

HB1250\_L.050

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

HB21-1250 be amended as follows:

1 Amend reengrossed bill, page 28, after line 4 insert:

2 "SECTION 19. In Colorado Revised Statutes, add 16-3-312 as  
3 follows:

4 **16-3-312. Limitations on no-knock dynamic entry.**

5 (1) PURSUANT TO THE REQUIREMENTS OF THIS SECTION, A PEACE OFFICER  
6 EXECUTING A WARRANT ISSUED BY A COLORADO COURT SHALL KNOCK  
7 AND ANNOUNCE HIMSELF OR HERSELF AND HIS OR HER PURPOSE PRIOR TO  
8 ENTRY OF A PREMISES.

9 (2) BEFORE ENTERING THE PREMISES TO EXECUTE A WARRANT OR  
10 FOR SOME OTHER PURPOSE, A PEACE OFFICER SHALL:

11 (a) PHYSICALLY AND LOUDLY KNOCK FIVE OR MORE TIMES ON AN  
12 ENTRY DOOR TO THE PREMISES IN A MANNER AND DURATION THAT A  
13 REASONABLE PERSON WOULD EXPECT TO BE HEARD BY THE OCCUPANTS  
14 ANYWHERE WITHIN THAT PARTICULAR PREMISES;

15 (b) CLEARLY AND LOUDLY IDENTIFY HIMSELF OR HERSELF AS LAW  
16 ENFORCEMENT THERE TO ENTER THE PREMISES AND, IF APPLICABLE,  
17 EXECUTE A WARRANT IN A MANNER THAT A REASONABLE PERSON WOULD  
18 EXPECT TO BE HEARD BY THE OCCUPANTS ANYWHERE IN THAT  
19 PARTICULAR PREMISES; AND

20 (c) WAIT FOR THE OCCUPANTS TO GRANT ENTRY BEFORE ENTERING  
21 THE PREMISES ABSENT CIRCUMSTANCES THAT SUPPORT AN OBJECTIVELY  
22 REASONABLE BELIEF THAT IMMEDIATE ENTRY IS REQUIRED TO PREVENT  
23 IMMINENT SERIOUS BODILY INJURY OR DEATH TO A PERSON INSIDE THE  
24 PREMISES.

25 (3) (a) A PEACE OFFICER MAY FORCIBLY ENTER A PREMISES ONLY  
26 IF THE PEACE OFFICER HAS COMPLIED WITH THE REQUIREMENTS OF  
27 SUBSECTION (2) OF THIS SECTION AND:

28 (I) THE CIRCUMSTANCES SUPPORT AN OBJECTIVELY REASONABLE  
29 BELIEF THAT IMMEDIATE ENTRY IS REQUIRED TO PREVENT IMMINENT  
30 SERIOUS BODILY INJURY OR DEATH TO A PERSON INSIDE THE PREMISES; OR

31 (II) THE WARRANT EXPLICITLY AUTHORIZES FORCIBLE ENTRY AND  
32 A REASONABLE PERIOD OF TIME HAS PASSED AND NO OCCUPANT HAS  
33 GRANTED ENTRY.

34 (b) A PEACE OFFICER SHALL NOT FORCIBLY ENTER A PREMISES TO  
35 PREVENT THE DESTRUCTION OF EVIDENCE.

36 (c) IN DETERMINING WHAT A REASONABLE PERIOD OF TIME IS, A  
37 PEACE OFFICER SHALL CONSIDER ALL ATTENDANT FACTS AND  
38 CIRCUMSTANCES. IT IS PRESUMPTIVELY UNREASONABLE TO WAIT LESS  
39 THAN FORTY-FIVE SECONDS TO BE GRANTED ENTRY BETWEEN THE HOURS  
40 OF 7 A.M. AND 9 P.M. OR TO WAIT LESS THAN NINETY SECONDS BETWEEN  
41 THE HOURS OF 9:01 P.M. AND 6:59 A.M.

1 (d) WHEN A PEACE OFFICE EFFECTUATES A FORCIBLE ENTRY OR  
2 SEARCH OF A PREMISES, THE PEACE OFFICER SHALL ACT IN THE MOST  
3 EFFICIENT MANNER POSSIBLE WHILE CAUSING AS LITTLE DAMAGE TO THE  
4 PREMISES AS POSSIBLE.

5 (e) A PEACE OFFICER WHO PARTICIPATES IN A FORCIBLE ENTRY  
6 INTO A PREMISES SHALL DOCUMENT ALL CIRCUMSTANCES JUSTIFYING THE  
7 FORCED ENTRY, INCLUDING ALL CIRCUMSTANCES SUPPORTING AN  
8 OBJECTIVELY REASONABLE BELIEF THAT IMMEDIATE ENTRY WAS  
9 REQUIRED TO PREVENT IMMINENT SERIOUS BODILY INJURY OR DEATH TO  
10 A PERSON INSIDE THE PREMISES AND ALL CIRCUMSTANCES THAT SUPPORT  
11 THAT THE OFFICER WAITED A REASONABLE PERIOD OF TIME PRIOR TO  
12 ENTRY.

13 (4) AS SOON AS PRACTICABLE, THE PEACE OFFICER SHALL READ  
14 AND GIVE A COPY OF THE WARRANT TO THE PERSON TO BE SEARCHED, OR  
15 TO THE PERSON IN APPARENT CONTROL OF THE PREMISES OR PROPERTY TO  
16 BE SEARCHED. IF THE PREMISES IS UNOCCUPIED OR THERE IS NO ONE IN  
17 APPARENT CONTROL, THE PEACE OFFICER SHALL LEAVE A COPY OF THE  
18 WARRANT SUITABLY AFFIXED TO THE PREMISES.

19 (5) IF A PEACE OFFICER FAILS TO COMPLY WITH THE PROVISIONS OF  
20 THIS SECTION RELATED TO AN ENTRY OR SEARCH, THE WARRANT IS VOID.  
21 IF THERE IS A SUPPRESSION HEARING RELATED TO THE ENTRY OR SEARCH,  
22 THE COURT SHALL DETERMINE THAT THE PEACE OFFICER WAS NOT ACTING  
23 UNDER A VALID WARRANT.

24 (6) A PEACE OFFICER WHO VIOLATES THIS SECTION IS SUBJECT TO  
25 DISCIPLINE UP TO AND INCLUDING TERMINATION.

26 (7) AS USED IN THIS SECTION, "FORCIBLE ENTRY" MEANS ENTRY  
27 INTO A PREMISES BY A PEACE OFFICER IN WHICH THE OFFICER WAS NOT  
28 INVITED OR PERMITTED TO ENTER THE PREMISES BY THE OCCUPANT OF THE  
29 PREMISES OR A PERSON IN APPARENT CONTROL OF THE PREMISES.

30 **SECTION 20.** In Colorado Revised Statutes, 16-3-303, **repeal**  
31 (4), (5), and (6) as follows:

32 **16-3-303. Search warrants - application.** ~~(4) A no-knock search~~  
33 ~~warrant shall be issued only if the affidavit for such warrant:~~

34 ~~(a) Complies with the provisions of subsections (1), (2), and (3)~~  
35 ~~of this section;~~

36 ~~(b) Specifically requests the issuance of a no-knock search~~  
37 ~~warrant; and~~

38 ~~(c) Has been reviewed and approved for legal sufficiency and~~  
39 ~~signed by a district attorney pursuant to section 20-1-106.1(1)(b), C.R.S.~~  
40 ~~Such review and approval may take place as allowed by statute or court~~  
41 ~~rule or by means of facsimile transmission, telephonic transmission, or~~  
42 ~~other electronic transfer.~~

43 ~~(5) If the grounds for the issuance of a no-knock search warrant~~

1 are established by a confidential informant, the affidavit for such warrant  
2 shall contain a statement by the affiant concerning when such grounds  
3 became known or were verified by the affiant. The statement shall not  
4 identify the confidential informant.

5 (6) For the purposes of this section, unless the context otherwise  
6 requires, "no-knock search warrant" means a search warrant served by  
7 entry without prior identification."

8 Renumber succeeding sections accordingly.

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