

Senate Bill 133

By: Senators Davenport of the 44th, Orrock of the 36th, Jordan of the 6th, Jones II of the 22nd, Parent of the 42nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,
2 relating to searches with warrants, so as to prohibit the use of no-knock search warrants in
3 certain circumstances; to provide for a definition; to revise provisions regarding the issuance
4 of search warrants and the use of force in executing a search warrant; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
9 searches with warrants, is amended in Code Section 17-5-21, relating to grounds for issuance
10 of search warrant and scope of search pursuant to search warrant, by revising subsection (a)
11 and by adding a new subsection to read as follows:

12 "(a) Except as provided in subsection (e) of this Code section, upon ~~Upon~~ the written
13 complaint of any certified peace officer of this state or its political subdivisions charged
14 with the duty of enforcing the criminal laws and otherwise as authorized in Code Section
15 17-5-20 under oath or affirmation, which states facts sufficient to show probable cause that
16 a crime is being committed or has been committed and which particularly describes the

17 place or person, or both, to be searched and things to be seized, any judicial officer
18 authorized to hold a court of inquiry to examine into an arrest of an offender against the
19 penal laws, referred to in this Code section as 'judicial officer,' may issue a search warrant
20 for the seizure of the following:

21 (1) Any instruments, articles, or things, including the private papers of any person, which
22 are designed, intended for use, or ~~which~~ have been used in the commission of the offense
23 ~~in connection with which the warrant is issued~~ that is the subject of the warrant being
24 issued;

25 (2) Any person who has been kidnapped in violation of the laws of this state; or who has
26 been kidnapped in another jurisdiction and is now concealed within this state; or any
27 human fetus or human corpse;

28 (3) Stolen or embezzled property;

29 (4) Any item, substance, object, thing, or matter, the possession of which is unlawful; or

30 (5) Any instruments, articles, ~~or~~ things, ~~any~~ or information or data; and anything that is
31 tangible or intangible, corporeal or incorporeal, or visible or invisible evidence of the
32 commission of the crime for which probable cause is shown, other than the private papers
33 of any person."

34 "(e)(1) As used in this subsection, the term 'no-knock' means a provision in a search
35 warrant that authorizes the executing officer to enter without giving audible verbal notice
36 of the officer's presence, authority, and purpose.

37 (2) No search warrant shall be issued which contains a no-knock provision unless the
38 affidavit or testimony supporting such warrant establishes by probable cause that if an
39 officer were to knock and announce his or her presence, authority, and purpose before
40 entry, such act of knocking and announcing would likely pose a significant and imminent
41 danger to human life or of evidence being destroyed."

42 **SECTION 2.**

43 Said article is further amended by revising Code Section 17-5-27, relating to the use of force
44 in execution of search warrant, as follows:

45 "17-5-27.

46 (a) As used in this Code section, the term 'no-knock' shall have the same meaning as set
47 forth in subsection (e) of Code Section 17-5-21.

48 (b) When a search warrant does not contain a no-knock provision, all ~~At~~ necessary and
49 reasonable force may be used to effect an entry into any building or property or part thereof
50 to execute a such search warrant if, after audible verbal notice or an attempt in good faith
51 to give audible verbal notice by the officer directed to execute the same of his or her
52 authority and purpose:

53 (1) The officer ~~He~~ is refused admittance;

54 (2) No individual ~~The person or persons~~ within the building or property or part thereof
55 ~~refuse to acknowledge and answer the~~ acknowledges and answers the audible verbal
56 notice ~~or the presence of the person or persons therein;~~

57 (3) The presence of any individual within the building or property or part thereof is
58 unknown to the officer; or

59 ~~(3)~~(4) The building or property or part thereof is not then occupied by any person
60 individual."

61 **SECTION 3.**

62 All laws and parts of laws in conflict with this Act are repealed.