

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2009

H

1

HOUSE BILL 4

Short Title: Good Faith Exception/Exclusionary Rule. (Public)

Sponsors: Representatives Stam; Blackwood, Cleveland, and Dollar.

Referred to: Rules, Calendar, and Operations of the House.

January 29, 2009

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 Upon timely motion, evidence must be suppressed ~~if only if its exclusion is required by the~~  
8 Constitution of the United States or the Constitution of the State of North Carolina.

9 (1) ~~Its exclusion is required by the Constitution of the United States or the~~  
10 ~~Constitution of the State of North Carolina; or~~

11 (2) ~~It is obtained as a result of a substantial violation of the provisions of this~~  
12 ~~Chapter. In determining whether a violation is substantial, the court must~~  
13 ~~consider all the circumstances, including:~~

14 a. ~~The importance of the particular interest violated;~~

15 b. ~~The extent of the deviation from lawful conduct;~~

16 e. ~~The extent to which the violation was willful;~~

17 d. ~~The extent to which exclusion will tend to deter future violations of~~  
18 ~~this Chapter."~~

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

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

