

1 AN ACT relating to warrants authorizing entry without notice.

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

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

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

7 *(1) The court finds by clear and convincing evidence that:*

8 *(a) The crime alleged is a crime that would qualify a person, if convicted, as a*
9 *violent offender under KRS 439.3401; the crime alleged is a crime*
10 *designated in KRS 525.045, 527.200, 527.205, or 527.210; or the evidence*
11 *sought may give rise to the charge of a crime that would qualify a person, if*
12 *convicted, as a violent offender under KRS 439.3401 or may give rise to a*
13 *charge of a crime designated in KRS 525.045, 527.200, 527.205, or 527.210;*
14 *and*

15 *(b) As established by facts specific to the case, giving notice prior to entry will*
16 *endanger the life or safety of any person, or result in the loss or destruction*
17 *of evidence sought that may give rise to a charge of a crime that would*
18 *qualify a person, if convicted, as a violent offender under KRS 439.3401 or*
19 *may give rise to a charge of a crime designated in KRS 525.045, 527.200,*
20 *527.205, or 527.210;*

21 *(2) The law enforcement officer seeking the warrant has obtained the approval of his*
22 *or her supervising officer, or has the approval of the highest ranking officer in*
23 *his or her law enforcement agency;*

24 *(3) The law enforcement officer seeking the warrant has consulted with the*
25 *Commonwealth's attorney or county attorney for the jurisdiction for which the*
26 *warrant is sought, or with an assistant Commonwealth's attorney or assistant*
27 *county attorney for the jurisdiction for which the warrant is sought;*

1 (4) The law enforcement officer seeking the warrant discloses to the judge, as part of
2 the application, any other attempt to obtain a warrant authorizing entry without
3 notice for the same premises, or for the arrest of the same individual;

4 (5) The warrant authorizes that the entry without notice occur only between the
5 hours of 6 a.m. and 10 p.m., except in exigent circumstances where the court
6 makes the findings set forth in subsection (1) of this section and the court further
7 finds by clear and convincing evidence that there are substantial and imminent
8 risks to the health and safety of the persons executing the warrant, the occupants
9 of the premises, or the public that justify the entry without notice occur during
10 other hours designated by the court; and

11 (6) If the warrant is not issued electronically pursuant to KRS 455.170, the warrant
12 includes the legibly printed name and signature of the judge.

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

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

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

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

21 (1) By law enforcement officers who:

22 (a) Are members of a special weapons and tactics team or special response
23 team, or another established team or unit trained and tasked with resolving
24 high-risk situations and incidents, who have received appropriate training
25 in the execution of arrest and search warrants authorizing entry without
26 notice. In counties having a population of less than ninety thousand
27 (90,000), when, after reasonable inquiry by the law enforcement officer

1 seeking the warrant, members of the special weapons and tactics team or
 2 special response team are not available to timely execute the warrant and
 3 the court finds by clear and convincing evidence that the risks to the health
 4 and safety of the persons executing the warrant, the occupants of the
 5 premises, or the public are greater if the warrant is not timely executed, the
 6 court may approve the execution of the warrant without members of a
 7 special weapons and tactics team or special response team;

8 (b) Are equipped with body-worn cameras, or, in counties having a population
 9 of less than ninety thousand (90,000), equipped with other audio-visual or
 10 audio recording devices issued by the government, and shall record the
 11 entirety of the execution of the warrant with a recording device that meets
 12 the requirements of this paragraph; and

13 (c) Are equipped with clearly visible insignia on any protective equipment or
 14 clothing that clearly identifies the name of the agency that employs the
 15 members of the special weapons and tactics team or special response team;

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

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

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

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

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

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

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

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

3 ➔SECTION 5. A NEW SECTION OF KENTUCKY RULES OF EVIDENCE
4 401 TO 412 IS CREATED TO READ AS FOLLOWS:

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

7 (1) Evidence gathered by use of an arrest warrant or search warrant
8 authorizing entry without notice that did not comply with applicable
9 statutes; or

10 (2) Evidence gathered by use of an arrest warrant or search warrant
11 authorizing entry without notice that was obtained through perjury or
12 material false statement.

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

15 (1) In a civil case, offered by the plaintiff in an action for damages arising from
16 the warrant; or

17 (2) In a criminal proceeding for perjury or material false statement in the
18 application for the warrant, offered against the defendant.