

HOUSE BILL NO. 278

INTRODUCED BY N. NICOL, C. SCHOMER, E. TILLEMAN, T. MANZELLA, S. GIST, L. JONES, R.

MARSHALL, A. REGIER, G. OBLANDER, L. DEMING, L. BREWSTER, G. PARRY, J. HINKLE, C.

FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING AUTHORIZING~~ A PEACE OFFICER TO CHECK AND
~~REQUIRING THE PEACE OFFICER TO~~ REPORT THE IMMIGRATION STATUS OF A PERSON DURING A
LAWFUL STOP; AND AMENDING SECTION 46-5-401, 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) A peace officer who has lawfully stopped a person or vehicle under this section may:

(a) request the person's name and present address and an explanation of the person's actions and, if the person is the driver of a vehicle, demand the person's driver's license and the vehicle's registration and proof of insurance; and

(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.

- 2025

Drafter: Rachel Weiss,

1 (3) A peace officer who has lawfully stopped a person or vehicle under this section shall make
2 a reasonable attempt, upon reasonable suspicion and when practicable, to determine the immigration status of
3 the person, except if the determination may hinder or obstruct an investigation. The peace officer shall make a
4 report to a federal immigration agency as defined in 27-16-801 if a person stopped under this section is not
5 lawfully present in the United States.

6 (3)(4) A peace officer acting under subsection (2) while the peace officer is not in uniform shall inform
7 the person as promptly as possible under the circumstances and in any case before questioning the person that
8 the officer is a peace officer."

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