

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

| | | | |
|---|-------------------|------------------|----------------|
| 6 | Cosponsors: | Lee B. Perry | Ryan D. Wilcox |
| 7 | Brian M. Greene | V. Lowry Snow | Larry B. Wiley |
| 8 | Eric K. Hutchings | Mark A. Wheatley | |
| | Brian S. King | | |

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 when executing a warrant;
- ▶ 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



24 that evidence will be easily or quickly destroyed, or there is reason to believe giving notice will
25 endanger the officer or another person;

26 ▶ requires law enforcement officers to use the least amount of force necessary when
27 executing forcible entry, as authorized; and

28 ▶ providing an effective date.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill takes effect on July 1, 2014.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 77-7-8, as last amended by Laws of Utah 2003, Chapter 29

36 77-23-210, as last amended by Laws of Utah 2007, Chapter 153

37

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

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

40 **77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a**
41 **warrant.**

42 (1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly
43 enter the building in which the person to be arrested is, or in which there [~~are reasonable~~
44 ~~grounds~~] is probable cause for believing him to be.

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

46 (i) identify himself or herself as a law enforcement officer; and

47 (ii) demand admission and explain the purpose for which admission is desired.

48 (c) (i) The officer need not give a demand and explanation, or identify himself or
49 herself, before making a forcible entry under the exceptions in [Section] Subsection

50 77-7-6 ~~H~~→ ~~(1)(a)~~ ←~~H~~ or where there is [reason] probable cause to believe evidence will
50a be easily or

51 quickly secreted or destroyed.

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

54 (d) The officer may use only that force which is reasonable and necessary to effectuate

55 forcible entry under this section.

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

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

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

63 Section 2. Section 77-23-210 is amended to read:

64 **77-23-210. Force used in executing a search warrant -- When notice of authority**
65 **is required as a prerequisite.**

66 (1) When a search warrant has been issued authorizing entry into any building, room,
67 conveyance, compartment, or other enclosure, the officer executing the warrant may [~~use such~~
68 ~~force as is reasonably necessary to~~] enter:

69 [(+) (a) if, after notice of the officer's authority and purpose, there is no response or the
70 officer is not admitted with reasonable promptness; or

71 [(2) (b) without notice of the officer's authority and purpose[~~, if the magistrate issuing~~
72 ~~the warrant directs in the warrant that the officer need not give notice.~~] as provided in
73 Subsection (3).

74 (2) The officer executing the warrant under Subsection (1) may use only that force
75 which is reasonable and necessary to execute the warrant.

76 (3) (a) The officer shall identify himself or herself and state the purpose of entering the
77 premises as soon as practicable.

78 (b) The officer may enter without notice only if:

79 (i) there is reason to believe the notice will endanger the life or safety of the officer or
80 another person;

81 (ii) there is probable cause to believe that evidence may be easily or quickly secreted or
82 destroyed; or

83 (iii) the magistrate, having found probable cause based upon proof provided under
84 oath, that the object of the search may be easily or quickly secreted or destroyed, or having
85 found reason to believe that physical harm may result to any person if notice were given, has

86 directed that the officer need not give notice of authority and purpose before entering the
87 premises to be searched under Rule 40, Rules of Criminal Procedure.

88 (4) (a) The officer shall take reasonable precautions in execution of any search warrant
89 to minimize the risks of unnecessarily confrontational or invasive methods which may result in
90 harm to any person.

91 (b) The officer shall minimize the risk of searching the wrong premises by verifying
92 that the premises being searched is consistent with a particularized description in the search
93 warrant, including such factors as the type of structure, the color, the address, and orientation
94 of the target property in relation to nearby structures as is reasonably necessary.

95 Section 3. **Effective date.**

96 This bill takes effect on July 1, 2014.