

CHAPTER 160

CRIMINAL LAW AND PROCEDURE

SENATE BILL 00-208

BY SENATORS Congrove, Andrews, Arnold, Blickensderfer, Chlouber, Dennis, Dyer, Evans, Hillman, Lacy, Lamborn, Musgrave, Owen, Perlmutter, Powers, Sullivant, Tebedo, Teck, Thiebaut, Hernandez, Linkhart, Martinez, Nichol, Phillips, Wattenberg, and Wham;
also REPRESENTATIVES Mitchell, McElhany, Lee, May, Clapp, Coleman, Dean, Decker, Fairbank, Gordon, Grossman, Hefley, Kaufman, Lawrence, McKay, McPherson, Nuñez, Paschall, Piffner, Scott, Sinclair, Smith, T. Williams, Clarke, Gagliardi, Gotlieb, Keller, Mace, Swenson, Taylor, Tool, Webster, S. Williams, Windels, and Young.

AN ACT

CONCERNING THE INCREASE OF LAW ENFORCEMENT RESPONSIBILITIES PERTAINING TO SEARCH WARRANTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 16-3-303, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

16-3-303. Search warrants - application. (4) A NO-KNOCK SEARCH WARRANT SHALL BE ISSUED ONLY IF THE AFFIDAVIT FOR SUCH WARRANT:

(a) COMPLIES WITH THE PROVISIONS OF SUBSECTIONS (1), (2), AND (3) OF THIS SECTION;

(b) SPECIFICALLY REQUESTS THE ISSUANCE OF A NO-KNOCK SEARCH WARRANT;
AND

(c) HAS BEEN REVIEWED AND APPROVED FOR LEGAL SUFFICIENCY AND SIGNED BY A DISTRICT ATTORNEY PURSUANT TO SECTION 20-1-106.1 (2), C.R.S. SUCH REVIEW AND APPROVAL MAY TAKE PLACE AS ALLOWED BY STATUTE OR COURT RULE OR BY MEANS OF FACSIMILE TRANSMISSION, TELEPHONIC TRANSMISSION, OR OTHER ELECTRONIC TRANSFER.

(5) IF THE GROUNDS FOR THE ISSUANCE OF A NO-KNOCK SEARCH WARRANT ARE ESTABLISHED BY A CONFIDENTIAL INFORMANT, THE AFFIDAVIT FOR SUCH WARRANT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SHALL CONTAIN A STATEMENT BY THE AFFIANT CONCERNING WHEN SUCH GROUNDS BECAME KNOWN OR WERE VERIFIED BY THE AFFIANT. THE STATEMENT SHALL NOT IDENTIFY THE CONFIDENTIAL INFORMANT.

(6) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "NO-KNOCK SEARCH WARRANT" MEANS A SEARCH WARRANT SERVED BY ENTRY WITHOUT PRIOR IDENTIFICATION.

SECTION 2. 20-1-106.1, Colorado Revised Statutes, is amended to read:

20-1-106.1. Preparation and review of affidavits and warrants. (1) The district attorneys of the several judicial districts in the state of Colorado shall:

(a) Render, in their quasi-judicial capacity, legal advice to peace officers, upon the request of such officers or of the court, pertaining to the preparation and review of affidavits and warrants for arrests, searches, seizures, and nontestimonial identification items;

(b) EXAMINE AND EVALUATE EACH AFFIDAVIT FOR A NO-KNOCK SEARCH WARRANT SOUGHT PURSUANT TO PART 3 OF ARTICLE 3 OF TITLE 16, C.R.S., AND RENDER LEGAL ADVICE REGARDING SUCH AFFIDAVIT TO THE PEACE OFFICER SUBMITTING THE AFFIDAVIT BEFORE SUCH AFFIDAVIT IS SUBMITTED TO A JUDGE. A DISTRICT ATTORNEY, INCLUDING ANY ASSISTANT DISTRICT ATTORNEY, CHIEF DEPUTY DISTRICT ATTORNEY, OR DEPUTY DISTRICT ATTORNEY, SHALL INDICATE APPROVAL OF AN AFFIDAVIT BY PLACING THE DATE AND HIS OR HER SIGNATURE AND ATTORNEY REGISTRATION NUMBER ON THE AFFIDAVIT AS ALLOWED BY STATUTE OR COURT RULE. A DISTRICT ATTORNEY SHALL ONLY SIGN AN AFFIDAVIT FOR A NO-KNOCK SEARCH WARRANT SOUGHT PURSUANT TO PART 3 OF ARTICLE 3 OF TITLE 16, C.R.S., UPON SATISFACTION THAT THE INFORMATION IN SUCH AFFIDAVIT:

(I) FULFILLS THE REQUIREMENTS OF SECTION 16-3-303, C.R.S.; AND

(II) SUPPORTS THE LAWFUL ISSUANCE OF A SEARCH WARRANT PURSUANT TO SECTION 16-3-301, C.R.S.

(2) In the absence of the bad faith performance of ~~these services in their quasi-judicial capacity~~, THE DUTIES SPECIFIED IN THIS SECTION, the district attorneys of the state of Colorado shall be immune from liability FOR THE PERFORMANCE OF SAID DUTIES; EXCEPT THAT SUCH IMMUNITY SHALL NOT APPLY TO CHARGES OF PERJURY IN THE FIRST DEGREE, PERJURY IN THE SECOND DEGREE, OR FALSE SWEARING BROUGHT PURSUANT TO SECTIONS 18-8-502, 18-8-503, OR 18-8-504, C.R.S., RESPECTIVELY.

(3) THE DIVISION OF CRIMINAL JUSTICE WITHIN THE COLORADO DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW EXISTING POLICIES RELATING TO THE ISSUANCE AND USE OF NO-KNOCK SEARCH WARRANTS PURSUANT TO SECTION 24-33.5-503 (1) (q), C.R.S.

SECTION 3. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(q) TO REVIEW EXISTING POLICIES RELATING TO THE ISSUANCE AND USE OF NO-KNOCK SEARCH WARRANTS PURSUANT TO PART 3 OF ARTICLE 3 OF TITLE 16, C.R.S. THE DIVISION SHALL SUBMIT TO THE GOVERNOR AND THE GENERAL ASSEMBLY BY JANUARY 1, 2001, A REPORT CONCERNING MODEL POLICIES PERTAINING TO THE ISSUANCE AND USE OF NO-KNOCK SEARCH WARRANTS. IN COMPILING INFORMATION FOR SUCH REPORT, THE DIVISION SHALL CONTACT HEADS OF LAW ENFORCEMENT AGENCIES ACROSS THE STATE, THE STATE COURT ADMINISTRATOR, THE ELECTED DISTRICT ATTORNEY IN EACH JUDICIAL DISTRICT, THE CHIEF DISTRICT COURT JUDGE IN EACH JUDICIAL DISTRICT, THE CHIEF COUNTY COURT JUDGE IN EACH COUNTY, AND ANY OTHER PERSON OR AGENCY THE DIVISION DEEMS HELPFUL.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 2000, and shall apply to all warrants issued on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 19, 2000