

FORCIBLE ENTRY AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Code of Criminal Procedure regarding the use of forcible entry when serving a search warrant or making an arrest.

Highlighted Provisions:

This bill:

- ▶ amends existing law regarding the use of forcible entry by a law enforcement officer when executing a warrant;
- ▶ requires a law enforcement officer to wear a uniform with clear text that identifies that person as a peace officer;
- ▶ requires any officer who executes a warrant to be equipped with a body camera that actively records through the duration of the execution of the warrant;
- ▶ provides that a search or administrative warrant may not be issued by a justice court judge; and
- ▶ provides that any evidence obtained in violation of these provisions is not admissible in any civil, criminal, or administrative proceeding.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **77-7-8**, as last amended by Laws of Utah 2014, Chapter 297

30 **77-23-210**, as last amended by Laws of Utah 2014, Chapter 297

31

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

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

34 **77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a**
35 **warrant.**

36 (1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly
37 enter the building in which the person to be arrested is located, or in which there is probable
38 cause for believing [~~him~~] the person to be.

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

40 (i) identify himself or herself as a law enforcement officer; [~~and~~]

41 (ii) demand admission; and

42 (iii) explain the purpose for which admission is desired.

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

46 (ii) The officer shall identify himself or herself and state the purpose [~~of~~] for entering
47 the premises as soon as practicable after entering the premises.

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

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

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

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

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

58 **77-23-210. Force used in executing a search warrant -- When notice of authority**

59 **is required as a prerequisite.**

60 (1) When a search warrant has been issued authorizing entry into any building, room,
61 conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

62 (a) if, after giving notice of the officer's authority and purpose, there is no response or
63 the officer is not admitted with reasonable promptness; or

64 (b) without notice of the officer's authority and purpose as provided in Subsection (3).

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

67 (3) (a) The officer shall identify himself or herself and state the purpose ~~[of]~~ for
68 entering the premises as soon as practicable.

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

70 (i) there is ~~[reason]~~ probable cause to believe that the notice will endanger the life or
71 safety of the officer or another person; or

72 ~~[(ii) there is probable cause to believe that evidence may be easily or quickly secreted
73 or destroyed; or]~~

74 ~~[(iii) (ii) the magistrate, [having found probable cause based upon proof provided
75 under oath, that the object of the search may be easily or quickly secreted or destroyed, or]~~
76 having found reason to believe that physical harm may result to any person if notice were
77 given, has directed that the officer need not give notice of authority and purpose before
78 entering the premises to be searched under ~~[Rule 40,]~~ the Rules of Criminal Procedure.

79 (c) The officer shall wear a uniform with large, conspicuous text stating that the officer
80 is a peace officer.

81 (d) The officer shall be equipped with a camera worn on the officer's body that actively
82 records throughout the duration of the execution of the warrant.

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

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

90 (5) A warrant may not be issued under this section by a justice court judge.

91 (6) Any evidence obtained in violation of this section is inadmissible in any civil,

92 criminal, or administrative proceeding.

Legislative Review Note
as of 12-30-14 9:03 AM

Office of Legislative Research and General Counsel