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## RESTRICT APPLICATION OF THE EXCLUSIONARY RULE

**House Bill 4645**  
**Sponsor: Rep. James McNutt**  
**Committee: Judiciary**

**Complete to 7-23-97**

### **A SUMMARY OF HOUSE BILL 4645 AS INTRODUCED 4-17-97**

House Bill 4071 would amend the Code of Criminal Procedure to limit application of the exclusionary rule, which bars the use of unconstitutionally obtained evidence in the prosecution of criminal cases, under certain circumstances. The bill would allow the admission of evidence obtained through an unconstitutional search or seizure where the court found that the evidence had been secured under circumstances where the officer who made the search or seizure had acted with an "objectively reasonable good faith belief" that his or her conduct was lawful and constitutional.

Under the bill, an "objectively reasonable good faith belief" that a peace officer's conduct had been lawful and constitutionally permissible could include, but would not be limited to, evidence obtained under the following circumstances: a) under a search or arrest warrant that had been obtained from a neutral and detached magistrate and that the officer reasonably believed to be valid; b) during a warrantless search incident to an arrest, where the arrest was for the violation of a statute or ordinance that was later declared unconstitutional or invalid; or c) while relying on a court precedent that was later overruled. In addition, the bill states that a showing that evidence had been obtained under and within the scope of a search warrant would be treated as prima facie evidence that the officer had an "objectively reasonable good faith belief" that his or her conduct was lawful.

The bill would also prohibit a court from excluding otherwise admissible evidence on the basis that the evidence had been obtained in violation of a statute, ordinance, or administrative rule, unless the court found one or more of the following:

- a) The statute, ordinance, or administrative rule expressly authorized the exclusion of evidence as a sanction for violation;
- b) The violation was deliberate and not authorized by law;
- c) There was a substantial likelihood that the violation materially affected the reliability of the evidence; or

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d) The United States or Michigan constitution required the exclusion of the evidence.

MCL 768.27a

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