

1 S.90

2 Introduced by Senators Ram Hinsdale, Gulick, Hardy, Harrison, Perchlik,

3 Vyhovsky, Watson, White and Wrenner

4 Referred to Committee on

5 Date:

6 Subject: Criminal procedures; execution of search warrants; no-knock warrants

7 prohibited

8 Statement of purpose of bill as introduced: This bill proposes to establish
9 regulations for the issuance and execution of search warrants, to prohibit the
10 use of no-knock warrants by law enforcement officers absent a threat of
11 serious bodily harm, and to require a law enforcement officer to provide notice
12 of the officer's identity and purpose to the occupant of a premises before the
13 officer enters the premises to execute a warrant.

14 An act relating to regulating search warrants and prohibiting no-knock
15 warrants

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 13 V.S.A. chapter 233 is added to read:

18 CHAPTER 233. WARRANTS

19 § 8121. DEFINITIONS

20 As used in this chapter:

1 (1) “Law enforcement agency” has the same meaning as in subdivision
2 3501(a)(4) of this title.

3 (2) “Law enforcement officer” has the same meaning as in subsection
4 3019(a) of this title.

5 (3) “No-knock warrant” means a search warrant authorizing a law
6 enforcement officer to enter a premises without knocking and announcing the
7 officer’s presence and purpose prior to entering the premises.

8 (4) “Verifiable exigent circumstances” means an event that threatens the
9 life of the officer or an occupant of the property during the execution of the
10 warrant. The officer shall be able to verify the event with video footage,
11 documentation, or witness statements.

12 § 8122. SEARCH WARRANTS

13 (a) A search warrant shall not be issued by a judicial officer unless it is
14 based on facts in a law enforcement officer’s affidavit. The property to be
15 searched pursuant to the warrant shall be located within the law enforcement
16 officer’s jurisdiction.

17 (b) All search warrants shall contain:

18 (1) the date and time the warrant was issued;

19 (2) the name and title of the person who submitted the affidavit;

20 (3) the identity and description of any person for whom a search warrant
21 is issued;

1 (4) the objects and persons to be seized pursuant to the warrant;

2 (5) the location and description of the place to be searched;

3 (6) with respect to the premises to be searched, the ages and gender of
4 any additional occupants, any persons with disabilities, and any pets; and

5 (7) the intended course of action if there is no response from inside the
6 premises within 30 seconds after the officer has knocked and announced the
7 officer's presence and purpose.

8 (c) A law enforcement officer executing a search warrant shall be in
9 uniform and clearly identifiable as a law enforcement officer. The officer shall
10 wear a visible badge containing the officer's name and identification number.

11 (d)(1) Prior to entering a premises to be searched pursuant to a warrant
12 obtained under Rule 41 of the Vermont Rules of Criminal Procedure, a law
13 enforcement officer shall provide verbal identification of the officer's presence
14 at a volume loud enough for the officer to reasonable believe the occupant will
15 hear it.

16 (2) After announcing the officer's presence, the officer shall allow at
17 least 30 seconds to expire for the occupant to respond and open the door before
18 the officer attempts to enter the residence. This subdivision shall not apply if
19 verifiable exigent circumstances exist.

1 (e) A law enforcement officer executing a search warrant shall not use flash
2 bang, stun, or other similar devices unless verifiable exigent circumstances
3 exist.

4 (f) All search warrants shall be executed between the hours of 9:00 a.m.
5 and 7:00 p.m. unless there is reasonable cause to believe that if the warrant is
6 executed during those hours:

7 (1) the person being sought will commit a felony; or

8 (2) there will be an imminent danger to the life of the officer or any
9 other person.

10 (g) A law enforcement officer executing a search warrant shall be equipped
11 with a body camera or other video and audio recording device that has been
12 tested for functionality not more than 24 hours before execution. The camera
13 or device shall be turned on at least five minutes before the warrant is executed
14 and shall remain operating until at least five minutes after the warrant
15 execution process is complete.

16 (h) If the owner of the premises searched pursuant to the warrant or any
17 person within the premises suffers personal or property damage as a result of
18 the execution of the warrant, the executing officer's law enforcement agency
19 shall reimburse the person for the loss, including medical expenses. This
20 subsection shall not apply if the person is convicted of a crime in connection
21 with the warrant.

1 (i) A search warrant not executed within seven days following issuance
2 shall be void. After execution of the warrant, the officer shall submit to the
3 court evidence obtained not more than 24 hours before the execution that the
4 person sought is present at the location to be searched and that the information
5 in the application has not substantially changed.

6 § 8123. NO-KNOCK WARRANTS PROHIBITED

7 (a) A law enforcement officer or law enforcement agency shall not seek,
8 execute, or participate in the execution of a no-knock warrant unless the
9 affidavit submitted by the law enforcement officer with the warrant application
10 demonstrates to the satisfaction of the court that identifying the presence of the
11 officer before entering the premises is likely to create an imminent danger to
12 the life of the executing officer or another person.

13 (b) An application for a no-knock warrant shall include:

14 (1) an explanation of the particular circumstances that justify a no-knock
15 entrance and permit the officer to disregard the constitutional requirement that
16 the officer knock and announce the officer's presence and purpose before
17 entering the premises;

18 (2)(A) the investigative activities that were undertaken and the
19 information that was obtained as a result of those activities to support the
20 request for a no-knock warrant; or

1 (B) an explanation of why no investigative activities were undertaken
2 in connection with the warrant application;

3 (3) an explanation of why the officer is unable to detain the suspect or
4 search the premises without knocking and announcing the officer's presence or
5 using other less invasive means; and

6 (4) whether the no-knock can successfully be executed during daylight
7 hours and, if it cannot, the facts and circumstances that preclude execution
8 during daylight hours.

9 § 8124. FAILURE TO COMPLY WITH WARRANT REQUIREMENTS

10 (a) Information or evidence obtained in violation of section 8122 or 8123
11 of this title shall not be admissible in any court proceeding.

12 (b) Violation of section 8122 or 8123 of this title may constitute gross
13 professional misconduct under 20 V.S.A. § 2401(2).

14 (c) When a law enforcement officer is in violation of section 8122 or 8123
15 of this title, the officer's law enforcement agency shall report the officer's
16 name to the local state's attorney.

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on passage.