

HOUSE BILL NO. 381

Introduced: 01/19/83

Referred to Committee on Judiciary: 01/19/83

Hearing: 2/8/83

Died In Committee

1 House BILL NO. 381
 2 INTRODUCED BY Hammel - Fagg Curtiss
 3 Manuel Bob Brown
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT THE
 5 EXCLUSIONARY RULE EXCEPTION OF REASONABLE GOOD FAITH BELIEF
 6 IN THE LEGALITY OF A SEARCH AND SEIZURE; AMENDING SECTIONS
 7 20-25-513 AND 46-5-103, MCA; AND PROVIDING AN EFFECTIVE
 8 DATE."

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

11 Section 1. Section 20-25-513, MCA, is amended to read:

12 "20-25-513. Written notice required for entry to
 13 student's room -- emergency. An authorized official of the
 14 university or college may not enter the room of a student
 15 located at such institution unless he has given the student
 16 a notice in writing. An emergency such as a fire or a call
 17 for help or where there is probable cause to believe the
 18 occupant needs assistance is the only exception to the
 19 written notice requirement. In such an emergency, evidence
 20 of crime obtained as a result of such emergency entry ~~shall~~
 21 ~~not must be admissible in any court of law unless obtained~~
 22 ~~in accordance with due process of law has been satisfied--in~~
 23 ~~obtaining such evidence."~~

24 Section 2. Section 46-5-103, MCA, is amended to read:

25 "46-5-103. When search and seizure not illegal. (1) No

1 search and seizure, whether with or without warrant, shall
 2 be held to be illegal as to a defendant if:

3 (1)(a) the defendant has disclaimed any right to or
 4 interest in the place or object searched or the instruments,
 5 articles, or things seized;

6 (2)(b) no right of the defendant has been infringed by
 7 the search and seizure; or

8 (3)(c) any irregularities in the proceedings do not
 9 affect the substantial rights of the accused.

10 ~~(2) Evidence obtained as a result of a search or~~
 11 ~~seizure, if otherwise admissible, may not be excluded if the~~
 12 ~~search or seizure was undertaken in a reasonable, good faith~~
 13 ~~belief that it was in conformity with the fourth amendment~~
 14 ~~to the Constitution of the United States and Article II,~~
 15 ~~sections 10 and 11, of the Montana constitution. A showing~~
 16 ~~that evidence was obtained pursuant to and within the scope~~
 17 ~~of a warrant constitutes prima facie evidence of such a~~
 18 ~~reasonable good faith belief unless the warrant was obtained~~
 19 ~~through intentional and material misrepresentation."~~

20 NEW SECTION. Section 3. Effective date. This act is
 21 effective on passage and approval or 24 hours after the date
 22 and time of any United States supreme court decision
 23 adopting or denying a reasonable good faith belief exception
 24 to the exclusionary rule, whichever occurs last.

-End-

INTRODUCED BILL

-2-

HB 381