By:  Wu, et al. (Senate Sponsor - West) H.B. No. 492

(In the Senate - Received from the House May 10, 2021; May 21, 2021, read first time and referred to Committee on Jurisprudence; May 24, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 4, Nays 0; May 24, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes                         X

Johnson              X

COMMITTEE SUBSTITUTE FOR H.B. No. 492 By:  Hinojosa

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a warrant authorizing the use of a no-knock entry by a peace officer.

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

SECTION 1.  Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.251 to read as follows:

Art. 15.251.  NO-KNOCK WARRANT. (a) In this article, "no-knock entry" means a peace officer's entry, for the purpose of executing a warrant, into a building or other place without giving notice of the officer's authority or purpose before entering.

(b)  Notwithstanding any other law, only the following magistrates may issue a warrant under this chapter that authorizes a no-knock entry:

(1)  a district court judge;

(2)  a statutory county court judge;

(3)  a judge of a county court who is an attorney licensed by this state;

(4)  a judge of a municipal court of record who is an attorney licensed by this state; or

(5)  any magistrate if the county in which the warrant is issued does not have:

(A)  a municipal court of record with a courtroom located in that county and a judge who is an attorney licensed by this state;

(B)  a county court judge who is an attorney licensed by this state; or

(C)  a statutory county court judge.

(c)  A magistrate may issue a warrant under this chapter that authorizes a no-knock entry only if the complaint is submitted concurrently with a statement that approves the use of a no-knock entry and that is signed by the chief administrator of the law enforcement agency employing the affiant or by the chief administrator's designee.

SECTION 2.  Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.025 to read as follows:

Art. 18.025.  NO-KNOCK WARRANT. (a) In this article, "no-knock entry" has the meaning assigned by Article 15.251.

(b)  Notwithstanding any other law, only the following magistrates may issue a warrant under this chapter that authorizes a no-knock entry:

(1)  a district court judge;

(2)  a statutory county court judge;

(3)  a judge of a county court who is an attorney licensed by this state;

(4)  a judge of a municipal court of record who is an attorney licensed by this state; or

(5)  any magistrate if the county in which the warrant is issued does not have:

(A)  a municipal court of record with a courtroom located in that county and a judge who is an attorney licensed by this state;

(B)  a county court judge who is an attorney licensed by this state; or

(C)  a statutory county court judge.

(c)  A magistrate may issue a warrant under this chapter that authorizes a no-knock entry only if the affidavit under Article 18.01(b) is submitted concurrently with a statement that approves the use of a no-knock entry and that is signed by the chief administrator of the law enforcement agency employing the affiant or by the chief administrator's designee.

SECTION 3.  The change in law made by this Act applies only to a warrant issued on or after the effective date of this Act. A warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2021.

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