



State of Wisconsin
2021 - 2022 LEGISLATURE

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2021 SENATE BILL 874

January 21, 2022 - Introduced by Senators WANGGAARD and JACQUE, cosponsored by Representatives TUSLER, EDMING, ARMSTRONG, CALLAHAN, STEFFEN, DITTRICH, PETERSEN, BRANDTJEN, TITTL, GUNDRUM, NOVAK, KURTZ, KRUG, KNODL, JAMES, PLUMER, SKOWRONSKI, KUGLITSCH, MACCO, BORN, MURPHY, KITCHENS, SWEARINGEN and DALLMAN. Referred to Committee on Judiciary and Public Safety.

- 1 **AN ACT to create** 164.07 and 968.155 of the statutes; **relating to:** no-knock
2 search warrants and certain expenditures of federal moneys by first class cities.

Analysis by the Legislative Reference Bureau

Under current law as provided in the U.S. Supreme Court case *Richards v. Wisconsin*, a law enforcement officer may execute a search warrant without knocking and announcing his or her presence if he or she has a reasonable suspicion that knocking and announcing his or her presence, under the particular circumstances, would be dangerous or futile or would inhibit the effective investigation of the crime. This bill creates a statutory provision that provides that right to law enforcement officers and further provides that:

1. No city, village, town, or county may adopt an ordinance or policy that restricts a law enforcement officer's ability to execute an unannounced search warrant.

2. No board of fire and police commissioners may prescribe rules or regulations that restrict a law enforcement officer's ability to execute an unannounced search warrant.

3. No sheriff or chief of a law enforcement agency may adopt a policy that restricts a law enforcement officer's ability to execute an unannounced search warrant.

4. No mayor or common council may issue an order that restricts a law enforcement officer's ability to execute an unannounced search warrant.

The bill also requires a first class city (currently, only the city of Milwaukee) to expend a portion of the moneys it receives under the federal American Rescue Plan

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Act of 2021 to fund operations of the city's police department. The portion that must be expended for these purposes is the total amount of ARPA funds received by the city multiplied by the result of dividing the amount that the city expended in 2021 for law enforcement purposes by the total amount expended by the city from its general fund in 2021 for all purposes. The bill also requires that in any year that a first class city receives ARPA funds, the city must expend at least as much from its general fund for the city's police department as it did in 2021.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 164.07 of the statutes is created to read:

2 **164.07 Executing a search warrant.** A law enforcement officer may execute
3 a search warrant as provided under s. 968.155.

4 **SECTION 2.** 968.155 of the statutes is created to read:

5 **968.155 Search warrants; unannounced entry. (1)** A search warrant may
6 be executed by a law enforcement officer without knocking and announcing his or her
7 presence if the law enforcement officer has a reasonable suspicion that knocking and
8 announcing his or her presence, under the particular circumstances, would be
9 dangerous or futile or would inhibit the effective investigation of the crime.

10 **(2)** (a) No city, village, town, or county may adopt an ordinance or policy that
11 restricts a law enforcement officer's ability to execute a search warrant as provided
12 under sub. (1).

13 (b) No board of fire and police commissioners may prescribe rules under s. 62.50

14 **(3)** (a) that restrict a law enforcement officer's ability to execute a search warrant as
15 provided under sub. (1).

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1 (c) No board of fire and police commissioners may prescribe rules or regulations
2 under s. 62.13 (6) (a) 1. that restrict a law enforcement officer's ability to execute a
3 search warrant as provided under sub. (1).

4 (d) No sheriff or chief of a law enforcement agency may adopt a policy that
5 restricts a law enforcement officer's ability to execute a search warrant as provided
6 under sub. (1).

7 (e) No mayor or common council may issue an order that restricts a law
8 enforcement officer's ability to execute a search warrant as provided under sub. (1).

9 **SECTION 3. Nonstatutory provisions.**

10 (1) LAW ENFORCEMENT EXPENDITURES BY A 1ST CLASS CITY.

11 (a) In this subsection, "policing expenditure rate" means the number calculated
12 by dividing the amount expended by a 1st class city from its general fund in 2021 for
13 law enforcement purposes, including all expenditures related to the city's police
14 department, by the total amount expended by the city from its general fund in 2021
15 for all purposes.

16 (b) In any year, of the moneys a 1st class city receives from the federal
17 government pursuant to section 602 of the federal Social Security Act as amended
18 by the federal American Rescue Plan Act of 2021, P.L. 117-2, the city shall expend
19 not less than the total amount received multiplied by the policing expenditure rate
20 to fund operations of the city's police department.

21 (c) In any year that a 1st class city receives moneys from the federal
22 government pursuant to section 602 of the federal Social Security Act as amended
23 by the federal American Rescue Plan Act of 2021, P.L. 117-2, the city shall expend

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1 at least as much from its general fund to fund operations of the city's police
2 department as it expended from its general fund for these purposes in 2021.

3 (END)