

HOUSE BILL NO. 40

1/07 Introduced
1/07 Referred to Judiciary
1/28 Hearing
2/20 Adverse Committee Report
2/21 Bill Killed

1 HOUSE BILL NO. 40
2 INTRODUCED BY HANNAH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT THE UNITED
5 STATES SUPREME COURT'S GOOD FAITH RELIANCE EXCEPTION TO THE
6 EXCLUSIONARY RULE; AMENDING SECTION 46-13-302, MCA."

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

9 Section 1. Section 46-13-302, MCA, is amended to read:

10 "46-13-302. Motion to suppress evidence illegally
11 seized -- exception. (1) A defendant aggrieved by an
12 unlawful search and seizure may move the court to suppress
13 as evidence anything so obtained. The motion shall be in
14 writing and state facts showing wherein the search and
15 seizure were unlawful.

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

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

22 (4) If the allegations of the motion state facts which
23 if true show that the search and seizure were unlawful, the
24 court shall conduct a hearing into the merits of the motion.
25 The burden of proving that the search and seizure were

1 unlawful shall be on the defendant.
2 (5) ~~If--the--motion-is-granted,--the-evidence-shall-not~~
3 ~~be-admissible-against-the-movant-at-any-trial-of--the--case-~~
4 If the court finds that the search and seizure were illegal,
5 the evidence is not admissible against the defendant in any
6 criminal proceeding unless the court further finds that the
7 search and seizure were made in an objectively reasonable
8 good faith reliance on a search warrant that was issued by a
9 detached and neutral magistrate and later found invalid."

-End-



INTRODUCED BILL
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