

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1439

Short Title: Exclusionary Rule/Good Faith Exception.

(Public)

Sponsors: Representatives Stam; Capps and Dollar.

Referred to: Judiciary III.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A GOOD FAITH EXCEPTION TO THE
3 EXCLUSIONARY RULE.

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~~ may be suppressed ~~if~~ only if its exclusion is
8 required by the United States Constitution or the North Carolina Constitution.
9 Notwithstanding the provisions of this section, evidence shall not be suppressed for any
10 constitutional violation if the person who committed the violation was acting in the
11 good faith belief that the violative conduct was legal.

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

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

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

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

19 c. ~~The extent to which the violation was willful;~~

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

22 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
23 all criminal trials pending or commencing on or after that date.