

Representative Marc K. Roberts proposes the following substitute bill:

FORCIBLE ENTRY AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Luz Robles

LONG TITLE

General Description:

This bill modifies the Utah Code of Criminal Procedure regarding the use of forcible entry by law enforcement officers when conducting a search or making an arrest.

Highlighted Provisions:

This bill:

- ▶ requires that the issuance of a warrant under the provisions of this bill shall be in accordance with Rule 40, Utah Rules of Criminal Procedure;
- ▶ amends existing law regarding the use of forcible entry by law enforcement officers to include searches;
- ▶ requires law enforcement officers to identify themselves before forcing entry into a building;
- ▶ amends existing law to allow law enforcement officers to force entry into a building without first issuing a demand or explanation if there is probable cause to believe that evidence will be easily or quickly destroyed;
- ▶ requires law enforcement officers to use the least amount of force necessary when executing forcible entry, as authorized;
- ▶ requires that any application for a warrant to forcibly enter a place of residence shall:



- 26 • demonstrate why law enforcement officials cannot use less invasive or
- 27 confrontational methods to effectuate the necessary search or arrest; and
- 28 • describe investigative activities that have been or will be undertaken prior to
- 29 executing the search or arrest to ensure that the correct building has been
- 30 identified or explain why no investigative activities are needed; and
- 31 ▶ clarifies that any information or property obtained in violation of these provisions is
- 32 inadmissible in court.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 77-7-8, as last amended by Laws of Utah 2003, Chapter 29



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section 77-7-8 is amended to read:

43 **77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a**
44 **warrant.**

45 (1) (a) Subject to ~~[Subsection]~~ Subsections (2) and (3), a peace officer, when

- 46 conducting a search or making an arrest, may forcibly enter the building:
- 47 (i) in which the target of a search is reasonably believed to be located; or
- 48 (ii) where the person to be arrested is, or in which there are reasonable grounds for
- 49 believing ~~[him]~~ the person to be.

50 (b) Before making the forcible entry, the officer shall:

- 51 (i) identify himself or herself as a law enforcement officer; and
- 52 (ii) demand admission and explain the purpose for which admission is desired.

53 (c) (i) The officer need not give a demand and explanation, or identify himself or
54 herself, before making a forcible entry under the exceptions in ~~[Section]~~ Subsection
55 77-7-6(1)(a) or where there is ~~[reason]~~ probable cause to believe evidence will be easily or
56 quickly secreted or destroyed.

57 (ii) The officer shall identify himself or herself and state the purpose of entering the
58 premises as soon as practicable after entering the premises.

59 (d) The officer may use only that force which is reasonable and necessary to effectuate
60 forcible entry under this section.

61 (2) If the building to be entered under Subsection (1) appears to be a private residence
62 or the officer knows the building is a private residence, [~~and~~] if there is no consent to enter [~~or~~
63 ~~there are no exigent circumstances~~], if there are no exceptions present under Subsection
64 77-7-6(1)(a), and if there is no probable cause to believe evidence will be easily or quickly
65 secreted or destroyed, the officer shall, before entering the building:

66 (a) obtain an arrest or search warrant if the building is the residence of the person to be
67 arrested; or

68 (b) obtain a search warrant if the building is a residence, but not the residence of the
69 person whose arrest is sought.

70 (3) Subject to the provisions of Rule 40, Utah Rules of Criminal Procedure, a judge or
71 magistrate issuing a warrant pursuant to Subsection (2) shall make a finding that the affidavit:

72 (a) demonstrates why law enforcement officers are unable to detain the suspect or
73 search the residence using less invasive or confrontational methods; and

74 (b) describes:

75 (i) investigative activities that have been, or will be, undertaken prior to execution of
76 the warrant to ensure that the correct building is identified and that potential harm to innocent
77 third parties, the building, and law enforcement officers may be minimized; or

78 (ii) why no investigative activities are needed.