

SB0082S01 compared with SB0082

~~{deleted text}~~ shows text that was in SB0082 but was deleted in SB0082S01.

inserted text shows text that was not in SB0082 but was inserted into SB0082S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Stephen H. Urquhart proposes the following substitute bill:

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}~~badge, label, or clothing that identifies that person as a peace officer;
- ▶ ~~{requires any}~~provides that if the deploying law enforcement agency owns and operates body camera devices, the officer who executes a warrant ~~{to}~~shall be equipped with a body camera that actively records through the duration of the

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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:

AMENDS:

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

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

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 conduct search or make arrest -- Conditions requiring a warrant.

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

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

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

(ii) demand admission; and

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

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

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

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

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forcible entry under this section.

(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.

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

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

(1) (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the Utah Department of Public Safety.

(b) Written policies adopted pursuant to this section, shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Access and Management Act.

~~[(+)]~~ (2) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

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

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

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

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

~~[(b)]~~ (3) (a) The officer may enter without notice only if:

(i) there is [reason] ~~{prob}~~ reasonable ~~{cause}~~ suspicion to believe that the notice will endanger the life or safety of the officer or another person; ~~{or}~~

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

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

~~(c) The~~ [-]; or

(iv) the officer physically observes and documents a previously unknown event or circumstance at the time the warrant is being executed which creates probable cause to believe the object of the search is being destroyed, or creates reason to believe that physical harm may result to any person if notice were given.

(b) The officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering.

(4) An officer executing a warrant under this section may use only that force which is reasonable and necessary to execute the warrant.

(5) An officer executing a warrant under this section shall wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which indicates that he or she is a law enforcement officer.

(6) (a) An officer executing a warrant under this section shall comply with the officer's employing agency's body worn camera policy when the officer is equipped with a body worn camera.

(b) The employing agency's policy regarding the use of body worn cameras shall include a provision that an officer shall wear a ~~uniform with large, conspicuous text stating that the officer is a peace officer.~~

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

~~(4)~~ body worn camera when a camera is available, except in exigent circumstances where it is not practicable to do so.

~~(4)~~ (7) (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may

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result in harm to any person.

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

~~(5) (A) Notwithstanding any provision in this chapter, a warrant may not be issued under this section by a justice court judge.~~

~~(6) Any evidence obtained in violation of this section is inadmissible in any civil, criminal, or administrative proceeding.~~

Legislative Review Note

~~as of 12-30-14 9:03 AM~~

~~Office of Legislative Research and General Counsel~~, solely for:

(a) the alleged possession or use of a controlled substance; or

(b) the alleged possession of drug paraphernalia as provided in Section 53-37a-3.