

HOUSE BILL NO. 40
INTRODUCED BY NEWMAN
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO AN INVESTIGATIVE STOP AND FRISK BY PEACE OFFICERS; ELIMINATING THE REQUIREMENT THAT A PEACE OFFICER PROVIDE A PERSON WITH CERTAIN INFORMATION PRIOR TO QUESTIONING OF THE PERSON AFTER AN INVESTIGATIVE STOP; AMENDING SECTION 46-5-401, MCA; AND REPEALING SECTION 46-5-402, MCA."

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

Section 1. Section 46-5-401, MCA, is amended to read:

"46-5-401. Investigative stop and frisk. (1) In order to obtain or verify an account of the person's presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of the vehicle has committed, is committing, or is about to commit an offense. IF THE STOP IS FOR A VIOLATION UNDER TITLE 61, UNLESS EMERGENCY CIRCUMSTANCES EXIST OR THE OFFICER HAS REASONABLE CAUSE TO FEAR FOR THE OFFICER'S OWN SAFETY OR FOR THE PUBLIC'S SAFETY, THE OFFICER SHALL AS PROMPTLY AS POSSIBLE INFORM THE PERSON OF THE REASON FOR THE STOP.

(2) ~~The peace officer may~~ A PEACE OFFICER WHO HAS LAWFULLY STOPPED A PERSON OR VEHICLE UNDER THIS SECTION MAY:

(A) ~~demand~~ REQUEST the person's name and present address; AND an explanation of the person's actions; and, if the person is in THE DRIVER OF a vehicle, DEMAND the person's driver's license and the vehicle's registration and proof of insurance; AND

~~(3) A peace officer who has lawfully stopped a person under this section may~~

(B) frisk the person and take other reasonably necessary steps for protection if the officer has reasonable cause to suspect that the person is armed and presently dangerous to the officer or another person present. The officer may take possession of any object that is discovered during the course of the frisk if the officer has probable cause to believe that the object is a deadly weapon until the completion of the stop, at which time the officer shall either IMMEDIATELY return the object, if legally possessed, or arrest the person.

(3) A PEACE OFFICER ACTING UNDER SUBSECTION (2) WHILE THE PEACE OFFICER IS NOT IN UNIFORM SHALL INFORM THE PERSON AS PROMPTLY AS POSSIBLE UNDER THE CIRCUMSTANCES AND IN ANY CASE BEFORE QUESTIONING THE PERSON THAT THE OFFICER IS A PEACE OFFICER."

NEW SECTION. **Section 2. Repealer.** Section 46-5-402, MCA, is repealed.

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