

JAN 22 2021

A BILL FOR AN ACT

RELATING TO POLICING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 805, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§805- No knock warrants; prohibited. Notwithstanding
5 any provision of law to the contrary, all warrants shall require
6 the serving officer or officers to declare the officer's office
7 and business in a loud voice and wait at least thirty seconds
8 for compliance before entry into a house, store, or other
9 building for the purpose of serving the warrant.

10 §805- Service of warrant; uniform requirement. Any
11 officer serving a warrant issued pursuant to this chapter shall
12 do so in uniform. An officer serving a warrant shall not
13 obscure or conceal the officer's office in the process of
14 serving the warrant."

15 SECTION 2. Section 803-11, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "§803-11 Entering house to arrest. Whenever it is
2 necessary to enter a house to arrest an offender, and entrance
3 is refused, the officer or person making the arrest may force an
4 entrance by breaking doors or other barriers. [~~But before~~]
5 Before breaking any door, the officer or person shall first
6 demand entrance in a loud voice, and state that the officer or
7 person is the bearer of a warrant of arrest; or if it is in a
8 case in which arrest is lawful without warrant, the officer or
9 person shall substantially state that information in an audible
10 voice. No officer shall enter a house to arrest an offender
11 without audibly declaring the officer's office and business and
12 waiting at least thirty seconds for compliance before entry;
13 provided that an officer shall not be required to wait if
14 exigent circumstances exist that cause waiting to be hazardous
15 or otherwise impracticable."

16 SECTION 3. Section 803-37, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§803-37 Power of officer serving. The officer charged
19 with the warrant, if a house, store, or other building is
20 designated as the place to be searched, may enter it without
21 demanding permission if the officer finds it open[-]; provided



1 that the officer shall audibly declare the officer's office and
2 business and wait at least thirty seconds prior to entry. If
3 the doors are shut, the officer shall declare the officer's
4 office and the officer's business and demand entrance. If the
5 doors, gates, or other bars to the entrance are not
6 [~~immediately~~] opened[~~7~~] within thirty seconds, the officer may
7 break them. When entered, the officer may demand that any other
8 part of the house, or any closet or other closed place in which
9 the officer has reason to believe the property is concealed, may
10 be opened for the officer's inspection, and if refused the
11 officer may break them. If an electronic device or storage
12 media is designated as the item to be searched, the court may
13 authorize the officer to obtain technical assistance from
14 individuals or entities, located within or outside the State, in
15 the examination of the item; provided that the officer shall
16 submit a sworn statement to the judge or magistrate, certifying
17 the reliability and qualifications of the individuals or
18 entities and the reason their assistance is necessary; provided
19 further that no individual or entity shall be compelled to
20 provide technical assistance without their consent."



1 SECTION 4. Section 805-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§805-1 Complaint; form of warrant.** When a complaint is
4 made to any prosecuting officer of the commission of any
5 offense, the prosecuting officer shall examine the complainant,
6 shall reduce the substance of the complaint to writing, and
7 shall cause the complaint to be subscribed by the complainant
8 under oath, which the prosecuting officer is hereby authorized
9 to administer, or the complaint shall be made by declaration in
10 accordance with the rules of court. If the original complaint
11 results from the issuance of a traffic summons or a citation in
12 lieu of an arrest pursuant to section 803-6, by a police
13 officer, the oath may be administered by any police officer
14 whose name has been submitted to the prosecuting officer and who
15 has been designated by the chief of police to administer the
16 oath, or the complaint may be submitted by declaration in
17 accordance with the rules of court. Upon presentation of the
18 written complaint to the judge in whose circuit the offense
19 allegedly has been committed, the judge shall issue a warrant,
20 reciting the complaint and requiring the sheriff, or other
21 officer to whom it is directed, except as provided in section



1 805-3, to arrest the accused and to bring the accused before the
2 judge to be dealt with according to law; and in the same warrant
3 the judge may require the officer to summon such witnesses as
4 are named in the warrant to appear and give evidence at the
5 trial. The warrant may be in the form established by the usage
6 and practice of the issuing court[-]; provided that no warrant
7 shall issue that permits any officer to enter a house, store, or
8 other building without audibly declaring the officer's office
9 and business and waiting at least thirty seconds for compliance
10 before entry."

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.
14

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'ATL', is written over a horizontal line.

S.B. NO. 726

Report Title:

Law Enforcement; No Knock Warrants; Prohibition

Description:

Prohibits the issuance of warrants that permit entry by an officer to a house, store, or other building without first audibly declaring the officer's office and business, including no-knock warrants. Requires law enforcement officers serving an arrest warrant at a house or a search warrant at a house, store, or other building to audibly declare the officer's office and business and wait at least thirty seconds for compliance before entry. Requires officers serving a warrant to do so in uniform.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

