

## **BILL ANALYSIS**

Senate Research Center

H.B. 492  
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Jurisprudence  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In *Richards v. Wisconsin*, the U.S. Supreme Court held in its 1997 decision that the underlying premise for an unannounced entry by law enforcement was that "knocking and announcing their presence would be dangerous...or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence."

But there is another aspect regarding the use of "no-knock warrants" that must also be considered. In January 2019, a no-knock warrant issued in Houston based on false information provided by an informant resulted in two deaths and injuries to multiple officers by gunfire. For those reasons, concerns have been raised regarding the issuance of arrest warrants and search warrants that authorize the use of a no-knock entry in which a peace officer enters a building without first giving notice of the officer's authority or purpose before entering.

H.B. 492 seeks to address these concerns by putting certain requirements in place that allow a no-knock warrant to be issued by the courts.

H.B. 492 does not ban or prohibit the use of no-knock warrants by law enforcement.

H.B. 492 prohibits the issuance of a warrant by a magistrate who is not a district court judge or a statutory county court judge.

H.B. 492 requires the complaint to the courts by a law enforcement agency to be submitted by the chief administrator of a law enforcement agency, or by the chief's designee.

H.B. 492 amends current law relating to the issuance of a warrant authorizing the use of a no-knock entry by a peace officer.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 15, Code of Criminal Procedure, by adding Article 15.251, as follows:

Art. 15.251. NO-KNOCK WARRANT. (a) Defines "no-knock entry."

(b) Prohibits a magistrate, except as provided by Subsection (c), from issuing a warrant under Chapter 15 (Arrest Under Warrant) that authorizes a no-knock entry.

(c) Authorizes a district court judge or statutory county court judge to issue a warrant under Chapter 15 that authorizes a no-knock entry only if:

(1) the complaint is submitted concurrently with a statement, signed by the chief administrator of the law enforcement agency employing the

affiant or by the chief administrator's designee, that a no-knock entry is necessary to avoid the risk of death or serious bodily injury to peace officers and to others; and

(2) the warrant requires:

(A) each peace officer executing the warrant to be in uniform or otherwise clearly identifiable as a peace officer; and

(B) to the extent that the law enforcement agency has the technology available, that the agency make a good faith effort to have each peace officer executing the warrant be equipped with a body worn camera.

(d) Requires a person designated by a chief administrator under Subsection (c)(1) to be a peace officer who reports directly to the chief administrator.

SECTION 2. Amends Chapter 18, Code of Criminal Procedure, by adding Article 18.025, as follows:

Art. 18.025. NO-KNOCK WARRANT. (a) "Defines "no-knock entry."

(b) Prohibits a magistrate, except as provided by Subsection (c), from issuing a warrant under Chapter 18 (Search Warrants) that authorizes a no-knock entry.

(c) Authorizes a district court judge or statutory county court judge to issue a warrant under Chapter 18 that authorizes a no-knock entry only if:

(1) the affidavit under Article 18.01(b) (relating to prohibiting a search warrant from being issued unless probable cause exists) is submitted concurrently with a statement, signed by the chief administrator of the law enforcement agency employing the affiant or by the chief administrator's designee, that a no-knock entry is necessary to avoid the risk of death or serious bodily injury to peace officers and to others; and

(2) the warrant requires:

(A) each peace officer executing the warrant to be in uniform or otherwise clearly identifiable as a peace officer; and

(B) to the extent that the law enforcement agency has the technology available, that the agency make a good faith effort to have each peace officer executing the warrant be equipped with a body worn camera.

(d) Requires a person designated by a chief administrator under Subsection (c)(1) to be a peace officer who reports directly to the chief administrator.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.