

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 3
PROPOSED COMMITTEE SUBSTITUTE H3-PCS30072-RK-3

Short Title: Exclusionary Rule/Good Faith Exception.

(Public)

Sponsors:

Referred to:

January 27, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE ADOPTION OF THE GOOD FAITH EXCEPTION TO
3 THE EXCLUSIONARY RULE INTO STATE LAW.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-974 reads as rewritten:

6 "**§ 15A-974. Exclusion or suppression of unlawfully obtained evidence.**

7 (a) Upon timely motion, evidence must be suppressed if:

- 8 (1) Its exclusion is required by the Constitution of the United States or the
9 Constitution of the State of North Carolina; or
10 (2) It is obtained as a result of a substantial violation of the provisions of this
11 Chapter. In determining whether a violation is substantial, the court must
12 consider all the circumstances, including:
13 a. The importance of the particular interest violated;
14 b. The extent of the deviation from lawful conduct;
15 c. The extent to which the violation was willful;
16 d. The extent to which exclusion will tend to deter future violations of
17 this Chapter.

18 Evidence shall not be suppressed under this subdivision if the person
19 committing the violation of the provision or provisions under this Chapter
20 acted under the objectively reasonable, good faith belief that the actions
21 were lawful.

22 (b) The court, in making a determination whether or not evidence shall be suppressed
23 under this section, shall make findings of fact and conclusions of law which shall be included
24 in the record, pursuant to G.S. 15A-977(f)."

25 **SECTION 2.** The General Assembly respectfully requests that the North Carolina
26 Supreme Court reconsider, and overrule, its holding in State v. Carter that the good faith
27 exception to the exclusionary rule which exists under federal law does not apply under North
28 Carolina State law.

29 **SECTION 3.** This act is effective when it becomes law and applies to all hearings
30 or trials commencing on or after that date.

