

A BILL TO BE ENTITLED
AN ACT

To provide a short title; to make findings of fact; to amend Article 1 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to general provisions relative to the arrest of persons, so as to provide that the use of forced entry in the execution of a search warrant is prohibited; to amend Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches with warrants, so as to provide that the use of forced entry in the execution of a search warrant is prohibited; to provide for penalties; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as "Kathryn Johnston's Law."

SECTION 2.

The General Assembly finds that the Fourth Amendment to the United States Constitution and Article I, Section I, Paragraph XIII of the Constitution of Georgia protect the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches, and seizures," and that forced entry by government forces in order to execute an arrest warrant or a search warrant is an unreasonable governmental intrusion upon citizens.

SECTION 3.

Article 1 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to general provisions relative to the arrest of persons, is amended by revising Code Section 17-4-3, relating to the right of forcible entry into private dwellings pursuant to execution of an arrest warrant, as follows:

"17-4-3.

~~In order to arrest under a warrant charging a crime, the officer may break open the door of any house where the offender is concealed.~~ Under no circumstances shall forced entry into

any building or property be used in the execution of an arrest warrant. Any violation of the provisions of this Code section shall be a felony."

SECTION 4.

Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches with warrants, is amended by revising Code Section 17-5-27, relating to the use of force in the execution of a search warrant, as follows:

"17-5-27.

~~All necessary and reasonable force may be used to effect an entry into any building or property or part thereof to execute a search warrant if, after verbal notice or an attempt in good faith to give verbal notice by the officer directed to execute the same of his authority and purpose:~~

~~(1) He is refused admittance;~~

~~(2) The person or persons within the building or property or part thereof refuse to acknowledge and answer the verbal notice or the presence of the person or persons therein is unknown to the officer; or~~

~~(3) The building or property or part thereof is not then occupied by any person.~~

Under no circumstances shall forced entry into any building or property be used in the execution of a search warrant. Any violation of the provisions of this Code section shall be a felony."

SECTION 5.

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

SECTION 6.

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