

SUBJECT: Limiting who can issue arrest, search warrants with no-knock entry

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Collier, K. Bell, Crockett, Hinojosa, A. Johnson, Murr, Vasut
2 nays — Cason, Cook

WITNESSES: For — Scott Henson, Just Liberty; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Angelica Cogliano, Austin Lawyers Guild; Felisha Bull, Gun Owners of America; Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Maggie Luna, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Joshua Houston, Texas Impact; Susana Carranza; Idona Griffith; Suzanne Mitchell)

Against — John Wilkerson, Texas Municipal Police Association; (*Registered, but did not testify*: Thomas Villarreal, Austin Police Association; Robert McClinton, Bell County Sheriffs Department; Chris Jones, Combined Law Enforcement Associations of Texas; Greg Shipley, Corpus Christi Police Officers Association; Frederick Frazier, Dallas Police Association/State FOP; Ray Hunt, HPOU; Jimmy Rodriguez, San Antonio Police Officers Association; Stefan Fitting)

On — Minister Dominique Alexander, Next Generation Action Network; Brian Redburn, Texas Police Chiefs Association; (*Registered, but did not testify*: Tom Maddox, Sheriffs Association of Texas; Scotty Shiver, Texas Department of Public Safety)

DIGEST: CSHB 492 would limit who could issue arrest and search warrants authorizing no-knock entries. "No-knock entry" would be defined by the bill to mean a peace officer's entry, for the purpose of executing a warrant, into a building or other place without giving notice of the officer's authority or purpose before entering.

The bill would prohibit magistrates from issuing an arrest warrant or

search warrants authorizing a no-knock entry.

District judges would be able to issue arrest warrants and search warrants authorizing no-knock entry if the request was submitted with a statement approving the use of the warrant that was signed by the chief administrator of the law enforcement agency seeking the warrant.

The bill would take effect September 1, 2021, and would apply to warrants issued on or after that date.

**SUPPORTERS
SAY:**

CSHB 492 would better protect the community and law enforcement officers by limiting who could issue "no-knock" warrants and by requiring their approval at the highest level of a law enforcement agency.

With these warrants, peace officers enter a home, building, or other place without giving notice of their authority or purpose. There is a dangerous conflict set up by these warrants and the state's Castle Doctrine policy, which allows individuals to stand their ground in their homes and use deadly force to protect their property. When law enforcement officers enter under a no-knock warrant, individuals may think they are in danger due to a home intruder and respond with gunfire or other force, and in turn law enforcement officers may respond to them with similar actions.

The use of this tool by law enforcement officers should be approved at the highest level of a law enforcement agency and only issued by a judge with training and experience. At least one large city in Texas has been operating successfully under a policy similar to the bill, and the bill is needed to ensure parity across the state among courts and law enforcement policies. The bill would ensure the warrants could be used in appropriate circumstances, such as when there was a time-sensitive need to arrest a violent suspect, but also would ensure there would be accountability and the highest level of scrutiny of such requests. The warrants would not be banned, but rather scrutinized on a case-by-cases basis to ensure situations were serious enough to merit their use.

CRITICS

CSHB 492 should give more flexibility to law enforcement agencies

SAY: seeking these warrants by allowing more than one type of judge to issue them. In some situations, especially in rural areas, it might be difficult to locate a district judge when a warrant was needed.

Similarly, there should be an option for approval within a law enforcement agency in cases where the chief administrator of an agency was unavailable. The warrants are sometimes needed quickly to respond to a dangerous situation and expanding who could sign and approve them would meet this need.

OTHER CRITICS SAY: The state should be cautious about changes that could be viewed as a step toward too many restrictions on no-knock warrants. Abuses of the warrants could be addressed in various ways. The warrants are an important tool for law enforcement and any changes should continue to allow them to be evaluated on a case-by-case basis.

NOTES: The author plans to offer a floor amendment to also allow statutory county court judges to issue the warrants and to allow a designee of the law enforcement agency's chief to approve a request for a warrant. Under the amendment, a designee of the chief administrator would have to be a peace officer reporting directly to the chief administrator.