ASSEMBLY, No. 4286

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 18, 2020

Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman VERLINA REYNOLDS-JACKSON
District 15 (Hunterdon and Mercer)

SYNOPSIS

Prohibits issuance and execution of “no-knock” warrant to be executed at residences.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/18/2020)

AN ACT concerning warrants to be executed at a residence and amending and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) a. Prior to executing an arrest warrant at a residence or a warrant authorizing a search and seizure at a residence, a law enforcement officer shall:

(1) knock on the door of the residence;

(2) clearly and verbally announce the officer's identity and the reason for the officer's presence; and

(3) absent exigent circumstances, wait a reasonable amount of time, but not less than 30 seconds, for occupants to answer the door, whichever is greater, before entering the premises.

b. Any arrest warrant to be executed at a residence or warrant authorizing a search and seizure of a residence shall contain the requirements set forth in subsection a. of this section.

2. Section 5 of P.L.1981, c. 290 (C.2C:3-7) is amended to read as follows:

5. 2C:3-7. Use of force in law enforcement

a. Use of force justifiable to effect an arrest. Subject to the provisions of this section and of section 2C:3-9, the use of force upon or toward the person of another is justifiable when the actor is making or assisting in making an arrest and the actor reasonably believes that such force is immediately necessary to effect a lawful arrest.

b. Limitations on the use of force.

(1) The use of force is not justifiable under this section unless:

(a) The actor makes known the purpose of the arrest or reasonably believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and

(b) When the arrest is made under a warrant**[**,**]** :

i. the warrant is valid or reasonably believed by the actor to be valid; and

ii. if the warrant relates to an arrest at a residence or search and seizure of a residence, the actor executes the warrant in accordance with the provisions of section 1 of P.L. , c. (C.)(pending before the Legislature as this bill).

(2) The use of deadly force is not justifiable under this section unless:

(a) The actor effecting the arrest is authorized to act as a peace officer or has been summoned by and is assisting a person whom

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

he reasonably believes to be authorized to act as a peace officer; and

(b) The actor reasonably believes that the force employed creates no substantial risk of injury to innocent persons; and

(c) The actor reasonably believes that the crime for which the arrest is made was homicide, kidnapping, an offense under 2C:14-2 or 2C:14-3, arson, robbery, burglary of a dwelling, or an attempt to commit one of these crimes; and

(d) The actor reasonably believes:

(i) There is an imminent threat of deadly force to himself or a third party; or

(ii) The use of deadly force is necessary to thwart the commission of a crime as set forth in subparagraph (c) of this paragraph; or

(iii) The use of deadly force is necessary to prevent an escape.

c. Use of force to prevent escape from custody. The use of force to prevent the escape of an arrested person from custody is justifiable when the force could, under subsections a. and b. of this section, have been employed to effect the arrest under which the person is in custody. A correction officer or other person authorized to act as a peace officer is, however, justified in using any force including deadly force, which he reasonably believes to be immediately necessary to prevent the escape of a person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense so long as the actor believes that the force employed creates no substantial risk of injury to innocent persons.

d. Use of force by private person assisting an unlawful arrest.

(1) A private person who is summoned by a peace officer to assist in effecting an unlawful arrest is justified in using any force which he would be justified in using if the arrest were lawful, provided that he does not believe the arrest is unlawful.

(2) A private person who assists another private person in effecting an unlawful arrest, or who, not being summoned, assists a peace officer in effecting an unlawful arrest, is justified in using any force which he would be justified in using if the arrest were lawful, provided that (a) he reasonably believes the arrest is lawful, and (b) the arrest would be lawful if the facts were as he believes them to be and such belief is reasonable.

e. Use of force to prevent suicide or the commission of a crime. The use of force upon or toward the person of another is justifiable when the actor reasonably believes that such force is immediately necessary to prevent such other person from committing suicide, inflicting serious bodily harm upon himself, committing or consummating the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace, except that:

(1) Any limitations imposed by the other provisions of this chapter on the justifiable use of force in self-protection, for the protection of others, the protection of property, the effectuation of an arrest or the prevention of an escape from custody shall apply notwithstanding the criminality of the conduct against which such force is used; and

(2) The use of deadly force is not in any event justifiable under this subsection unless the actor reasonably believes that it is likely that the person whom he seeks to prevent from committing a crime will endanger human life or inflict serious bodily harm upon another unless the commission or the consummation of the crime is prevented and that the use of such force presents no substantial risk of injury to innocent persons.

(cf: P.L.1981, c.290, s.5)

3. This act shall take effect immediately.

STATEMENT

This bill prohibits the issuance and execution of a "no-knock" warrant that is to be executed at a residence.

A warrant typically requires officers to knock on the door and announce their authority and purpose before entering the premises. Under current law, a court may issue a "no-knock" warrant under certain circumstances if there is a reasonable, particularized suspicion that a no-knock entry is required to prevent the destruction of evidence, protect the officer's safety, or effectuate the arrest or seizure of evidence.

In March 2020, Breonna Taylor, a 26-year-old emergency medical technician, was shot and killed by the Louisville Metro Police Department officers who were executing a no-knock warrant.

Under the bill, prior to executing an arrest warrant at a residence or warrant authorizing a search and seizure at a residence, a law enforcement officer is required to knock on the door of the residence; clearly and verbally announce the officer's identity and reason for being there; and, absent exigent circumstances, wait a reasonable amount of time but not less than 30 seconds for occupants to answer the door, whichever is greater, before entering the premises.

The bill further requires any arrest warrant that is to be executed at a residence or warrant authorizing a search and seizure at a residence to contain the requirements set forth in the bill.

The provisions of the bill also modify the use of force by a law enforcement officer to effect an arrest. Under the bill, the use of force to effect an arrest pursuant to a warrant is not justifiable unless the warrant is valid or reasonably believed by the actor to be valid; and, if the warrant relates to an arrest at a residence or search

and seizure of a residence, the officer executes the warrant in accordance with the provisions of the bill.