

HOUSE BILL NO. 605

INTRODUCED BY G. NIKOLAKAKOS, S. KELLY, S. FITZPATRICK, N. DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON WHO WILL BE HOUSED IN A JAIL OR CORRECTIONAL FACILITY FOR MORE THAN 12 HOURS MAY BE SUBJECT TO A STRIP SEARCH; PROVIDING FOR A FEE; AND AMENDING SECTION 46-5-105, MCA."

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

Section 1. Section 46-5-105, MCA, is amended to read:

"46-5-105. Reasonable suspicion required before strip search -- exception -- FEE. (1) A-Except as provided in subsection (2), a person arrested or detained for a traffic offense or an offense that is not a felony may not be subjected to a strip search or a body cavity search by a peace officer or law enforcement employee unless there is reasonable suspicion to believe the person is concealing a weapon, contraband, or evidence of the commission of a crime.

(2) If a person will be housed in a jail or correctional facility FOLLOWING AN INITIAL APPEARANCE OR ARRAIGNMENT for more than 12 hours, the person may be subjected to a strip search. FOR THE PURPOSES OF THIS SUBSECTION, THE STRIP SEARCH CONDUCTED BY A PEACE OFFICER OR LAW ENFORCEMENT EMPLOYEE MAY NOT INCLUDE PENETRATION OF ANY BODY CAVITY. THE STRIP SEARCH OF THE PERSON MUST BE CONDUCTED BY A PEACE OFFICER OR LAW ENFORCEMENT EMPLOYEE OF THE SAME SEX.

(3) EACH COUNTY IN THE STATE OF MONTANA SHALL PAY A \$250 FEE TO THE DEPARTMENT OF JUSTICE TO ASSIST IN THE DEVELOPMENT OF GUIDELINES FOR CONDUCTING STRIP SEARCHES."

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