27.

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

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

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

(2) No individual ~~The person or persons~~ within the building or property or part thereof ~~refuse to acknowledge and answer~~ acknowledges and answers the verbal notice ~~or the presence of the person or persons therein;~~

(3) The presence of any individual within the building or property or part thereof is unknown to the officer; or

~~(3)(4)~~ (4) The building or property or part thereof is not then occupied by any ~~person~~ individual."

SECTION 4.

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