

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0156.03 Michael Dohr x4347

SENATE BILL 23-254

SENATE SPONSORSHIP

Fields and Gonzales, Bridges, Buckner, Coleman, Cutter, Danielson, Exum, Fenberg, Jaquez Lewis, Kolker, Moreno, Rodriguez, Winter F., Hansen, Marchman, Sullivan

HOUSE SPONSORSHIP

Epps and Weissman, Bacon, deGruy Kennedy, English, Garcia, Gonzales-Gutierrez, Jodeh, Lindsay, Mabrey, Sharbini, Velasco, Woodrow, Amabile, Boesenecker, Brown, Dickson, Herod, Lindstedt, McCluskie, Michaelson Jenet, Sirota, Story, Valdez, Vigil, Willford

Senate Committees
Judiciary

House Committees
Judiciary

HOUSE
3rd Reading Unamended
May 2, 2023

A BILL FOR AN ACT

101 **CONCERNING ENTRY INTO A DWELLING BY A PEACE OFFICER.**

HOUSE
2nd Reading Unamended
May 1, 2023

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
Amended 3rd Reading
April 17, 2023

Under current law, a court may only grant a no-knock search warrant under certain circumstances. The bill adds to those circumstances a requirement that there is either probable cause for an arrest of a suspect or no-knock entry is necessary because of an imminent danger to the life of any person including the executing officers.

The bill requires a peace officer executing a search warrant to:

- Execute the warrant between the hours of 9 a.m. and 7 p.m. unless the judge authorizes execution at another time;

SENATE
Amended 2nd Reading
April 14, 2023

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

- Be readily identifiable as a law enforcement officer in uniform, wearing a visible law enforcement badge;
- Wear and activate a body-worn camera when entering a premises for the purpose of executing a search warrant; and
- Knock-and-announce the officer's presence at a volume loud enough for the officer to reasonably believe the occupants inside can hear and allow a reasonable amount of time before entering given the size of the dwelling for someone to get to the door, except when the court authorizes a no-knock warrant or if the circumstances known to the officer at the time provide a objectively reasonable basis that a no-knock entry or not waiting a reasonable amount of time is necessary because of an emergency threatening life of or grave injury to a person, provided that the imminent danger is not created by law enforcement itself.

The bill requires a peace officer who makes a warrantless entry into a dwelling to:

- Wear and activate a body-worn camera when entering a premises for the purpose of enforcing the law; and
- Knock-and-announce the officer's presence at a volume loud enough for the officer to reasonably believe the occupants inside can hear and allow a reasonable amount of time before entering given the size of the dwelling for someone to get to the door, except if the circumstances known to the officer at the time provide an objectively reasonable basis to believe that a no-knock entry or not waiting a reasonable amount of time is necessary because:
 - Of an emergency threatening the life of or grave injury to a person, provided that the imminent danger is not created by law enforcement itself; or
 - The officer is engaged in hot pursuit of a fleeing suspect.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 16-3-303, **amend** (6);
 3 and **add** (4)(a.5) as follows:

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

1 (a.5) ESTABLISHES THAT A NO-KNOCK ENTRY IS NECESSARY
2 BECAUSE OF A CREDIBLE THREAT TO THE LIFE OF ANY PERSON, INCLUDING
3 THE PEACE OFFICERS EXECUTING THE WARRANT;

4 (6) For the purposes of this section, unless the context otherwise
5 requires, "no-knock search warrant" means a search warrant ~~served by~~
6 ~~entry without prior identification~~ THAT DOES NOT REQUIRE COMPLIANCE
7 WITH SECTION 16-3-305 (7)(d).

8 **SECTION 2.** In Colorado Revised Statutes, 16-3-305, **amend** (1);
9 and **add** (1.5) and (7) as follows:

10 **16-3-305. Search warrants - direction - execution and return**
11 **- legislative declaration.** (1) ~~Except as otherwise provided in this~~
12 ~~section, a search warrant shall be directed to any officer authorized by law~~
13 ~~to execute it in the county wherein the property is located.~~ THE GENERAL
14 ASSEMBLY FINDS AND DECLARES THAT:

15 (a) WHEN LAW ENFORCEMENT ENTERS A DWELLING, THE SAFETY
16 AND PRESERVATION OF LIFE OF ALL OCCUPANTS AND LAW ENFORCEMENT
17 OFFICERS IS PARAMOUNT;

18 (b) A NO-KNOCK ENTRY INTO A DWELLING CAN INCREASE DANGER
19 AND CONFUSION BECAUSE OCCUPANTS MAY NOT RECOGNIZE LAW
20 ENFORCEMENT IS MAKING ENTRY AND MAY MISTAKE THE ENTRY AS ENTRY
21 BY AN UNLAWFUL INTRUDER;

22 (c) NO-KNOCK ENTRIES INTO DWELLINGS HAVE, IN SEVERAL
23 INSTANCES ACROSS THE COUNTRY, INCLUDED NEGATIVE OUTCOMES AND
24 THE LOSS OF LIFE;

25 (d) MAKING NO-KNOCK ENTRIES TO PREVENT THE DESTRUCTION
26 OF EVIDENCE, ESPECIALLY IN DRUG CASES, DOES NOT JUSTIFY THE RISK TO
27 HUMAN LIFE;

1 (e) NO-KNOCK ENTRIES SHOULD BE MADE ONLY WHEN DOING SO
2 IS NECESSARY TO PROTECT HUMAN LIFE AND NOT WHEN DOING SO WOULD
3 INCREASE THE RISK TO HUMAN LIFE; AND

4 (f) THE STANDARD FOR WARRANTLESS NO-KNOCK ENTRIES SHOULD
5 BE SUBSTANTIALLY THE SAME AS THE STANDARD FOR NO-KNOCK
6 WARRANTS.

7 (1.5) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A SEARCH
8 WARRANT SHALL BE DIRECTED TO ANY OFFICER AUTHORIZED BY LAW TO
9 EXECUTE IT IN THE COUNTY WHEREIN THE PROPERTY IS LOCATED.

10 (7) WHEN A PEACE OFFICER, HAVING A WARRANT FOR THE SEARCH
11 OF A DWELLING, EXECUTES THE SEARCH WARRANT, THE OFFICER SHALL:

12 (a) EXECUTE THE WARRANT BETWEEN THE HOURS OF 7 A.M. AND
13 7 P.M. UNLESS THE JUDGE, FOR GOOD CAUSE, EXPRESSLY AUTHORIZES
14 EXECUTION AT ANOTHER TIME;

15 (b) BE READILY IDENTIFIABLE AS A LAW ENFORCEMENT OFFICER
16 IN UNIFORM OR WEARING A VISIBLE LAW ENFORCEMENT BADGE AND
17 CLEARLY IDENTIFY THEMSELVES AS A LAW ENFORCEMENT OFFICER;

18 (c) WEAR AND ACTIVATE A BODY-WORN CAMERA AS REQUIRED BY
19 SECTION 24-31-902 (1)(a)(II)(A) WHEN ENTERING A PREMISES FOR THE
20 PURPOSE OF ENFORCING THE LAW; AND

21 (d) KNOCK-AND-ANNOUNCE THE OFFICER'S PRESENCE AT A
22 VOLUME LOUD ENOUGH FOR THE OFFICER TO REASONABLY BELIEVE THE
23 OCCUPANTS INSIDE CAN HEAR, ALLOW A REASONABLE AMOUNT OF TIME
24 BEFORE ENTERING GIVEN THE SIZE OF THE DWELLING FOR SOMEONE TO GET
25 TO THE DOOR, AND DELAY ENTRY IF THE OFFICER HAS REASON TO BELIEVE
26 THAT SOMEONE IS APPROACHING THE DWELLING'S ENTRANCE WITH THE
27 INTENT OF VOLUNTARILY ALLOWING THE OFFICER TO ENTER THE

1 DWELLING; EXCEPT THAT THIS SUBSECTION (7)(d) DOES NOT APPLY IF:

2 (I) A COURT AUTHORIZES A NO-KNOCK WARRANT PURSUANT TO
3 SECTION 16-3-303; OR

4 (II) THE CIRCUMSTANCES KNOWN TO THE OFFICER AT THE TIME
5 PROVIDE AN OBJECTIVELY REASONABLE BASIS TO BELIEVE THAT A
6 NO-KNOCK ENTRY OR NOT WAITING A REASONABLE AMOUNT OF TIME IS
7 NECESSARY BECAUSE OF AN EMERGENCY THREATENING THE LIFE OF OR
8 GRAVE INJURY TO A PERSON, PROVIDED THAT THE IMMINENT DANGER IS
9 NOT CREATED BY LAW ENFORCEMENT ITSELF.

10 **SECTION 3.** In Colorado Revised Statutes, **add** 16-3-312 as
11 follows:

12 **16-3-312. Warrantless entry of a dwelling.** (1) WHEN A PEACE
13 OFFICER MAKES A WARRANTLESS ENTRY INTO A DWELLING IN WHICH
14 OCCUPANTS ARE UNAWARE LAW ENFORCEMENT IS PRESENT AND MAKING
15 ENTRY, THE OFFICER SHALL:

16 (a) WEAR AND ACTIVATE A BODY-WORN CAMERA AS REQUIRED BY
17 SECTION 24-31-902 (1)(a)(II)(A) WHEN ENTERING A PREMISES FOR THE
18 PURPOSE OF ENFORCING THE LAW; AND

19 (b) KNOCK-AND-ANNOUNCE THE OFFICER'S PRESENCE AT A
20 VOLUME LOUD ENOUGH FOR THE OFFICER TO REASONABLY BELIEVE THE
21 OCCUPANTS INSIDE CAN HEAR, ALLOW A REASONABLE AMOUNT OF TIME
22 BEFORE ENTERING GIVEN THE SIZE OF THE DWELLING FOR SOMEONE TO GET
23 TO THE DOOR, AND DELAY ENTRY IF THE OFFICER HAS REASON TO BELIEVE
24 THAT SOMEONE IS APPROACHING THE DWELLING'S ENTRANCE WITH THE
25 INTENT OF VOLUNTARILY ALLOWING THE OFFICER TO ENTER THE
26 DWELLING; EXCEPT THAT THIS SUBSECTION (1)(b) DOES NOT APPLY IF THE
27 CIRCUMSTANCES KNOWN TO THE OFFICER AT THE TIME PROVIDE AN

1 OBJECTIVELY REASONABLE BASIS TO BELIEVE THAT A NO-KNOCK ENTRY
2 OR NOT WAITING A REASONABLE AMOUNT OF TIME IS NECESSARY
3 BECAUSE:

4 (I) OF AN EMERGENCY THREATENING THE LIFE OF OR GRAVE
5 INJURY TO A PERSON, PROVIDED THAT THE IMMINENT DANGER IS NOT
6 CREATED BY LAW ENFORCEMENT ITSELF; OR

7 (II) THE OFFICER IS ENGAGED IN THE HOT PURSUIT OF A FLEEING
8 SUSPECT.

9 (2) THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT
10 OFFICER WORKING IN AN UNDERCOVER CAPACITY.

11 **SECTION 4. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.