

JAN 21 2022

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that regulating the use
2 of forcible-entry warrants, often called no-knock warrants, is
3 essential to advancing public safety and police accountability.
4 No-knock raids are searches in which a law enforcement officer
5 or multiple officers forcibly enter a dwelling without knocking
6 or announcing their presence. A 2014 report by the American
7 Civil Liberties Union found that no-knock raids are often used
8 in conjunction with military-grade equipment and weaponry when
9 conducting searches. In March 2020, Breonna Taylor, a twenty-
10 six year old African American medical worker, was killed in her
11 home in Louisville, Kentucky, during a no-knock raid by
12 Louisville Metro Police, which led to a national movement to
13 regulate such warrants.

14 The legislature further finds that no-knock warrants have
15 also been executed in Hawaii, endangering the well-being of
16 residents. Under section 803-37, Hawaii Revised Statutes,
17 officers of justice are required to declare their office and



1 their business and demand entrance before forcing their way into
2 a dwelling. From various authorities, including article I,
3 section 7, of the Hawaii State Constitution, a requirement has
4 been derived for officers to wait a reasonable period of time
5 prior to forcing entry into a dwelling. Yet, what constitutes a
6 reasonable time is determined by the facts of a case. In State
7 v. Diaz, 100 Hawaii 210, 58 P.3d 1257 (2002), the Hawaii supreme
8 court found that fifteen seconds was a reasonable time to wait
9 prior to entering an interior office door of a commercial
10 establishment that was open for business. More recently, in
11 State v. Naeole, 148 Hawaii 243, 470 P.3d 1120 (2020), the
12 Hawaii supreme court found that more than twenty-five seconds
13 was required when executing a warrant early in the morning at a
14 private residence.

15 The purpose of this Act is to strengthen public safety by
16 banning the use of no-knock warrants, requiring law enforcement
17 officers to wait at least thirty seconds before forcing their
18 way into a building to execute a warrant unless exigent
19 circumstances exist, and requiring an officer serving a warrant
20 to wear an authorized uniform and activated body-worn video
21 camera.



1 SECTION 2. Chapter 805, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§805- No-knock warrants; prohibited. Notwithstanding
5 any provision of law to the contrary, all warrants shall require
6 the serving officer or officers to declare the officer's office
7 and business in an audible voice and wait a reasonable time of
8 at least thirty seconds for compliance before entry into a
9 house, store, or other building for the purpose of serving the
10 warrant; provided that the thirty seconds shall commence at the
11 moment the announcement of presence is made by the officer;
12 provided further that an officer shall not be required to wait
13 if exigent circumstances exist that cause waiting to be
14 hazardous or otherwise impracticable.

15 §805- Service of warrant; uniform and body-worn video
16 camera requirement. Any officer serving a warrant issued
17 pursuant to this chapter shall do so while wearing an authorized
18 uniform and activated body-worn video camera or similar device.
19 An officer serving a warrant shall not obscure or conceal the
20 officer's office in the process of serving the warrant."



SECTION 3. Section 803-11, Hawaii Revised Statutes, is amended to read as follows:

"§803-11 Entering house to arrest. Whenever it is necessary to enter a house to arrest an offender, and entrance is refused, the officer or person making the arrest may force an entrance by breaking doors or other barriers. ~~[But before]~~ Before breaking any door, the officer or person shall first demand entrance in ~~[a loud]~~ an audible voice, and state that the officer or person is the bearer of a warrant of arrest; or if it is in a case in which arrest is lawful without warrant, the officer or person shall substantially state that information in an audible voice. No officer shall enter a house to arrest an offender without audibly declaring the officer's office and business and waiting a reasonable time of at least thirty seconds for compliance before entry; provided that the thirty seconds shall commence at the moment the announcement of presence is made by the officer; provided further that an officer shall not be required to wait if exigent circumstances exist that cause waiting to be hazardous or otherwise impracticable."



SECTION 4. Section 803-37, Hawaii Revised Statutes, is amended to read as follows:

"§803-37 Power of officer serving. The officer charged with the warrant, if a house, store, or other building is designated as the place to be searched, may enter it without demanding permission if the officer finds it open. If the doors are shut, the officer shall declare the officer's office and the officer's business and demand entrance~~[7]~~; provided that:

(1) The officer shall audibly declare the officer's office and business and wait a reasonable time of at least thirty seconds before entry;

(2) The thirty seconds shall commence at the moment the announcement of presence is made by the officer; and

(3) The officer shall not be required to wait if exigent circumstances exist that cause waiting to be hazardous or otherwise impracticable.

If the doors, gates, or other bars to the entrance are not ~~immediately~~ opened~~[7]~~ within a reasonable time of at least thirty seconds, the officer may break them. When entered, the officer may demand that any other part of the house, or any closet or other closed place in which the officer has reason to



1 believe the property is concealed, may be opened for the
2 officer's inspection, and if refused the officer may break them.
3 If an electronic device or storage media is designated as the
4 item to be searched, the court may authorize the officer to
5 obtain technical assistance from individuals or entities,
6 located within or outside the State, in the examination of the
7 item; provided that the officer shall submit a sworn statement
8 to the judge or magistrate, certifying the reliability and
9 qualifications of the individuals or entities and the reason
10 their assistance is necessary; provided further that no
11 individual or entity shall be compelled to provide technical
12 assistance without their consent."

13 SECTION 5. Section 805-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§805-1 Complaint; form of warrant.** When a complaint is
16 made to any prosecuting officer of the commission of any
17 offense, the prosecuting officer shall examine the complainant,
18 shall reduce the substance of the complaint to writing, and
19 shall cause the complaint to be subscribed by the complainant
20 under oath, which the prosecuting officer is hereby authorized
21 to administer, or the complaint shall be made by declaration in



1 accordance with the rules of court. If the original complaint
2 results from the issuance of a traffic summons or a citation in
3 lieu of an arrest pursuant to section 803-6, by a police
4 officer, the oath may be administered by any police officer
5 whose name has been submitted to the prosecuting officer and who
6 has been designated by the chief of police to administer the
7 oath, or the complaint may be submitted by declaration in
8 accordance with the rules of court. Upon presentation of the
9 written complaint to the judge in whose circuit the offense
10 allegedly has been committed, the judge shall issue a warrant,
11 reciting the complaint and requiring the sheriff, or other
12 officer to whom it is directed, except as provided in section
13 805-3, to arrest the accused and to bring the accused before the
14 judge to be dealt with according to law; and in the same warrant
15 the judge may require the officer to summon [~~such~~] witnesses [~~as~~
16 ~~are~~] named in the warrant to appear and give evidence at the
17 trial. The warrant may be in the form established by the usage
18 and practice of the issuing court[-]; provided that:

- 19 (1) No warrant shall issue that permits any officer to
20 enter a house, store, or other building without
21 audibly declaring the officer's office and business



and waiting a reasonable time of at least thirty
seconds for compliance before entry;

(2) The thirty seconds shall commence at the moment the
announcement of presence is made by the officer; and

(3) An officer acting in accordance with the requirements
of this section shall not be required to wait if
exigent circumstances exist that cause waiting to be
hazardous or otherwise impracticable."

SECTION 6. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

INTRODUCED BY:




S.B. NO. 2576

Report Title:

Law Enforcement; No-knock Warrants; Prohibition

Description:

Prohibits the issuance of warrants, including no-knock warrants, that permit entry by an officer to a house, store, or other building without first audibly declaring the officer's office and business. Requires law enforcement officers serving an arrest warrant at a house or a search warrant at a house, store, or other building to audibly declare the officer's office and business and wait at least thirty seconds for compliance before entry. Requires officers serving a warrant to do so while wearing an authorized uniform and activated body-worn video camera.

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