

BILL ANALYSIS

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S.B. 1544
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The national spotlight on no-knock warrants used by law enforcement has shone with greater intensity since the inexplicable death of Breonna Taylor in her Louisville, Kentucky home, in March 2020. And a multiple fatality, no-knock entry in Houston two months earlier has led many to call for their end, including an unlikely ally in United States Senator Rand Paul.

But Texas is not among the 15 states to have statewide policy on the use of no-knock warrants, even though the United States Supreme Court ruled favorably on their use in *Richards v. Wisconsin*, 520 U.S. 385, in 1997. According to the National Conference of State Legislatures, there is common law authority that authorizes the use of no-knock warrants by law enforcement when exigent circumstances exist. Of the states that have statutes on the use of no-knock warrants, most follow the premise laid out in *Richards*: “that knocking and announcing their presence, under the particular circumstances would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence.”

Many of these laws and policies place emphasis on the safety of the officers who are executing the warrant, emphasis added when there is evidence or the belief that weapons may be present at the location where the warrant is to be served. But as much or even greater caution should be pursued to ensure that the rights of all are upheld and that those who are not the intended target of law enforcement operations are kept safe.

S.B. 1544 would put in place guardrails on the use of no-knock warrants that would limit the chances that obvious errors caused by poor planning and lax oversight could ever again happen to innocent citizens.

S.B. 1544 and **S.B. 1545** are named the Breonna Taylor and Atatiana Jefferson Safe Use of Force Act.

S.B. 1544 would help create consistency on the use of no-knock warrants by law enforcement.

S.B. 1544 requires:

1. Authorization for the use of a no-knock warrant to be issued by a district court judge. Notice to a district court judge should be attempted by a law enforcement agency (LEA) of its plan to deploy a no-knock warrant prior to the day the LEA plans to execute the warrant.
2. The petition or application for the deployment of a no-knock warrant must be submitted to the courts by an officer with knowledge of the issue in question, following approval by command or administrative-level law enforcement officials. A command or administrative-level law enforcement official must be informed that the LEA is planning the use of a no-knock warrant prior to the execution of the warrant.
3. Officers who are assigned to and participate in a no-knock warrant must be equipped with body worn cameras and the camera must be activated prior to entry of the structure and remain activated until the inventory of the warrant has been delivered to the occupant, if available, and the scene has been cleared.

4. Prior to the execution of a no-knock warrant, the command or administrative-level law enforcement official must review plans for execution of the warrant to determine whether:

- The illegal activity alleged in the application for the warrant is ongoing or has taken place within the last 24 hours prior to when the warrant will be executed.
- The person or suspect who is the target of the warrant is frequently present at the address where the warrant is to be executed and has been identified as present at the address where the warrant is to be served within the last 12 hours.

This provision does not apply when the suspect or suspects sought are alleged to have committed violent felony or aggravated offenses.

As proposed, S.B. 1544 amends current law relating to no-knock warrants.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Breonna Taylor-Atatiana Jefferson Safe Use of Force Act.

SECTION 2. Amends Chapter 15, Code of Criminal Procedure, by adding Article 15.251, as follows:

Art. 15.251. NO-KNOCK WARRANT. (a) Defines "no-knock entry."

(b) Authorizes only a district court judge, notwithstanding any other law, to issue an arrest warrant under Chapter 15 (Arrest Under Warrant) that authorizes a no-knock entry.

(c) Requires an applicant for a warrant under Chapter 15 that authorizes a no-knock entry to state in the complaint that:

(1) the applicant has personal knowledge of facts that support the necessity of a no-knock entry; and

(2) the applicant's supervisor has approved the complaint.

(d) Requires that a warrant issued under Chapter 15 that authorizes a no-knock entry:

(1) state the building or other place for which the no-knock entry is authorized; and

(2) require each officer executing the warrant to be equipped with a body worn camera, to activate the camera before executing the warrant, and to not deactivate the camera or allow the camera to be deactivated until execution of the warrant is completed.

(e) Provides that, before a warrant issued under Chapter 15 that authorizes a no-knock entry is authorized to be executed:

(1) the law enforcement agency intending to execute the warrant is required to provide at least 24 hours' notice before execution to the judge who issued the warrant; and

(2) the supervisor described by Subsection (c)(2) is required to confirm the illegal activity alleged in the affidavit is ongoing or has taken place during the preceding 24-hour period at the building or other place stated in the warrant and the accused is frequently present at the building or other place and has been identified as being present at that location in the preceding 12-hour period.

(f) Provides that this article does not apply if the property to be seized is alleged to be related to the commission of:

(1) an offense punishable as a felony that involves causing or attempting to cause serious bodily injury to a person; or

(2) an offense under any of the following provisions of the Penal Code:

(A) Section 20.04 (Aggravated Kidnapping);

(B) Section 22.02 (Aggravated Assault);

(C) Section 22.021 (Aggravated Sexual Assault); or

(D) Section 29.03 (Aggravated Robbery).

SECTION 3. Amends Chapter 18, Code of Criminal Procedure, by adding Article 18.025, as follows:

Art. 18.025. NO-KNOCK WARRANT. (a) Defines "no-knock entry."

(b) Authorizes only a district court judge, notwithstanding any other law, to issue a warrant under Chapter 18 (Search Warrants) that authorizes a no-knock entry.

(c) Requires an applicant for a warrant under Chapter 18 that authorizes a no-knock entry to state in the sworn affidavit submitted under Article 18.01(b) (relating to requiring that no search warrant be issued unless sufficient facts are presented) that:

(1) the applicant has personal knowledge of facts that support the necessity of a no-knock entry; and

(2) the applicant's supervisor has approved the affidavit.

(d) Requires that a warrant issued under Chapter 18 that authorizes a no-knock entry:

(1) state the building or other place for which the no-knock entry is authorized; and

(2) require each officer executing the warrant to be equipped with a body worn camera, activate the camera before executing the warrant, and not deactivate the camera or allow the camera to be deactivated until execution of the warrant is completed.

(e) Provides that, before a warrant issued under Chapter 18 that authorizes a no-knock entry is authorized to be executed:

(1) the law enforcement agency intending to execute the warrant is required to provide at least 24 hours' notice before execution to the judge who issued the warrant; and

(2) the supervisor described by Subsection (c)(2) is required to confirm the illegal activity alleged in the complaint is ongoing or has taken place during the preceding 24-hour period at the building or other place stated in the warrant.

(f) Provides that this article does not apply if the accused is alleged to have committed:

(1) an offense punishable as a felony that involves causing or attempting to cause serious bodily injury to a person; or

(2) an offense under any of the following provisions of the Penal Code:

(A) Section 20.04;

(B) Section 22.02;

(C) Section 22.021; or

(D) Section 29.03.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2021.