

Amendment No. 44

Senate Amendment to Senate Bill No. 50	(BDR 14-405)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





SENATE BILL NO. 50—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to warrants. (BDR 14-405)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; prohibiting a magistrate from issuing a no-knock arrest warrant or search warrant except under certain circumstances; requiring an arrest warrant or a search warrant to specify whether it is a no-knock warrant; establishing provisions relating to the manner of execution of a no-knock arrest warrant or search warrant; revising provisions relating to the circumstances under which a summons may be issued instead of an arrest warrant; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires a magistrate to issue a warrant for the arrest of a defendant if, based  
2 on an affidavit or affidavits filed with a complaint or certain ~~information,~~ citations, there  
3 is probable cause to believe that an offense has been committed and that the defendant has  
4 committed the offense. ~~It~~, unless a district attorney requests the issuance of a summons,  
5 in which case the magistrate must issue a summons, (NRS 171.106) ~~If the affidavit or~~  
6 ~~affidavits are filed with an application for an arrest warrant, section 1.1 of this bill~~  
7 maintains the existing default standard of issuing an arrest warrant, or a summons upon  
8 the request of a district attorney; however, if the affidavit or affidavits are filed with  
9 certain citations, section 1.1 authorizes a magistrate to issue an arrest warrant or a  
10 summons.  
11 Section ~~[of this bill]~~ 1.1 also establishes additional requirements for the issuance of  
12 a no-knock warrant. Specifically, section 1.1 prohibits a magistrate from issuing a no-knock  
13 warrant for the arrest of a defendant unless ~~it is shown by~~ an affidavit, ~~for affidavits,~~ sworn  
14 to before the magistrate: ~~[that a no-knock warrant is necessary;]~~ (1) ~~[to ensure the safety of~~  
15 ~~the peace officer executing the warrant or the safety of any other person; or]~~ demonstrates  
16 that the underlying offense is punishable as a felony and involves a significant and  
17 imminent threat to public safety; (2) ~~[to prevent the destruction of evidence,]~~ demonstrates  
18 that identifying the presence of the peace officer before entering the premises is likely to  
19 create an imminent threat of significant bodily harm to the peace officer or another  
20 person; (3) describes factual circumstances that demonstrate that there are no  
21 reasonable alternatives to effectuating the arrest of the person other than in the manner  
22 prescribed by the no-knock arrest warrant; (4) states whether the no-knock arrest  
23 warrant can be executed during the day and, if it cannot, the reasoning behind such a

determination; and (5) certifies that the no-knock arrest warrant will be executed under the guidance of a peace officer trained in executing warrants of arrest.

Existing law requires an arrest warrant to include certain information. (NRS 171.108) In addition to the existing requirements, section 1.2 of this bill requires the arrest warrant to specify whether it is a no-knock arrest warrant. Section 1.3 of this bill makes a conforming change in order to maintain the existing requirements relating to the contents of a summons.

Existing law sets forth the manner of executing arrest warrants. (NRS 171.122) In addition to the existing requirements, section 1.4 of this bill requires peace officers involved in the execution of the no-knock arrest warrant to: (1) make certain determinations before executing the no-knock arrest warrant; and (2) take certain actions in the execution of the no-knock arrest warrant, including making certain disclosures and wearing a portable event recording device. Section 1.5 of this bill makes a conforming change relating to the execution of arrest warrants.

Existing law also authorizes a magistrate to issue a search warrant to search a place or person for any property: (1) that is stolen or embezzled; (2) that is designed or intended for use or which is or has been used as the means of committing a criminal offense; or (3) when the property consists of any item or constitutes any evidence which tends to show that a criminal offense has been committed or that a particular person has committed a criminal offense. (NRS 179.035) ~~Section 2 of this bill prohibits a magistrate from issuing a no-knock warrant to search the person or place named in the search warrant unless it is shown by an affidavit or affidavits, sworn to before the magistrate, that a no-knock warrant is necessary: (1) to ensure the safety of the peace officer executing the search warrant or the safety of any other person; or (2) to prevent the destruction of evidence. Section~~ sets forth requirements for the issuance of a no-knock search warrant that are identical to those described in section 1.1 for no-knock arrest warrants.

Existing law requires search warrants to contain certain information. (NRS 179.045) In addition to the existing requirements, section 3.3 of this bill requires the search warrant to specify whether it is a no-knock search warrant.

Existing law sets forth various requirements relating to the manner of executing a search warrant. (NRS 179.075, 179.077) In addition to the existing requirements, section 3.5 of this bill sets forth requirements concerning the execution of no-knock search warrants that are identical to those described in section 1.4 for no-knock arrest warrants.

Sections 1 and 1.9 of this bill define the term “no-knock warrant” for the purposes of arrest warrants and search warrants, respectively. Sections 1.8, 3 and 3.7 of this bill [makes a] make conforming [change to indicate the appropriate placement of section 2 in the Nevada Revised Statutes.] changes relating to no-knock warrants.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in sections 171.102 to 171.122, inclusive, unless the context otherwise requires, “no-knock warrant” means a warrant for the arrest of a defendant which authorizes a peace officer to enter a premises without first:

1. Knocking on the door or ringing the doorbell and identifying the presence of the peace officer; or

2. Identifying the presence of the peace officer and stating the intended purpose of the peace officer for entering the premises.

~~[Section 1.]~~ Sec. 1.1. NRS 171.106 is hereby amended to read as follows:  
171.106 1. If it appears ~~[from the complaint or a citation issued pursuant to NRS 484A.720, 488.920 or 501.386, or]~~ from an affidavit or affidavits filed with ~~[the complaint or citation]~~ an application for a warrant that there is probable cause

1 to believe that an offense, triable within the county, has been committed and that  
 2 the defendant has committed it, a warrant for the arrest of the defendant ~~[shall]~~  
 3 *must* be issued by the magistrate to any peace officer. Upon the request of the  
 4 district attorney, a summons instead of a warrant ~~[shall issue.]~~ *must be issued.*

5 2. If it appears from an affidavit or affidavits filed with a complaint or  
 6 citation issued pursuant to NRS 484A.730, 488.920 or 501.386 that there is  
 7 probable cause to believe that an offense, triable within the county, has been  
 8 committed and that the defendant has committed it, the magistrate may issue to  
 9 any peace officer:

10 (a) A warrant; or

11 (b) A summons.

12 3. A magistrate may not issue a warrant that is a no-knock warrant  
 13 pursuant to subsection 1 or 2 unless an affidavit filed with the application,  
 14 complaint or citation, as applicable:

15 (a) Demonstrates that:

16 (I) The underlying offense:

17 (I) Is punishable as a felony; and

18 (II) Involves a significant and imminent threat to public safety; and

19 (2) Identifying the presence of the peace officer before entering the  
 20 premises is likely to create an imminent threat of substantial bodily harm to the  
 21 peace officer or another person;

22 (b) Describes with specificity the factual circumstances as to why there are  
 23 no reasonable alternatives to effectuate the arrest of the defendant other than in  
 24 the manner prescribed by the no-knock warrant;

25 (c) States whether the no-knock warrant can be executed during the day and,  
 26 if it cannot, describes with specificity the factual circumstances that preclude the  
 27 no-knock warrant from being executed during the day; and

28 (d) Certifies that the no-knock warrant will be executed under the guidance  
 29 of a peace officer who is trained in the execution of warrants.

30 4. More than one warrant or summons may [issue] be issued on the same  
 31 application, complaint or citation.

32 5. If a defendant fails to appear in response to [the] a summons, a warrant  
 33 [shall issue.] must be issued for the arrest of the defendant.

34 ~~[ 2. A magistrate shall not issue a no knock warrant for the arrest of a~~  
 35 ~~defendant unless it is shown by an affidavit or affidavits, sworn to before the~~  
 36 ~~magistrate, that a no knock warrant is necessary.~~

37 ~~(a) To ensure the safety of the peace officer executing the warrant or the~~  
 38 ~~safety of any other person based upon specific facts and circumstances involving~~  
 39 ~~the defendant or the location where the warrant is executed, including, without~~  
 40 ~~limitation, the following circumstances:~~

41 ~~(1) The defendant has a criminal history that evidences a tendency~~  
 42 ~~towards violence; or~~

43 ~~(2) The defendant has previously attempted to escape during the~~  
 44 ~~execution of a felony warrant for his or her arrest; or~~

45 ~~(b) To prevent the destruction of evidence, including, without limitation,~~  
 46 ~~electronic evidence or the presence of a controlled substance~~

47 ~~3. As used in this section, "no knock warrant" means a warrant that~~  
 48 ~~authorizes a peace officer to enter a premises without first:~~

49 ~~(a) Knocking on the door or ringing the doorbell;~~

50 ~~(b) Identifying himself or herself as a peace officer and stating his or her~~  
 51 ~~intent or purpose; and~~

52 ~~(c) Waiting a reasonable amount of time for the occupant to let him or her~~  
 53 ~~into the premises.]~~

6. A peace officer shall not deliberately misrepresent a material fact or omit material information in an affidavit described in subsection 3, and if the affidavit is based upon a deliberately misrepresented fact or an omission of material information, the magistrate shall reject the affidavit.

Sec. 1.2. NRS 171.108 is hereby amended to read as follows:

171.108 ~~The~~ A warrant of arrest is an order in writing in the name of the State of Nevada which ~~shall~~ must:

1. Be signed by the magistrate with the magistrate's name of office;
2. Contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty;
3. State the date of its issuance, and the county, city or town where it was issued;
4. ~~Describe~~ State the offense ~~charged~~ described in ~~the complaint, and~~

NRS 171.106;

5. Command that the defendant be arrested and brought before the nearest available magistrate ~~to~~; and

6. State whether the warrant is a no-knock warrant.

Sec. 1.3. NRS 171.112 is hereby amended to read as follows:

171.112 ~~The~~

1. A summons is an order in writing in the name of the State of Nevada which ~~shall be in the same form as the warrant except that it shall summon~~ must:

(a) Include the information described in subsections 1 to 4, inclusive, of NRS 171.108; and

(b) Summon the defendant to appear before a magistrate at a stated time and place.

2. Upon a complaint against a corporation, the magistrate must issue a summons, signed by the magistrate, with the magistrate's name of office, requiring the corporation to appear before the magistrate at a specified time and place to answer the charge, the time to be not less than 10 days after the issuing of the summons.

Sec. 1.4. NRS 171.122 is hereby amended to read as follows:

171.122 1. Except as otherwise provided in subsection ~~2~~ 3, the warrant must be executed by the arrest of the defendant. The peace officer need not have the warrant in the peace officer's possession at the time of the arrest, but upon request the peace officer must show the warrant to the defendant as soon as possible. If the peace officer does not have a warrant in the peace officer's possession at the time of the arrest, the peace officer shall then inform the defendant of the peace officer's intention to arrest the defendant, of the offense charged, the authority to make it and of the fact that a warrant has or has not been issued. The defendant must not be subjected to any more restraint than is necessary for the defendant's arrest and detention. If the defendant either flees or forcibly resists, the peace officer may, except as otherwise provided in NRS 171.1455, use only the amount of reasonable force necessary to effect the arrest.

2. In addition to the requirements described in subsection 1, if the warrant is a no-knock warrant, the peace officers involved in the execution of the no-knock warrant shall:

(a) Before executing the no-knock warrant, determine whether the circumstances necessitate that the arrest of the defendant be effectuated in the manner prescribed by the no-knock warrant and, if they do not, the peace officers shall not effectuate the arrest of the defendant in such a manner; and

(b) In executing the no-knock warrant:

1 (1) Wear prominent insignia that renders the peace officers readily  
2 identifiable as peace officers;

3 (2) Wear a portable event recording device in accordance with the  
4 requirements described in NRS 289.830;

5 (3) Use only the amount of force reasonably necessary to enter the  
6 premises; and

7 (4) As soon as practicable after entering the premises, identify the  
8 presence of the peace officers and state the purpose of the peace officers for  
9 entering the premises.

10 3. In lieu of executing ~~the~~ a warrant by arresting the defendant, a peace  
11 officer may issue a citation as provided in NRS 171.1773 if:

12 (a) The warrant is issued upon an offense punishable as a misdemeanor;

13 (b) The peace officer has no indication that the defendant has previously failed  
14 to appear on the charge reflected in the warrant;

15 (c) The defendant provides satisfactory evidence of his or her identity to the  
16 peace officer;

17 (d) The defendant signs a written promise to appear in court for the  
18 misdemeanor offense; and

19 (e) The peace officer has reasonable grounds to believe that the defendant will  
20 keep a written promise to appear in court.

21 ~~{2. The}~~

22 4. A summons must be served upon a defendant by delivering a copy to the  
23 defendant personally, or by leaving it at the defendant's dwelling house or usual  
24 place of abode with some person then residing in the house or abode who is at least  
25 16 years of age and is of suitable discretion, or by mailing it to the defendant's last  
26 known address. In the case of a corporation, the summons must be served at least 5  
27 days before the day of appearance fixed in the summons, by delivering a copy to an  
28 officer or to a managing or general agent or to any other agent authorized by  
29 appointment or by law to receive service of process and, if the agent is one  
30 authorized by statute to receive service and the statute so requires, by also mailing a  
31 copy to the corporation's last known address within the State of Nevada or at its  
32 principal place of business elsewhere in the United States.

33 Sec. 1.5. NRS 171.152 is hereby amended to read as follows:

34 171.152 1. The peace officer executing a warrant by arrest shall make return  
35 thereof to the magistrate before whom the defendant is brought pursuant to NRS  
36 171.178 and 171.184. At the request of the district attorney any unexecuted warrant  
37 must be returned to the magistrate by whom it was issued and must be cancelled.

38 2. The peace officer executing a warrant by issuance of a citation pursuant to  
39 subsection ~~{2}~~ 3 of NRS 171.122 shall:

40 (a) Record on the warrant the number assigned to the citation issued thereon;

41 (b) Attach the warrant to the citation issued thereon; and

42 (c) Return the warrant and citation to the magistrate before whom the  
43 defendant is scheduled to appear.

44 3. On or before the return day the person to whom a summons was delivered  
45 for service shall make return thereof to the magistrate before whom the summons is  
46 returnable.

47 4. At the request of the district attorney made at any time while the complaint  
48 is pending, a warrant returned unexecuted and not cancelled or a summons returned  
49 unserved or a duplicate thereof may be delivered by the magistrate to a peace  
50 officer for execution or service.

51 Sec. 1.7. Chapter 179 of NRS is hereby amended by adding thereto the  
52 provisions set forth as sections 1.8 to 2.5, inclusive, of this act.

1        Sec. 1.8. As used in NRS 179.015 to 179.115, inclusive, and sections 1.8 to  
 2 2.5, inclusive, of this act, the words and terms defined in NRS 179.015 and  
 3 section 1.9 of this act have the meanings ascribed to them in those sections.

4        Sec. 1.9. "No-knock warrant" means a search warrant which authorizes a  
 5 peace officer to enter a premises without first:

6        1. Knocking on the door or ringing the doorbell and identifying the  
 7 presence of the peace officer; or

8        2. Identifying the presence of the peace officer and stating the intended  
 9 purpose of the peace officer for entering the premises.

10        Sec. 2. [Chapter 179 of NRS is hereby amended by adding thereto a new  
 11 section to read as follows: ]

12        1. A magistrate shall not issue a no-knock warrant to search the person or  
 13 place named in the search warrant unless [it is shown by] an affidavit [or  
 14 affidavits,] sworn before the magistrate ; [ that a no-knock warrant is  
 15 necessary.]

16        (a) [To ensure the safety of the peace officer executing the search warrant or  
 17 the safety of any other person based upon specific facts and circumstances  
 18 involving the person or place named in the search warrant, including, without  
 19 limitation, the following circumstances:] Demonstrates that:

20        (1) [The person to be searched has a criminal history that evidences a  
 21 tendency towards violence; or] The underlying offense:

22        (I) Is punishable as a felony; and

23        (II) Involves a significant and imminent threat to public safety; and

24        (2) [The person to be searched has previously attempted to escape during  
 25 the execution of a felony warrant for his or her arrest; or] Identifying the  
 26 presence of the peace officer before entering the premises is likely to create an  
 27 imminent threat of substantial bodily harm to the peace officer or another  
 28 person;

29        (b) [To prevent the destruction of evidence, including, without limitation,  
 30 electronic evidence or the presence of a controlled substance,] Describes with  
 31 specificity the factual circumstances as to why there are no reasonable  
 32 alternatives to effectuate the search of the place or person other than in the  
 33 manner prescribed by the no-knock warrant;

34        (c) States whether the no-knock warrant can be executed during the day and,  
 35 if it cannot, describes with specificity the factual circumstances that preclude the  
 36 no-knock warrant from being executed during the day; and

37        (d) Certifies that the no-knock warrant will be executed under the guidance  
 38 of a peace officer who is trained in the execution of search warrants.

39        2. [As used in this section, "no knock warrant" means a search warrant  
 40 that authorizes a peace officer to enter a premises without first:

41        — (a) Knocking on the door or ringing the doorbell;

42        — (b) Identifying himself or herself as a peace officer and stating his or her  
 43 intent or purpose; and

44        — (c) Waiting a reasonable amount of time for the occupant to let him or her  
 45 into the premises.] A peace officer shall not deliberately misrepresent a material  
 46 fact or omit material information in any affidavit described in subsection 1, and if  
 47 the affidavit is based upon a deliberately misrepresented fact or an omission of  
 48 material information, the magistrate shall reject the affidavit.

49        Sec. 2.5. In addition to the requirements for the execution of a search  
 50 warrant described in NRS 179.075 and 179.077, if the search warrant is a no-  
 51 knock warrant, the peace officers involved in the execution of the no-knock  
 52 warrant shall:



(a) Before executing the no-knock warrant, determine whether the circumstances necessitate that the search be effectuated in the manner prescribed by the no-knock warrant and, if they do not, the peace officers shall not effectuate the search in such a manner; and

(b) In executing the no-knock warrant:

(1) Wear prominent insignia that renders the peace officers readily identifiable as peace officers;

(2) Wear a portable event recording device in accordance with the requirements described in NRS 289.830;

(3) Use only the amount of force reasonably necessary to enter the premises; and

(4) As soon as practicable after entering the premises, identify the presence of the peace officers and state the purpose of the peace officers for entering the premises.

**Sec. 3.** NRS 179.015 is hereby amended to read as follows:

179.015 ~~As used in NRS 179.015 to 179.115, inclusive, and section 2 of this act, the term "property"~~ "Property" includes documents, books, papers and any other tangible objects.

**Sec. 3.3.** NRS 179.045 is hereby amended to read as follows:

179.045 1. A search warrant may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant or as provided in subsection 3. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate shall issue a warrant identifying the property and naming or describing the person or place to be searched.

2. Secure electronic transmission may be used for the submission of an application and affidavit required by subsection 1, and for the issuance of a search warrant by a magistrate. The Nevada Supreme Court may adopt rules not inconsistent with the laws of this State to carry out the provisions of this subsection.

3. In lieu of the affidavit required by subsection 1, the magistrate may take an oral statement given under oath, which must be recorded in the presence of the magistrate or in the magistrate's immediate vicinity by a certified court reporter or by electronic means, transcribed, certified by the reporter if the reporter recorded it, and certified by the magistrate. The statement must be filed with the clerk of the court.

4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.

5. After a magistrate has issued a search warrant, whether it is based on an affidavit or an oral statement given under oath, the magistrate may orally authorize a peace officer to sign the name of the magistrate on a duplicate original warrant. A duplicate original search warrant shall be deemed to be a search warrant. It must be returned to the magistrate who authorized the signing of it. The magistrate shall endorse his or her name and enter the date on the warrant when it is returned. Any failure of the magistrate to make such an endorsement and entry does not in itself invalidate the warrant.

6. The warrant must ~~be~~ be:

(a) Be directed to a peace officer in the county where the warrant is to be executed ~~if it must~~;

~~(a) :~~

(b) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof ~~,~~ and or

1 ~~[(b) Incorporate]~~ incorporate by reference the affidavit or oral statement upon  
2 which it is based. ~~f~~

3 ~~7. The warrant must command~~ ;

4 ~~(c) Command~~ the peace officer to search forthwith the person or place named  
5 for the property specified. ~~f~~

6 ~~7. The warrant must direct~~ ;

7 ~~(d) Direct~~ that ~~[(d)]~~ the warrant be served between the hours of 7 a.m. and 7  
8 p.m., unless the magistrate, upon a showing of good cause therefor, inserts a  
9 direction that ~~[(d)]~~ the warrant be served at any time. ~~f~~

10 ~~8. The warrant must designate~~ ;

11 ~~(e) Designate~~ the magistrate to whom it is to be returned. ~~f~~

12 ~~9.~~ ; and

13 ~~(f) Indicate whether the search warrant is a no-knock warrant.~~

14 ~~7.~~ As used in this section, "secure electronic transmission" means the sending  
15 of information from one computer system to another computer system in such a  
16 manner as to ensure that:

17 (a) No person other than the intended recipient receives the information;

18 (b) The identity of the sender of the information can be authenticated; and

19 (c) The information which is received by the intended recipient is identical to  
20 the information that was sent.

21 Sec. 3.7. NRS 179.115 is hereby amended to read as follows:

22 179.115 NRS 179.015 to 179.115, inclusive, and sections 1.8 to 2.5,  
23 inclusive, of this act do not modify any other statute regulating search, seizure and  
24 the issuance and execution of search warrants in circumstances for which special  
25 provision is made.

26 Sec. 4. The amendatory provisions of this act apply to a warrant or summons  
27 issued on or after October 1, 2021.