

# SENATE BILL REPORT

## HB 2347

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As of February 24, 1998

**Title:** An act relating to establishing an exclusionary rule for the suppression of evidence.

**Brief Description:** Establishing an exclusionary rule for suppression of evidence.

**Sponsors:** Representative Sterk.

**Brief History:**

**Committee Activity:** Law & Justice: 2/25/98.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** David Johnson (786-7754)

**Background:** Both the state and federal constitutions restrict the government's ability to gather evidence. The state Constitution provides more extensive restrictions on the government than the federal Constitution. Both require a judge to issue a warrant before police may infringe on areas where citizens have a legitimate expectation of privacy. Numerous exceptions to the requirement of a warrant have been recognized by the courts.

When an officer violates the requirements of the constitutional protections, and yet evidence of a crime is found, that evidence is generally excluded from the criminal proceeding. This exclusionary rule is meant to deter unreasonable searches and seizures and to preserve the dignity of the judiciary. Violations of constitutional protections often are the result of incorrect warrants and officers overstepping their bounds.

An officer's conduct may violate constitutional protections, even though the officer acted in good faith that he or she was acting according to law. It is felt that exclusion of evidence is an improper result when the officer acts in good faith on a warrant because it often means an apparently guilty person faces no criminal penalty. Federal courts have adopted a good faith exception to the exclusionary rule when the officer is acting on a warrant which is later found to be defective.

**Summary of Bill:** Courts are directed they should not suppress evidence in a civil or criminal proceeding if it was gained in good faith or via a technical violation of constitutional protections. Good faith is defined. It includes acting on an apparently valid warrant or law. It also includes a search resulting from an arrest which the officer reasonably believed would be valid. Other terms are defined.

Legislative findings are set out. Detailed procedures for a motion to suppress evidence and for deciding the motion are set out. Grounds for a motion to suppress are limited to searches and seizures made without lawful authority, made with improper warrants, or otherwise in violation of the federal Constitution.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.