

Senate Bill 94

By: Senators Fort of the 39th, Thompson of the 5th, Rhett of the 33rd, Butler of the 55th,
Jones of the 10th 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 definition; to change provisions relating to the issuance of search warrants;
4 to change provisions relating to the use of force in executing a search warrant; to provide for
5 a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

9 **SECTION 2.**

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

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

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

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

29 (3) Stolen or embezzled property;

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

31 (5) Any instruments, articles, or things, any information or data, and anything that is
 32 tangible or intangible, corporeal or incorporeal, or visible or invisible evidence of the
 33 commission of the crime for which probable cause is shown, other than the private papers
 34 of any person."

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

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

43 SECTION 3.

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

46 "17-5-27.

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

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

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

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

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

60 ~~(3)~~(4) The building or property or part thereof is not then occupied by any ~~person~~
 61 individual."

62

SECTION 4.

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