

Amendment to HB 135-FN

1 Amend the bill by replacing section 1 with the following:

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3 1 Search Warrants; Requisites of Warrant; No-Knock Warrants Prohibited. Amend RSA 595-
4 A:2 to read as follows:

5 595-A:2 Requisites of Warrant.

6 **I.** Search warrants shall designate or describe the person, building, vessel, or vehicle to be
7 searched and shall particularly describe the property or articles to be searched for. They shall be
8 substantially in the form prescribed in RSA 595-A:3 and shall be directed to a sheriff or his deputy or
9 to a constable or police officer, commanding him to search in the daytime, or if the warrant so
10 directs, in the night time, the person, building, vessel, or vehicle where the property or articles for
11 which he is required to search are believed to be concealed, and to bring such property or articles
12 when found, and the persons in whose possession they are found, before any circuit or superior court
13 named therein.

14 **II.(a)** *No law enforcement officer shall seek, execute, or participate in the execution*
15 *of a no-knock search warrant. Any law enforcement officer involved in executing a search*
16 *warrant shall be recognizable and identifiable as a uniformed law enforcement officer and*
17 *provide audible notice of the officer's authority and purpose reasonably expected to be*
18 *heard by occupants of such place to be searched prior to the execution of such search*
19 *warrant. The executing officer shall, before entering the premises, give appropriate notice*
20 *of the identity, authority, and purpose of the officer to the person to be searched, or to the*
21 *person in apparent control of the premises to be searched. No evidence obtained from a*
22 *search warrant in violation of this paragraph shall be admitted into evidence for the state*
23 *in any prosecution. This paragraph shall apply to all circumstances with the exception of*
24 *the following:*

25 (1) *If an officer has reasonable grounds to believe at the time the warrant is*
26 *sought that knocking and announcing the officer's presence would create an imminent*
27 *threat of physical violence to the officer and/or another person. Prior to seeking judicial*
28 *authorization for a no-knock entry, an officer must first obtain written approval from the*
29 *chief law enforcement officer or his or her designee in the municipality or, in the case of*
30 *any state law enforcement agency, the chief law enforcement officer of the specific agency.*
31 *The chief law enforcement officer in the municipality or state agency shall make a timely*
32 *report of the use of any no-knock warrants by his or her agency or department to the head*

1 *prosecutor for their jurisdiction. Such reports will become a public record once the*
2 *warrant is returned to the court unless otherwise ordered by the court. Timely notification*
3 *shall mean within 48 hours. Once judicial authorization is obtained, officers may proceed*
4 *without knocking and announcing their presence unless they learn of facts that negate the*
5 *circumstances that justified this exception to the knock and announce rule.*

6 *(2) If an officer did not anticipate the need for a no knock entry at the time*
7 *the warrant was sought, the officer may conduct a no-knock entry only if exigent*
8 *circumstances arise at the scene such that knocking and announcing the officer's presence*
9 *would create an imminent threat of physical violence to the officer and/or another person.*
10 *If the officer relies on this exigent circumstances exception in executing the warrant, the*
11 *officer shall immediately notify his or her chief law enforcement officer who shall provide*
12 *written notice to the district or county attorney, attorney general, or their designee.*

13 *(3) If an exceptional circumstance arises, such as, but not limited to, a*
14 *human trafficking or missing person case where computer evidence leading to the location*
15 *of victims could be destroyed, where no imminent threat of physical violence is present but*
16 *an officer believes the evidence is so significant, and the risk of its destruction so*
17 *pronounced, that a no-knock entry is warranted, judicial authorization for a no-knock*
18 *warrant may be sought if approval is first obtained from the chief law enforcement officer*
19 *or his or her designee and the district or county attorney, attorney general, or their*
20 *designee.*

21 *(b) In this paragraph, a "no-knock search warrant" is a warrant authorizing a*
22 *law enforcement officer to enter a premises to execute a warrant without first knocking or*
23 *announcing his or her presence.*

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AMENDED ANALYSIS

This bill prohibits a law enforcement officer from seeking, executing, or participating in the execution of a no-knock search warrant and exceptions thereto.