

BILL ANALYSIS

Senate Research Center

C.S.H.B. 492
By: Wu et al. (West)
Jurisprudence
5/22/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In *Richards v. Wisconsin*, the U.S. Supreme Court held in its 1997 decision that the underlying premise for an unannounced entry by law enforcement was that "knocking and announcing their presence would be dangerous...or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence."

But there is another aspect regarding the use of "no-knock warrants" that must also be considered. In January 2019, a no-knock warrant issued in Houston based on false information provided by an informant resulted in two deaths and injuries to multiple officers by gunfire. For those reasons, concerns have been raised regarding the issuance of arrest warrants and search warrants that authorize the use of a no-knock entry in which a peace officer enters a building without first giving notice of the officer's authority or purpose before entering.

H.B. 492 seeks to address these concerns by putting certain requirements in place that allow a no-knock warrant to be issued by the courts.

H.B. 492 does not ban or prohibit the use of no-knock warrants by law enforcement.

H.B. 492 prohibits the issuance of a warrant by a magistrate who is not a district court judge or a statutory county court judge.

H.B. 492 requires the complaint to the courts by a law enforcement agency to be submitted by the chief administrator of a law enforcement agency, or by the chief's designee.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 492 amends current law relating to the issuance of a warrant authorizing the use of a no-knock entry by a peace officer.

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. 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) Provides that, notwithstanding any other law, only the following magistrates may issue a warrant under Chapter 15 (Arrest Under Warrant) 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) Authorizes a magistrate to issue a warrant under Chapter 15 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. 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) Provides that, notwithstanding any other law, only the following magistrates may issue a warrant under Chapter 18 (Search Warrants) 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) Authorizes a magistrate to issue a warrant under Chapter 18 that authorizes a no-knock entry only if the affidavit under Article 18.01(b) (relating to the sworn affidavit setting forth substantial facts establishing probable cause) 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. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.