

CHAPTER 202

(SB 4)

AN ACT relating to warrants authorizing entry without notice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

No arrest warrant or search warrant shall be issued authorizing entry without notice unless:

- (1) *The court finds by clear and convincing evidence that:*
 - (a) *The crime alleged is a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401; the crime alleged is a crime designated in KRS 525.045, 527.200, 527.205, or 527.210; or the evidence sought may give rise to the charge of a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401 or may give rise to a charge of a crime designated in KRS 525.045, 527.200, 527.205, or 527.210; and*
 - (b) *As established by facts specific to the case, giving notice prior to entry will endanger the life or safety of any person, or result in the loss or destruction of evidence sought that may give rise to a charge of a crime that would qualify a person, if convicted, as a violent offender under KRS 439.3401 or may give rise to a charge of a crime designated in KRS 525.045, 527.200, 527.205, or 527.210;*
- (2) *The law enforcement officer seeking the warrant has obtained the approval of his or her supervising officer, or has the approval of the highest ranking officer in his or her law enforcement agency;*
- (3) *The law enforcement officer seeking the warrant has consulted with the Commonwealth's attorney or county attorney for the jurisdiction for which the warrant is sought, or with an assistant Commonwealth's attorney or assistant county attorney for the jurisdiction for which the warrant is sought;*
- (4) *The law enforcement officer seeking the warrant discloses to the judge, as part of the application, any other attempt to obtain a warrant authorizing entry without notice for the same premises, or for the arrest of the same individual;*
- (5) *The warrant authorizes that the entry without notice occur only between the hours of 6 a.m. and 10 p.m., except in exigent circumstances where the court makes the findings set forth in subsection (1) of this section and the court further finds by clear and convincing evidence that there are substantial and imminent risks to the health and safety of the persons executing the warrant, the occupants of the premises, or the public that justify the entry without notice occur during other hours designated by the court; and*
- (6) *If the warrant is not issued electronically pursuant to KRS 455.170, the warrant includes the legibly printed name and signature of the judge.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

A judge shall carefully review any application for a warrant pursuant to Section 1 of this Act as a neutral and detached magistrate. Failure to act as a neutral and detached magistrate may be referred to the Judicial Conduct Commission.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

A warrant issued pursuant to Section 1 of this Act shall be executed:

- (1) *By law enforcement officers who:*
 - (a) *Are members of a special weapons and tactics team or special response team, or another established team or unit trained and tasked with resolving high-risk situations and incidents, who have received appropriate training in the execution of arrest and search warrants authorizing entry without notice. In counties having a population of less than ninety thousand (90,000), when, after reasonable inquiry by the law enforcement officer seeking the warrant, members of the special weapons and tactics team or special response team are not available to timely execute the warrant and the court finds by clear and convincing evidence that the risks to the health and safety of the persons executing the warrant, the occupants of the premises, or the public are greater if the warrant is not timely*

executed, the court may approve the execution of the warrant without members of a special weapons and tactics team or special response team;

- (b) Are equipped with body-worn cameras, or, in counties having a population of less than ninety thousand (90,000), equipped with other audio-visual or audio recording devices issued by the government, and shall record the entirety of the execution of the warrant with a recording device that meets the requirements of this paragraph; and*
- (c) Are equipped with clearly visible insignia on any protective equipment or clothing that clearly identifies the name of the agency that employs the members of the special weapons and tactics team or special response team;*

(2) In the presence of a uniformed law enforcement officer; and

(3) With a certified or licensed paramedic or emergency medical technician in proximity and available to provide medical assistance, if needed.

➔Section 4. KRS 523.020 is amended to read as follows:

(1) A person is guilty of perjury in the first degree when he *or she* makes a material false statement, which he *or she* does not believe. ~~{}~~

(a) In any official proceeding under an oath required or authorized by law; ~~{or}~~

(b) ~~{(2)}~~ ~~{When he makes a material false statement which he does not believe}~~ In a subscribed written instrument for which an oath is required or authorized by law, with the intent to mislead a public servant in the performance of his *or her* official functions when such person is subscribing a warrant accusing his *or her* spouse of an offense under KRS Chapter 510; *or*

(c) In an application for a warrant under Section 1 of this Act.

~~(2){(3)}~~ Perjury in the first degree is a Class D felony.

➔SECTION 5. A NEW SECTION OF KENTUCKY RULES OF EVIDENCE 401 TO 412 IS CREATED TO READ AS FOLLOWS:

(a) Except as provided in subdivision (b) of this rule, the following evidence is not admissible in any civil or criminal proceeding:

- (1) Evidence gathered by use of an arrest warrant or search warrant authorizing entry without notice that did not comply with applicable statutes; or*
- (2) Evidence gathered by use of an arrest warrant or search warrant authorizing entry without notice that was obtained through perjury or material false statement.*

(b) Evidence excluded in subdivision (a) of this rule is admissible if otherwise admissible under these rules, and:

- (1) In a civil case, offered by the plaintiff in an action for damages arising from the warrant; or*
- (2) In a criminal proceeding for perjury or material false statement in the application for the warrant, offered against the defendant.*

Signed by Governor April 9, 2021.