

House Bill 1046

By: Representative Moore of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated,
2 relating to justification and excuse, so as to provide that a person has the right to use deadly
3 force against law enforcement officers who attempt violent entry into such person's home
4 without first knocking and announcing their identity and purpose; to amend Article 2 of
5 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches with
6 warrants, so as to change provisions relating to issuance of search warrants by judicial
7 officers; to provide that no-knock warrants shall not be issued in this state except under
8 limited circumstances; to provide for related matters; to provide for an effective date; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to
13 justification and excuse, is amended by revising Code Section 16-3-23, relating to use of
14 force in defense of habitation, as follows:

15 "16-3-23.

16 A person is justified in threatening or using force against another when and to the extent
17 that he or she reasonably believes that such threat or force is necessary to prevent or
18 terminate such other's unlawful entry into or attack upon a habitation; however, such
19 person is justified in the use of force which is intended or likely to cause death or great
20 bodily harm only if:

21 (1) The entry is made or attempted in a violent and tumultuous manner and he or she
22 reasonably believes that the entry is attempted or made for the purpose of assaulting or
23 offering personal violence to any person dwelling or being therein and that such force is
24 necessary to prevent the assault or offer of personal violence. This paragraph shall be
25 applicable even if the person or persons making or attempting to make a violent or

26 tumultuous entry announce themselves as law enforcement officers but fail to knock and
 27 announce their identity, authority, and purpose before entry;

28 (2) That force is used against another person who is not a member of the family or
 29 household and who unlawfully and forcibly enters or has unlawfully and forcibly entered
 30 the residence and the person using such force knew or had reason to believe that an
 31 unlawful and forcible entry occurred; or

32 (3) The person using such force reasonably believes that the entry is made or attempted
 33 for the purpose of committing a felony therein and that such force is necessary to prevent
 34 the commission of the felony."

35 **SECTION 2.**

36 Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
 37 searches with warrants, is amended by revising Code Section 17-5-22, relating to issuance
 38 of search warrants by judicial officers generally and maintenance of docket record of
 39 warrants issued, as follows:

40 "17-5-22.

41 (a) As used in this Code section, the term 'no-knock' means a provision in a warrant that
 42 authorizes an officer executing a warrant to enter without giving audible notice of the
 43 officer's presence, authority, and purpose and without reasonable time for the citizen to
 44 respond.

45 (b) All warrants shall state the time and date of issuance and are the warrants of the
 46 judicial officer issuing the same and not the warrants of the court in which ~~he~~ the judicial
 47 officer is then sitting. Such warrants need not bear the seal of the court or clerk thereof.
 48 No search warrant shall be issued which contains a no-knock provision. The warrant, the
 49 complaint on which the warrant is issued, the affidavit or affidavits supporting the warrant,
 50 and the returns shall be filed with the clerk of the court of the judicial officer issuing the
 51 same, or with the court if there is no clerk, at the time the warrant has been executed or has
 52 been returned 'not executed'; provided, however, that the judicial officer shall keep a docket
 53 record of all warrants issued by ~~him~~ the judicial officer, and upon issuing any warrant ~~he~~
 54 the judicial officer shall immediately record the same, within a reasonable time, on the
 55 docket."

56 **SECTION 3.**

57 This Act shall become effective upon its approval by the Governor or upon its becoming law
 58 without such approval.

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SECTION 4.

60 All laws and parts of laws in conflict with this Act are repealed.