**South Carolina General Assembly**

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**H. 5020**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pendarvis, Hosey, S. Williams, Cobb‑Hunter, Jordan, Brawley, Matthews, Henegan, Govan, Anderson, Robinson, Dillard, J.L. Johnson and Tedder

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Introduced in the House on February 23, 2022

Currently residing in the House Committee on **Judiciary**

Summary: Issuance and execution of search warrants

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/23/2022 House Introduced and read first time ([House Journal‑page 57](file:///h:\hj\20220223.docx))

2/23/2022 House Referred to Committee on **Judiciary** ([House Journal‑page 57](file:///h:\hj\20220223.docx))

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**VERSIONS OF THIS BILL**

[2/23/2022](file:///p:\pprever\2021-22\5020_20220223.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17‑13‑155 SO AS TO DEFINE CERTAIN TERMS AND ESTABLISH PROCEDURES FOR THE ISSUANCE AND EXECUTION OF SEARCH WARRANTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 17 of the 1976 Code is amended by adding:

“Section 17‑13‑155. (A) As contained in this section:

(1) ‘No‑knock search warrant’ means any warrant issued by a judge and executed upon a premises that does not require a law enforcement officer executing the warrant to knock and announce himself and his purpose at the premises.

(2) ‘Verifiable exigent circumstances’ means an event occurring in real‑time that is imminently life threatening to the law enforcement officer or occupant of a property. In such cases, the officer must be able to verify the perceived threat through video footage, required documentation, and witness statements. Examples of verifiable exigent circumstances include: hearing a round being chambered in a gun, an occupant screaming something threatening, or seeing an occupant or hostage held by a firearm through a window.

(B) A court shall not issue a ‘no knock search warrant’ except when probable cause exists that a person suspected of committing murder or kidnapping is on a premises, or where giving notice to a criminal suspect of the execution of a search warrant may create an imminent danger to the life of the officer executing the warrant or another person.

(C) An application for a ‘no knock warrant’ must include:

(1) an explanation of how the circumstances contained in subsection (A)(2) exist;

(2) the investigative activities undertaken and information gathered in the course of the investigation that support the request for a no‑knock search warrant, or why no investigative activity is needed;

(3) an explanation for why the affiant would be unable to detain the suspect or search the premises without knocking or announcing his presence and using other less invasive methods;

(4) if trained tactical operators, such as SWAT team members, are not acting as the initial entry team, documentation to verify the officers performing the initial entry are trained in tactical entry operations; and

(5) whether the no‑knock search warrant can be executed during daylight hours and, if not, the facts or circumstances which preclude effective execution in daylight hours.

(D) All search warrants shall contain:

(1) the date and time the warrant was issued;

(2) the name of the affiant;

(3) the identity, including name and description, of the person for whom the search warrant is being issued;

(4) the offense, or probable cause for the offense, cited in the affidavit;

(5) the objects to be seized;

(6) the location and description of the place, or places, to be searched;

(7) a list of and estimated ages and genders of any additional occupants, as well as any known individuals with cognitive or physical disabilities, and pets at the property to be searched; and

(8) the law enforcement officer’s intended action if the persons for whom the search warrant is being issued, or any occupant of the property, does not respond to the door after a thirty‑second wait time. The intent to utilize a dynamic entry must be justified through the criteria of verifiable exigent circumstances and included in the warrant execution report.

(E) A search warrant not executed within ten days after issuance must be returned to, and voided by, the officer who issued the search warrant.

(F) A law enforcement officer must provide the court evidence gathered not more than twenty‑four hours, prior to the execution of the search warrant, to verify the person for whom the search warrant is being issued, and is present at the residence to be searched, and verify there are no significant changes to information contained within the application.

(G) When executing a search warrant that is not a no‑knock search warrant:

(1) a law enforcement officer must be clearly recognizable and identifiable as a law enforcement officer in uniform. An officer shall wear a visible badge containing his name and identification number. An officer shall not wear unmarked or plain clothes;

(2) the knock on the entrance of the property, and the verbal identification of the law enforcement officer, must be pronounced at a volume loud enough for the officer to reasonably believe the suspect inside could hear;

(3) a law enforcement officer shall allow a minimum of thirty seconds for the occupants to respond and open the door before he attempts to enter the residence, absent the existence of verifiable, exigent circumstances;

(4) a law enforcement officer must be equipped with a body‑worn camera which must be tested no earlier than twenty‑four hours prior to the execution of the search warrant to ensure it is functioning, turned on at least five minutes before the warrant is executed, and remaining on five minutes after the warrant service process is completed; and

(5) a law enforcement officer shall not use flash bang, stun, distraction, or other similar devices unless verifiable, exigent circumstances exist.

(H) The execution of all search warrants must be conducted between 9 a.m. and 7 p.m.

(I) Upon arrival at the premises to be searched, and before effecting a no‑knock entry, a law enforcement officer must conduct a threshold reappraisal of the situation to determine whether any change in circumstances has obviated the need for a no‑knock entry or has created a risk that a no‑knock entry would result in imminent danger to the life of a bystander or third‑person inside or outside the premises.

(J) Following the execution of all search warrants:

(1) a Warrant Execution Report must be completed and submitted within seventy‑two hours of the execution of a search warrant to the officer’s law enforcement agency;

(2) the completed Warrant Execution Report and all audio and video footage related to the execution of a search warrant must be stored and made available for review by the local governmental body, the local solicitor’s office, and an independent, civilian review board. Warrant reports and footage are to be reviewed on a biannual basis, at a minimum;

(3) all body‑worn camera footage and audio, audio recordings, and all other data recorded in the course of executing a search warrant must be retained by the law enforcement agency for a period of at least twenty‑four months and must be preserved for a longer period upon request by the public;

(4) a person aggrieved by an unlawful search and seizure of property or by the deprivation of property may petition the court for the property’s return no less than five days after the property has been seized. The petition may be made before any court with jurisdiction over the criminal case or, if no case has been filed, in a court with jurisdiction over the property in which the property was seized. The court must receive evidence on any factual issue necessary to decide the petition. After an aggrieved person has petitioned for the property’s return, the State must establish by clear and convincing evidence, that the seized property was the proceeds of a crime, or evidence of a crime. If the court grants the petition, it must return the property to the petitioner, but may impose reasonable conditions to protect access to the property and its use in later proceedings;

(5) restitution must be made to the owner of a residence that experienced damaged or destroyed property during the execution of a search warrant, and any medical or health care costs related to the search for any occupant of the property searched, unless the owner of the property is convicted of a crime pursuant to the search warrant;

(6) a law enforcement officer in violation of a warrant requirement may be suspended, fined, or terminated; and

(7) evidence obtained from a search warrant in violation of this section must not be admitted into evidencein a prosecution related to the search*.*

(K) Following the execution of all search warrants, the following information must be reported to the law enforcement agency within seventy‑two hours of the warrant execution and stored for annual review:

(1) names of the officer and agency which obtained the warrant;

(2) the prosecutor and prosecuting office that drafted the warrant;

(3) whether the information contained in the support affidavit was based upon a confidential informant, an identified citizen informant, or a law enforcement officer;

(4) the judge who signed the warrant and the court that issued the warrant; and

(5) whether the application for the warrant issued was submitted previously to a judge other than the judge who issued the warrant. If there was a previous application, the report must include the date the application was made and the deposition of the application;

(6) the date the warrant was applied for and the date and time the warrant was signed;

(7) the date and time the warrant was executed;

(8) the evidence and surveillance gathered no more than twenty‑four hours prior to the execution of the search warrant that verified the presence of the person for whom the search warrant was issued was present at the residence being searched;

(9) the age, gender, and race of the person to whom the search warrant was directed;

(10) whether physical force or deadly force was utilized, the thirty‑second entry requirement was breached, or flash bang devices were deployed. If any of these activities occurred, the report must contain:

(a) the verifiable exigent circumstances to substantiate the breach of the thirty‑second entrance requirement;

(b) the verifiable exigent circumstances to substantiate the use of flash bang devices;

(c) whether any individuals and animals were injured or killed, and if so:

(i) the age, gender, and race of each person;

(ii) the manner of injury or death;

(iii) the status of each person or animal killed or injured, specifying whether each was the subject of the search warrant, a law enforcement officer, or a third party;

(11) the address where the warrant was executed;

(12) the result of executing the warrant specifying whether evidence was seized and if so, a description of it and whether the evidence seized was the subject of the warrant;

(13) the names of individuals who were arrested and whether the subject of the warrant was arrested or other individuals not named in the warrant were arrested;

(14) whether property was damaged during the course of executing the warrant and a description of it; and

(15) any citizen complaints made regarding the execution of the search warrant. All information regarding a citizen’s complaint must be made publicly available within two weeks after the resolution of the complaint.”

SECTION 2. This act takes effect upon approval by the Governor.

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