

SENATE BILL NO. 43

INTRODUCED BY S. BROWN

BY REQUEST OF THE ATTORNEY GENERAL

IN THE SENATE

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| January 5, 1981 | Introduced and referred to Committee on Judiciary. |
| January 13, 1981 | Committee recommend bill do pass. Report adopted. |
| January 14, 1981 | Bill printed and placed on members' desks. |
| January 15, 1981 | Second reading, do pass. |
| January 16, 1981 | Considered correctly engrossed. |
| January 17, 1981 | Third reading, passed. Transmitted to House. |

IN THE HOUSE

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| January 19, 1981 | Introduced and referred to Committee on Judiciary. |
| March 4, 1981 | Committee recommend bill be concurred in. Report adopted. |
| March 5, 1981 | Second reading, concurred in. |
| March 7, 1981 | Third reading, concurred in. Yeas, 87; Nays, 8. |

IN THE SENATE

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| March 7, 1981 | Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled. |
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SHIFT THE BURDEN OF
 6 PROOF FOR SUPPRESSION OF CONFESSIONS OR ADMISSIONS IN
 7 CRIMINAL CASES; AMENDING SECTION 46-13-301, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 46-13-301, MCA, is amended to read:

11 "46-13-301. Motion to suppress confession or admission.

12 (1) A defendant may move to suppress as evidence any
 13 confession or admission given by him on the ground that it
 14 was not voluntary. The motion shall be in writing and state
 15 facts showing wherein the confession or admission was
 16 involuntary.

17 (2) The motion shall be made before the trial unless
 18 for good cause shown the court shall otherwise direct.

19 (3) The defendant shall give at least 10 days' notice
 20 of such motion to the attorney prosecuting or such other
 21 time as the court may direct. The defendant shall serve a
 22 copy of the notice and motion upon the attorney prosecuting.

23 (4) If the allegations of the motion state facts which,
 24 if true, show that the confession or admission was not
 25 voluntarily made, the court shall conduct a hearing into the

1 merits of the motion. ~~The burden of proving that a~~
 2 ~~confession or admission was involuntary shall be on the~~
 3 ~~defendant. The prosecution must prove by a preponderance of~~
 4 ~~the evidence that the confession or admission was voluntary.~~

5 (5) The issue of the admissibility of the confession or
 6 admission ~~shall~~ may not be submitted to the jury. If the
 7 confession or admission is determined to be admissible, the
 8 circumstances surrounding the making of the confession or
 9 admission may be submitted to the jury as bearing upon the
 10 credibility or the weight to be given to the confession or
 11 admission.

12 (6) If the motion is granted, the confession or
 13 admission ~~shall~~ is not be admissible in evidence against the
 14 movant at the trial of the case."

-End-

SB43

Approved by Committee
on Judiciary

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-2- SECOND READING
 58 43

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REFERENCE BILL