

HOUSE BILL NO. 478

Introduced: 01/25/83

Referred to Committee on Judiciary: 01/25/83

Hearing: 2/9/83

Died in Committee

1 House BILL NO. 478  
2 INTRODUCED BY Conrad

3  
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 46-13-302, MCA."

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

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

11 "20-25-513. Written notice required for entry to  
12 student's room -- emergency. An authorized official of the  
13 university or college may not enter the room of a student  
14 located at such institution unless he has given the student  
15 a notice in writing. An emergency such as a fire or a call  
16 for help or where there is probable cause to believe the  
17 occupant needs assistance is the only exception to the  
18 written notice requirement. In such an emergency, evidence  
19 of crime obtained as a result of such emergency entry ~~shall~~  
20 ~~not must be admissible in any court of law unless obtained~~  
21 ~~in accordance with due process of law has been satisfied in~~  
22 ~~obtaining such evidence."~~

23 Section 2. Section 46-13-302, MCA, is amended to read:

24 "46-13-302. Motion to suppress evidence illegally  
25 seized -- exception. (1) A defendant aggrieved by an

1 unlawful search and seizure may move the court to suppress  
2 as evidence anything so obtained. The motion shall be in  
3 writing and state facts showing wherein the search and  
4 seizure were unlawful.

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

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

11 (4) If the allegations of the motion state facts which  
12 if true show that the search and seizure were unlawful, the  
13 court shall conduct a hearing into the merits of the motion.  
14 The burden of proving that the search and seizure were  
15 unlawful shall be on the defendant.

16 ~~(5) If the motion is granted, the evidence shall not~~  
17 ~~be admissible against the movant at any trial of the case if~~  
18 ~~the court finds that the search and seizure were illegal,~~  
19 ~~the evidence is not admissible against the defendant in any~~  
20 ~~criminal proceeding unless the court further finds that the~~  
21 ~~search and seizure were made in the reasonable good faith~~  
22 ~~belief that they were legal."~~

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