

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 438

By: Dahm

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5
6 AS INTRODUCED

7 An Act relating to search warrants; amending 22 O.S.
8 2011, Section 1228, which relates to execution of
9 search warrant without warning or notice; eliminating
10 certain exceptions to notice requirement; prohibiting
11 issuance or execution of warrant that does not
12 require warning or notice; and declaring an
13 emergency.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1228, is
16 amended to read as follows:

17 Section 1228. A. A peace officer may break open an outer or
18 inner door or window of a house, or any part of the house, or
19 anything therein, to execute the warrant when:

20 1. ~~The~~ the officer has been refused admittance after having
21 first given notice of his authority and purpose; ~~or~~

22 2. ~~Pursuant to an instruction inserted in the search warrant by~~
23 ~~the magistrate that no warning or other notice of entry is necessary~~
24 ~~because there is reasonable cause to believe that exigent~~
25 ~~circumstances exist. Exigent circumstances include:~~

- 1 ~~a. such warning or other notice would pose a significant~~
2 ~~danger to human life,~~
- 3 ~~b. such warning or other notice would allow the possible~~
4 ~~destruction of evidence,~~
- 5 ~~c. such warning or other notice would give rise to the~~
6 ~~possibility of resistance or escape,~~
- 7 ~~d. such warning or other notice would otherwise inhibit~~
8 ~~the effective investigation of the crime, or~~
- 9 ~~e. such warning or other notice would be futile or a~~
10 ~~useless gesture.~~

11 B. No magistrate shall issue and no peace officer shall execute
12 a warrant that does not require the peace officer serving the
13 warrant to provide notice of his or her authority and purpose before
14 forcibly entering a premises.

15 SECTION 2. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this resolution shall take
18 effect and be in full force from and after its passage and approval.

20 58-1-1471 TEK 1/18/2021 10:07:31 AM