

## 1 HOUSE BILL NO. 110

2 INTRODUCED BY D. TENENBAUM

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO OBSTRUCTING A PEACE  
5 OFFICER OR PUBLIC SERVANT; CLARIFYING THAT FAILURE TO PROVIDE A PEACE OFFICER WITH  
6 CERTAIN INFORMATION IS NOT GROUNDS FOR ARREST OR PROSECUTION FOR OBSTRUCTING A  
7 PEACE OFFICER; AND AMENDING SECTIONS 45-7-302 AND 46-5-401, MCA."

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

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11 **Section 1.** Section 45-7-302, MCA, is amended to read:

12 **"45-7-302. Obstructing peace officer or other public servant.** (1) A-Except as provided in  
13 subsection (3), a person commits the offense of obstructing a peace officer or public servant if the person  
14 knowingly obstructs, impairs, or hinders the enforcement of the criminal law, the preservation of the peace, or  
15 the performance of a governmental function, including service of process.

16 (2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal  
17 manner, provided that the peace officer was acting under the peace officer's official authority.

18 (3) A person's failure to respond to requests made in accordance with 46-5-401(2)(a), absent other  
19 circumstances, is not grounds for an arrest or prosecution under this section.

20 ~~(3)~~(4) A person convicted of the offense of obstructing a peace officer or other public servant,  
21 including a person serving process, shall be fined not to exceed \$500 or be imprisoned in the county jail for a  
22 term not to exceed 6 months, or both."

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24 **Section 2.** Section 46-5-401, MCA, is amended to read:

25 **"46-5-401. Investigative stop and frisk.** (1) In order to obtain or verify an account of the person's  
26 presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or  
27 vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of  
28 the vehicle has committed, is committing, or is about to commit an offense. If the stop is for a violation under

1 Title 61, unless emergency circumstances exist or the officer has reasonable cause to fear for the officer's own  
2 safety or for the public's safety, the officer shall as promptly as possible inform the person of the reason for the  
3 stop.

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

5 (a) request the person's name and present address and an explanation of the person's actions ~~and;~~

6 (b) if the person is the driver of a vehicle, demand the person's driver's license and the vehicle's

7 registration and proof of insurance; and

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

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

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