

Amendment No. 536

Assembly Amendment to Senate Bill No. 50 First Reprint	(BDR 14-405)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 50—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to warrants. (BDR 14-405)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; prohibiting a magistrate from issuing a no-knock arrest warrant or search warrant except under certain circumstances; requiring an arrest warrant or a search warrant to specify whether it is a no-knock warrant; establishing provisions relating to the manner of execution of a no-knock arrest warrant or search warrant; revising provisions relating to the circumstances under which a summons may be issued instead of an arrest warrant; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a magistrate to issue a warrant for the arrest of a defendant if, based on an affidavit or affidavits filed with a complaint or certain citations, there is probable cause to believe that an offense has been committed and that the defendant has committed the offense, unless a district attorney requests the issuance of a summons, in which case the magistrate must issue a summons. (NRS 171.106) If the affidavit or affidavits are filed with an application for an arrest warrant, **section 1.1** of this bill maintains the existing default standard of issuing an arrest warrant, or a summons upon the request of a district attorney; however, if the affidavit or affidavits are filed with certain citations, **section 1.1** authorizes a magistrate to issue an arrest warrant or a summons.

Section 1.1 also establishes additional requirements for the issuance of a no-knock warrant. Specifically, **section 1.1** prohibits a magistrate from issuing a no-knock warrant for the arrest of a defendant unless an affidavit, sworn to before the magistrate: (1) demonstrates that the underlying offense is punishable as a felony and involves a significant and imminent threat to public safety; (2) demonstrates that identifying the presence of the peace officer before entering the premises is likely to create an imminent threat of significant bodily harm to the peace officer or another person; (3) describes factual circumstances that demonstrate that there are no reasonable alternatives to effectuating the arrest of the person other than in the manner prescribed by the no-knock arrest warrant; (4) states whether the no-knock arrest warrant can be executed during the day and, if it cannot, the reasoning behind such a determination; and (5) certifies that the no-knock arrest warrant will be executed under the guidance of a peace officer trained in executing warrants of arrest.

Existing law requires an arrest warrant to include certain information. (NRS 171.108) In addition to the existing requirements, **section 1.2** of this bill requires the arrest warrant to

specify whether it is a no-knock arrest warrant. **Section 1.3** of this bill makes a conforming change in order to maintain the existing requirements relating to the contents of a summons.

Existing law sets forth the manner of executing arrest warrants. (NRS 171.122) In addition to the existing requirements, **section 1.4** of this bill requires peace officers involved in the execution of the no-knock arrest warrant to: (1) make certain determinations before executing the no-knock arrest warrant; and (2) take certain actions in the execution of the no-knock arrest warrant, including making certain disclosures and wearing a portable event recording device. **Section 1.5** of this bill makes a conforming change relating to the execution of arrest warrants.

Existing law also authorizes a magistrate to issue a search warrant to search a place or person for any property: (1) that is stolen or embezzled; (2) that is designed or intended for use or which is or has been used as the means of committing a criminal offense; or (3) when the property consists of any item or constitutes any evidence which tends to show that a criminal offense has been committed or that a particular person has committed a criminal offense. (NRS 179.035) **Section 2** of this bill sets forth requirements for the issuance of a no-knock search warrant that are identical to those described in **section 1.1** for no-knock arrest warrants.

Existing law requires search warrants to contain certain information. (NRS 179.045) In addition to the existing requirements, **section 3.3** of this bill requires the search warrant to specify whether it is a no-knock search warrant.

Existing law sets forth various requirements relating to the manner of executing a search warrant. (NRS 179.075, 179.077) In addition to the existing requirements, **section 2.5** of this bill sets forth requirements concerning the execution of no-knock search warrants that are identical to those described in **section 1.4** for no-knock arrest warrants.

Sections 1 and 1.9 of this bill define the term “no-knock warrant” for the purposes of arrest warrants and search warrants, respectively. **Sections 1.8, 3 and 3.7** of this bill make conforming changes relating to no-knock warrants.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in sections 171.102 to 171.122, inclusive, unless the context otherwise requires, “no-knock warrant” means a warrant for the arrest of a defendant which authorizes a peace officer to enter a premises without first:

1. Knocking on the door or ringing the doorbell and identifying the presence of the peace officer; or

2. Identifying the presence of the peace officer and stating the intended purpose of the peace officer for entering the premises.

Sec. 1.1. NRS 171.106 is hereby amended to read as follows:

171.106 **1.** If it appears ~~{from the complaint or a citation issued pursuant to NRS 484A.730, 488.920 or 501.386, or}~~ from an affidavit or affidavits filed with ~~{the complaint or citation}~~ **an application for a warrant** that there is probable cause to believe that an offense, triable within the county, has been committed and that the defendant has committed it, a warrant for the arrest of the defendant ~~{shall}~~ **must** be issued by the magistrate to any peace officer. Upon the request of the district attorney, a summons instead of a warrant ~~{shall issue.}~~ **must be issued.**

2. *If it appears from an affidavit or affidavits filed with a complaint or citation issued pursuant to NRS 484A.730, 488.920 or 501.386 that there is probable cause to believe that an offense, triable within the county, has been committed and that the defendant has committed it, the magistrate may issue to any peace officer:*

(a) A warrant; or

(b) A summons.

3. A magistrate may not issue a warrant that is a no-knock warrant pursuant to subsection 1 or 2 unless an affidavit filed with the application, complaint or citation, as applicable:

(a) Demonstrates that:

(1) The underlying offense:

(I) Is punishable as a felony; and

(II) Involves a significant and imminent threat to public safety; and

(2) Identifying the presence of the peace officer before entering the premises is likely to create an imminent threat of substantial bodily harm to the peace officer or another person;

(b) Describes with specificity the factual circumstances as to why there are no reasonable alternatives to effectuate the arrest of the defendant other than in the manner prescribed by the no-knock warrant;

(c) States whether the no-knock warrant can be executed during the day and, if it cannot, describes with specificity the factual circumstances that preclude the no-knock warrant from being executed during the day; and

(d) Certifies that the no-knock warrant will be executed under the guidance of a peace officer who is trained in the execution of warrants.

4. More than one warrant or summons may ~~issue~~ be issued on the same application, complaint or citation.

5. If a defendant fails to appear in response to ~~the~~ a summons, a warrant ~~shall issue.~~ must be issued for the arrest of the defendant.

6. A ~~peace officer shall not deliberately misrepresent a material fact or omit material information in an affidavit described in subsection 3, and if the affidavit is based upon a deliberately misrepresented fact or an omission of material information, the magistrate shall reject the affidavit.~~ no-knock warrant issued pursuant to subsection 3 is void if:

(a) A peace officer deliberately misrepresents a material fact or deliberately omits material information in an affidavit in support of an application for the no-knock warrant; and

(b) When the misrepresented material fact is excluded or the omitted material information is included, the affidavit does not meet the criteria set forth in paragraphs (a) to (d), inclusive, of subsection 3.

Sec. 1.2. NRS 171.108 is hereby amended to read as follows:

171.108 ~~The~~ A warrant of arrest is an order in writing in the name of the State of Nevada which ~~shall~~ must:

1. Be signed by the magistrate with the magistrate's name of office;

2. Contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty;

3. State the date of its issuance, and the county, city or town where it was issued;

4. ~~Describe~~ State the offense ~~charged~~ described in ~~the complaint; and~~ NRS 171.106;

5. Command that the defendant be arrested and brought before the nearest available magistrate ~~;~~ and

6. State whether the warrant is a no-knock warrant.

Sec. 1.3. NRS 171.112 is hereby amended to read as follows:

171.112 ~~The~~

1. A summons is an order in writing in the name of the State of Nevada which ~~shall be in the same form as the warrant except that it shall summon~~ must:

1 (a) *Include the information described in subsections 1 to 4, inclusive, of NRS*
2 *171.108; and*

3 (b) *Summon* the defendant to appear before a magistrate at a stated time and
4 place.

5 2. Upon a complaint against a corporation, the magistrate must issue a
6 summons, signed by the magistrate, with the magistrate's name of office, requiring
7 the corporation to appear before the magistrate at a specified time and place to
8 answer the charge, the time to be not less than 10 days after the issuing of the
9 summons.

10 **Sec. 1.4.** NRS 171.122 is hereby amended to read as follows:

11 171.122 1. Except as otherwise provided in subsection ~~2~~ 3, the warrant
12 must be executed by the arrest of the defendant. The *peace* officer need not have
13 the warrant in the *peace* officer's possession at the time of the arrest, but upon
14 request the *peace* officer must show the warrant to the defendant as soon as
15 possible. If the *peace* officer does not have a warrant in the *peace* officer's
16 possession at the time of the arrest, the *peace* officer shall then inform the
17 defendant of the *peace* officer's intention to arrest the defendant, of the offense
18 charged, the authority to make it and of the fact that a warrant has or has not been
19 issued. The defendant must not be subjected to any more restraint than is necessary
20 for the defendant's arrest and detention. If the defendant either flees or forcibly
21 resists, the *peace* officer may, except as otherwise provided in NRS 171.1455, use
22 only the amount of reasonable force necessary to effect the arrest.

23 2. *In addition to the requirements described in subsection 1, if the warrant*
24 *is a no-knock warrant, the peace officers involved in the execution of the no-*
25 *knock warrant shall:*

26 (a) *Before executing the no-knock warrant, determine whether the*
27 *circumstances necessitate that the arrest of the defendant be effectuated in the*
28 *manner prescribed by the no-knock warrant and, if they do not, the peace officers*
29 *shall not effectuate the arrest of the defendant in such a manner; and*

30 (b) *In executing the no-knock warrant:*

31 (1) *Wear prominent insignia that renders the peace officers readily*
32 *identifiable as peace officers;*

33 (2) *Wear a portable event recording device in accordance with the*
34 *requirements described in NRS 289.830;*

35 (3) *Use only the amount of force reasonably necessary to enter the*
36 *premises; and*

37 (4) *As soon as practicable after entering the premises, identify the*
38 *presence of the peace officers and state the purpose of the peace officers for*
39 *entering the premises.*

40 3. In lieu of executing ~~the~~ a warrant by arresting the defendant, a peace
41 officer may issue a citation as provided in NRS 171.1773 if:

42 (a) The warrant is issued upon an offense punishable as a misdemeanor;

43 (b) The *peace* officer has no indication that the defendant has previously failed
44 to appear on the charge reflected in the warrant;

45 (c) The defendant provides satisfactory evidence of his or her identity to the
46 peace officer;

47 (d) The defendant signs a written promise to appear in court for the
48 misdemeanor offense; and

49 (e) The *peace* officer has reasonable grounds to believe that the defendant will
50 keep a written promise to appear in court.

51 ~~{3. The}~~

52 4. A summons must be served upon a defendant by delivering a copy to the
53 defendant personally, or by leaving it at the defendant's dwelling house or usual

place of abode with some person then residing in the house or abode who is at least 16 years of age and is of suitable discretion, or by mailing it to the defendant's last known address. In the case of a corporation, the summons must be served at least 5 days before the day of appearance fixed in the summons, by delivering a copy to an officer or to a managing or general agent or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the corporation's last known address within the State of Nevada or at its principal place of business elsewhere in the United States.

Sec. 1.5. NRS 171.152 is hereby amended to read as follows:

171.152 1. The peace officer executing a warrant by arrest shall make return thereof to the magistrate before whom the defendant is brought pursuant to NRS 171.178 and 171.184. At the request of the district attorney any unexecuted warrant must be returned to the magistrate by whom it was issued and must be cancelled.

2. The peace officer executing a warrant by issuance of a citation pursuant to subsection ~~1~~ 3 of NRS 171.122 shall:

(a) Record on the warrant the number assigned to the citation issued thereon;

(b) Attach the warrant to the citation issued thereon; and

(c) Return the warrant and citation to the magistrate before whom the defendant is scheduled to appear.

3. On or before the warrant day the person to whom a summons was delivered for service shall make return thereof to the magistrate before whom the summons is returnable.

4. At the request of the district attorney made at any time while the complaint is pending, a warrant returned unexecuted and not cancelled or a summons returned unserved or a duplicate thereof may be delivered by the magistrate to a peace officer for execution or service.

Sec. 1.7. Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.8 to 2.5, inclusive, of this act.

Sec. 1.8. *As used in NRS 179.015 to 179.115, inclusive, and sections 1.8 to 2.5, inclusive, of this act, the words and terms defined in NRS 179.015 and section 1.9 of this act have the meanings ascribed to them in those sections.*

Sec. 1.9. *"No-knock warrant" means a search warrant which authorizes a peace officer to enter a premises without first:*

1. Knocking on the door or ringing the doorbell and identifying the presence of the peace officer; or

2. Identifying the presence of the peace officer and stating the intended purpose of the peace officer for entering the premises.

Sec. 2. *1. A magistrate shall not issue a no-knock warrant to search the person or place named in the search warrant unless an affidavit sworn to before the magistrate:*

(a) Demonstrates that:

(1) The underlying offense:

(I) Is punishable as a felony; and

(II) Involves a significant and imminent threat to public safety; and

(2) Identifying the presence of the peace officer before entering the premises is likely to create an imminent threat of substantial bodily harm to the peace officer or another person;

(b) Describes with specificity the factual circumstances as to why there are no reasonable alternatives to effectuate the search of the place or person other than in the manner prescribed by the no-knock warrant;

1 (c) States whether the no-knock warrant can be executed during the day and,
2 if it cannot, describes with specificity the factual circumstances that preclude the
3 no-knock warrant from being executed during the day; and

4 (d) Certifies that the no-knock warrant will be executed under the guidance
5 of a peace officer who is trained in the execution of search warrants.

6 2. ~~A peace officer shall not deliberately misrepresent a material fact or~~
7 ~~omit material information in any affidavit described in subsection 1, and if the~~
8 ~~affidavit is based upon a deliberately misrepresented fact or an omission of~~
9 ~~material information, the magistrate shall reject the affidavit.]~~ no-knock warrant
10 issued pursuant to subsection 1 is void if:

11 (a) A peace officer deliberately misrepresents a material fact or deliberately
12 omits material information in an affidavit in support of an application for the no-
13 knock warrant; and

14 (b) When the misrepresented material fact is excluded or the omitted
15 material information is included, the affidavit does not meet the criteria set forth
16 in paragraphs (a) to (d), inclusive, of subsection 1.

17 Sec. 2.5. In addition to the requirements for the execution of a search
18 warrant described in NRS 179.075 and 179.077, if the search warrant is a no-
19 knock warrant, the peace officers involved in the execution of the no-knock
20 warrant shall:

21 1. Before executing the no-knock warrant, determine whether the
22 circumstances necessitate that the search be effectuated in the manner prescribed
23 by the no-knock warrant and, if they do not, the peace officers shall not
24 effectuate the search in such a manner; and

25 2. In executing the no-knock warrant:

26 (a) Wear prominent insignia that renders the peace officers readily
27 identifiable as peace officers;

28 (b) Wear a portable event recording device in accordance with the
29 requirements described in NRS 289.830;

30 (c) Use only the amount of force reasonably necessary to enter the
31 premises; and

32 (d) As soon as practicable after entering the premises, identify the presence
33 of the peace officers and state the purpose of the peace officers for entering the
34 premises.

35 Sec. 3. NRS 179.015 is hereby amended to read as follows:

36 179.015 ~~[As used in NRS 179.015 to 179.115, inclusive, the term "property"]~~
37 **"Property"** includes documents, books, papers and any other tangible objects.

38 Sec. 3.3. NRS 179.045 is hereby amended to read as follows:

39 179.045 1. A search warrant may issue only on affidavit or affidavits sworn
40 to before the magistrate and establishing the grounds for issuing the warrant or as
41 provided in subsection 3. If the magistrate is satisfied that grounds for the
42 application exist or that there is probable cause to believe that they exist, the
43 magistrate shall issue a warrant identifying the property and naming or describing
44 the person or place to be searched.

45 2. Secure electronic transmission may be used for the submission of an
46 application and affidavit required by subsection 1, and for the issuance of a search
47 warrant by a magistrate. The Nevada Supreme Court may adopt rules not
48 inconsistent with the laws of this State to carry out the provisions of this subsection.

49 3. In lieu of the affidavit required by subsection 1, the magistrate may take an
50 oral statement given under oath, which must be recorded in the presence of the
51 magistrate or in the magistrate's immediate vicinity by a certified court reporter or
52 by electronic means, transcribed, certified by the reporter if the reporter recorded it,

and certified by the magistrate. The statement must be filed with the clerk of the court.

4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.

5. After a magistrate has issued a search warrant, whether it is based on an affidavit or an oral statement given under oath, the magistrate may orally authorize a peace officer to sign the name of the magistrate on a duplicate original warrant. A duplicate original search warrant shall be deemed to be a search warrant. It must be returned to the magistrate who authorized the signing of it. The magistrate shall endorse his or her name and enter the date on the warrant when it is returned. Any failure of the magistrate to make such an endorsement and entry does not in itself invalidate the warrant.

6. The warrant must ~~{be}~~:

(a) *Be* directed to a peace officer in the county where the warrant is to be executed ~~{. It must:~~

~~{(a)} ;~~

(b) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof, ~~{, {}}~~ or

~~{(b) Incorporate}~~ *incorporate* by reference the affidavit or oral statement upon which it is based ~~{.~~

~~{The warrant must command} ;~~

(c) *Command* the *peace* officer to search forthwith the person or place named for the property specified ~~{.~~

~~{7. The warrant must direct} ;~~

(d) *Direct* that ~~{it}~~ *the warrant* be served between the hours of 7 a.m. and 7 p.m., unless the magistrate, upon a showing of good cause therefor, inserts a direction that ~~{it}~~ *the warrant* be served at any time ~~{.~~

~~{8. The warrant must designate} ;~~

(e) *Designate* the magistrate to whom it is to be returned ~~{.~~

~~{9} ; and~~

(f) *Indicate whether the search warrant is a no-knock warrant.*

7. As used in this section, "secure electronic transmission" means the sending of information from one computer system to another computer system in such a manner as to ensure that:

(a) No person other than the intended recipient receives the information;

(b) The identity of the sender of the information can be authenticated; and

(c) The information which is received by the intended recipient is identical to the information that was sent.

Sec. 3.7. NRS 179.115 is hereby amended to read as follows:

179.115 NRS 179.015 to 179.115, inclusive, *and sections 1.8 to 2.5, inclusive, of this act* do not modify any other statute regulating search, seizure and the issuance and execution of search warrants in circumstances for which special provision is made.

Sec. 4. The amendatory provisions of this act apply to a warrant or summons issued on or after October 1, 2021.