

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO. 726
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO POLICING.

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

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

"§805-_____ No-knock warrants; prohibited. Notwithstanding any provision of law to the contrary, all warrants shall require the serving officer or officers to declare the officer's office and business in an audible voice and wait at least thirty seconds for compliance before entry into a house, store, or other building for the purpose of serving the warrant; provided that the thirty seconds shall commence at the moment the announcement of presence is made by the officer.

§805-_____ Service of warrant; uniform and body-worn video camera requirement. Any officer serving a warrant issued pursuant to this chapter shall do so in an authorized uniform and wear and use a body-worn video camera. An officer serving a warrant shall not obscure or conceal the officer's office in the process of serving the warrant."

SECTION 2. 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 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."

SECTION 3. 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~~[-]~~; provided that the officer shall audibly declare the officer's office and business and wait at least thirty seconds before entry; provided further that the thirty seconds shall commence at the moment the announcement of presence is made by the officer. If the doors are shut, the officer shall declare the officer's office and the officer's business and demand entrance. If the doors, gates, or other bars to the entrance are not ~~[immediately]~~ opened~~[-]~~ within 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 believe the property is concealed, may be opened for the officer's inspection, and if refused the officer may break them. If an electronic device or storage media is designated as the item to be searched, the court may authorize the officer to obtain technical assistance from individuals or entities, located within or outside the State, in the examination of the item; provided that the officer shall submit a sworn statement to the judge or magistrate, certifying the reliability and qualifications of the individuals or entities and the reason their assistance is necessary; provided

further that no individual or entity shall be compelled to provide technical assistance without their consent."

SECTION 4. Section 805-1, Hawaii Revised Statutes, is amended to read as follows:

"§805-1 Complaint; form of warrant. When a complaint is made to any prosecuting officer of the commission of any offense, the prosecuting officer shall examine the complainant, shall reduce the substance of the complaint to writing, and shall cause the complaint to be subscribed by the complainant under oath, which the prosecuting officer is hereby authorized to administer, or the complaint shall be made by declaration in accordance with the rules of court. If the original complaint results from the issuance of a traffic summons or a citation in lieu of an arrest pursuant to section 803-6, by a police officer, the oath may be administered by any police officer whose name has been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath, or the complaint may be submitted by declaration in accordance with the rules of court. Upon presentation of the written complaint to the judge in whose circuit the offense allegedly has been committed, the judge shall issue a warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed, except as provided in section 805-3, to arrest the accused and to bring the accused before the judge to be dealt with according to law; and in the same warrant the judge may require the officer to summon [~~such~~] witnesses [~~as are~~] named in the warrant to appear and give evidence at the trial. The warrant may be in the form established by the usage and practice of the issuing court[~~[-]~~]; provided that no warrant shall issue that permits any officer to enter a house,

store, or other building without audibly declaring the officer's office and business and waiting at least thirty seconds for compliance before entry; provided further that the thirty seconds shall commence at the moment the announcement of presence is made by the officer."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

Report Title:

Law Enforcement; No-knock Warrants; Prohibition

Description:

Requires officers serving a warrant to declare the officer's office and business and wait thirty seconds before entry into a house, store, or other building, subject to certain circumstances. Requires officers serving a warrant issued by a district court to do so in an authorized uniform and wear and use a body-worn video camera. (CD1)

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