

**FORCED ENTRY TO MAKE ARREST**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: David L. Thomas**

**This act modifies the Code of Criminal Procedure by amending provisions regarding when and how forcible entry may be made to effect an arrest. The amendments reflect rulings in two U.S. Supreme Court decisions.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**77-7-8**, as enacted by Chapter 15, Laws of Utah 1980

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

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

**77-7-8. Forcible entry to make arrest -- Conditions requiring a warrant.**

~~[To make]~~ (1) (a) Subject to Subsection (2), a peace officer when making an arrest~~[, a private person, if the offense is a felony, and in all cases, a peace officer,]~~ may ~~[break the door or window of]~~ forcibly enter the building in which the person to be arrested is, or in which there are reasonable grounds for believing him to be.

(b) Before making the ~~[break]~~ forcible entry, the ~~[person]~~ officer shall demand admission and explain the purpose for which admission is desired. ~~[Demand and explanation]~~

(c) The officer need not ~~[be given]~~ give a demand and explanation before ~~[breaking]~~ making a forcible entry under the exceptions in Section 77-7-6 or where there is reason to believe evidence will be secreted or destroyed.

(2) If the building to be entered under Subsection (1) appears to be a private residence or the officer knows the building is a private residence, and if there is no consent to enter or there are no exigent circumstances, the officer shall, before entering the building:

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

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

