

1 HOUSE BILL NO. 278

2 INTRODUCED BY N. NICOL, C. SCHOMER, E. TILLEMAN, T. MANZELLA, S. GIST, L. JONES, R.
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6 A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING~~ AUTHORIZING A PEACE OFFICER TO CHECK AND
7 REQUIRING THE PEACE OFFICER TO REPORT THE IMMIGRATION STATUS OF A PERSON DURING A
8 LAWFUL STOP; AND AMENDING SECTION 46-5-401, MCA."

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

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

13 **"46-5-401. Investigative stop and frisk.** (1) In order to obtain or verify an account of the person's
14 presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or
15 vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of
16 the vehicle has committed, is committing, or is about to commit an offense. If the stop is for a violation under
17 Title 61, unless emergency circumstances exist or the officer has reasonable cause to fear for the officer's own
18 safety or for the public's safety, the officer shall as promptly as possible inform the person of the reason for the
19 stop.

20 (2) A peace officer who has lawfully stopped a person or vehicle under this section may:

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

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

