

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.

~

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; 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 certain information, there is probable cause to believe that an offense has been committed and that the defendant has committed the offense. (NRS 171.106) **Section 1** of this bill prohibits a magistrate from issuing a no-knock warrant for the arrest of a defendant unless it is shown by an affidavit or affidavits, sworn to before the magistrate, that a no-knock warrant is necessary: (1) to ensure the safety of the peace officer executing the warrant or the safety of any other person; or (2) to prevent the destruction of evidence.

Existing law 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 prohibits a magistrate from issuing a no-knock warrant to search the person or place named in the search warrant unless it is shown by an affidavit or affidavits, sworn to before the magistrate, that a no-knock warrant is necessary: (1) to ensure the safety of the peace officer executing the search warrant or the safety of any other person; or (2) to prevent the destruction of evidence. **Section 3** of this bill makes a conforming change to indicate the appropriate placement of **section 2** in the Nevada Revised Statutes.



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

Section 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 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.** More than one warrant or summons may ~~{issue}~~ **be issued** on the same complaint or citation. If a defendant fails to appear in response to the summons, a warrant ~~{shall issue.}~~ **must be issued for the arrest of the defendant.**

2. *A magistrate shall not issue a no-knock warrant for the arrest of a defendant unless it is shown by an affidavit or affidavits, sworn to before the magistrate, that a no-knock warrant is necessary:*

(a) To ensure the safety of the peace officer executing the warrant or the safety of any other person based upon specific facts and circumstances involving the defendant or the location where the warrant is executed, including, without limitation, the following circumstances:

(1) The defendant has a criminal history that evidences a tendency towards violence; or

(2) The defendant has previously attempted to escape during the execution of a felony warrant for his or her arrest; or

(b) To prevent the destruction of evidence, including, without limitation, electronic evidence or the presence of a controlled substance.

3. *As used in this section, "no-knock warrant" means a warrant that authorizes a peace officer to enter a premises without first:*

(a) Knocking on the door or ringing the doorbell;

(b) Identifying himself or herself as a peace officer and stating his or her intent or purpose; and

(c) Waiting a reasonable amount of time for the occupant to let him or her into the premises.

Sec. 2. Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A magistrate shall not issue a no-knock warrant to search the person or place named in the search warrant unless it is shown*



1 *by an affidavit or affidavits, sworn to before the magistrate, that a*
2 *no-knock warrant is necessary:*

3 *(a) To ensure the safety of the peace officer executing the*
4 *search warrant or the safety of any other person based upon*
5 *specific facts and circumstances involving the person or place*
6 *named in the search warrant, including, without limitation, the*
7 *following circumstances:*

8 *(1) The person to be searched has a criminal history that*
9 *evidences a tendency towards violence; or*

10 *(2) The person to be searched has previously attempted to*
11 *escape during the execution of a felony warrant for his or her*
12 *arrest; or*

13 *(b) To prevent the destruction of evidence, including, without*
14 *limitation, electronic evidence or the presence of a controlled*
15 *substance.*

16 *2. As used in this section, “no-knock warrant” means a*
17 *search warrant that authorizes a peace officer to enter a premises*
18 *without first:*

19 *(a) Knocking on the door or ringing the doorbell;*

20 *(b) Identifying himself or herself as a peace officer and stating*
21 *his or her intent or purpose; and*

22 *(c) Waiting a reasonable amount of time for the occupant to*
23 *let him or her into the premises.*

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

25 179.015 As used in NRS 179.015 to 179.115, inclusive, *and*
26 *section 2 of this act*, the term “property” includes documents,
27 books, papers and any other tangible objects.

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

