WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4095

By Delegate Horst

[Introduced January 14, 2026; referred to the

Committee on the Judiciary]

1   A BILL to amend and reenact §62-1A-5 of the Code of West Virginia, 1931, as amended, relating

2   to removing qualified immunity for officers serving no-knock warrants if they are found to

3   have used excessive force or found to have been negligent and causing an investigation of

4   the training the officer received.

Be it enacted by the Legislature of West Virginia:

ARTICLE   1A.   SEARCH   AND   SEIZURE.

§62-1A-5.   Breaking   and   entering   premises.

1   (a) The officer may break into a house, building or structure, or any part thereof, or anything

2   therein, or any vehicle, vessel or other conveyance, to execute a search warrant, or commit such

3   breaking as may be necessary to liberate himself or herself or a person aiding him or her in the

4   execution of the warrant. If the place to be searched is a dwelling he or she shall not attempt a

5   forcible entry until he or she shall have given notice of his or her authority and purpose and shall

6   have been refused admittance.

7   (b) While breaking and entering a premises, or serving a no-knock warrant, no law-

8   enforcement officer, acting alone or in conspiracy with another, shall deprive any person or class of

9   persons of the equal protection of the laws of this state, or of the equal privileges and immunities

10   under the laws of this state, including, without limitation, the protections, privileges, and

11   immunities guaranteed under the Constitution of the state. This deprivation may include, but is not

12   limited to:

13   (1) Any actions that are plainly incompetent; or

14   (2) Any action that involves knowingly violating the law; or

15   (3) Any clearly excessive force used by a law-enforcement officer that results in injury,

16   death, or psychological trauma to the people within the area being searched; and

17   (4) Engaging in behavior that is clearly reckless or negligent that leads to the injury, death,

18   or psychological trauma of the person or persons subjected to the breaking and entering or no-

19   knock warrant.

20   (c) If a suit is brought, or investigation commenced, as a result of a deprivation described in

21 subsection (b) of this section, the Court shall engage in a review of the law-enforcement officer's

22 actions. If the Court finds that the law-enforcement officer committed a deprivation as described in

23 subsection (b), the Court may find that the law-enforcement officer is not eligible for qualified

24 immunity and must proceed as an individual concerning any financial or criminal findings made by

25 the Court.

26   (d) In addition to a review of the officer's actions, the Court shall also review the training,

27 mentoring, and standard operating procedures used by a law enforcement agency, department, or

28 office to prepare officers for situations similar to those described in this section. If the Court finds

29 that the agency, department, or office did not adequately prepare an officer for situations similar to

30 those described in this section or was negligent in providing said training, the agency, department,

31 or office shall also be liable for the conduct of the officer and be made a party to any suit brought by

32 those aggrieved by the officer in question.

NOTE: The purpose of this bill is to remove qualified immunity for officers serving no-knock warrants if they are found to have used excessive force or are found to have been negligent and to cause an investigation of the training the officer received.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.