

Amendment to HB 135-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to requisites for a criminal search warrant.
4

5 Amend the bill by replacing all after the enacting clause with the following:

6
7 1 Search Warrants; Requisites of Warrant. Amend RSA 595-A:2 to read as follows:

8 595-A:2 Requisites of Warrant.

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

17 ***II.*** *In this section, a "no-knock search warrant" means a warrant authorizing a law*
18 *enforcement officer to enter a premises to execute a warrant without first knocking or*
19 *announcing his or her presence.*

20 ***III.(a)*** *Any law enforcement officer involved in executing a search warrant shall be*
21 *recognizable and identifiable as a uniformed law enforcement officer and provide audible*
22 *notice of the officer's authority and purpose reasonably expected to be heard by occupants*
23 *of such place to be searched prior to the execution of such search warrant. The executing*
24 *officer shall, before entering the premises, give appropriate notice of the identity,*
25 *authority, and purpose of the officer to the person to be searched, or to the person in*
26 *apparent control of the premises to be searched. No evidence obtained from a search*
27 *warrant in violation of this subparagraph shall be admitted into evidence for the state in*
28 *any prosecution. This subparagraph shall apply to all circumstances with the exception of*
29 *a no-knock warrant.*

30 ***(b)*** *Notwithstanding subparagraph (a), a no-knock warrant may be granted*
31 *under any of the following circumstances:*

1 (1) *If an officer has reasonable grounds to believe at the time the warrant is*
2 *sought that knocking and announcing the officer's presence would create an imminent*
3 *threat of physical injury to the officer and/or another person. Prior to seeking judicial*
4 *authorization for a no-knock entry, an officer must first obtain written approval from the*
5 *chief law enforcement officer or his or her designee in the municipality or, in the case of*
6 *any state law enforcement agency, the chief law enforcement officer of the specific agency*
7 *or designee. The chief law enforcement officer in the municipality or state agency shall*
8 *make a timely report of the use of any no-knock warrants by his or her agency and*
9 *department to the county attorney and attorney general. Such reports will become a public*
10 *record once the warrant is returned to the court unless otherwise ordered by the court.*
11 *Timely notification shall mean within 48 hours. Once judicial authorization is obtained,*
12 *officers may proceed without knocking and announcing their presence unless they learn of*
13 *facts that negate the circumstances that justified this exception to the knock and announce*
14 *rule.*

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

22 (3) *If an exceptional circumstance arises, such as, but not limited to, a*
23 *human trafficking or missing person case where computer evidence leading to the location*
24 *of victims could be destroyed, where no imminent threat of physical injury is present, but*
25 *an officer in good faith believes the evidence is so significant, and the risk of its*
26 *destruction so pronounced, that a no-knock entry is warranted, judicial authorization for*
27 *a no-knock warrant may be sought if approval is first obtained from the chief law*
28 *enforcement officer or his or her designee and the county attorney, attorney general, or*
29 *their designee.*

30 2 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill limits the circumstances under which a law enforcement officer may obtain or execute no-knock search warrant.