

HOUSE BILL NO. 379

INTRODUCED BY M. MENAHAN

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SEARCH WARRANT REQUIREMENTS; AMENDING SECTIONS 46-5-225 AND 46-5-227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 46-5-225, MCA, is amended to read:

"46-5-225. When warrant may be served. (1) The warrant may be served at any time of the day or night.

(2) ~~The~~ Except as provided in subsection (3), the warrant must be served within 10 days from the time of issuance. ~~Any~~ Except as provided in subsection (3), any warrant not served within 10 days is void and must be returned to the court or the judge issuing the warrant and identified as "not served".

(3) If the search warrant is for electronic monitoring and recording and the judge issuing the warrant determines that service of the warrant would be detrimental to an ongoing investigation by law enforcement, the judge may order the electronic monitoring and recording to proceed without service of the warrant. If criminal charges are filed as a result of the investigation, the warrant must be served when the charges are filed. In any case, the warrant must be served or returned as "not served" within 30 days from the time of issuance.

Section 2. Section 46-5-227, MCA, is amended to read:

"46-5-227. Service and return of search warrant. ~~Service~~ Except for a search warrant issued for electronic monitoring and recording in an ongoing investigation, service of a search warrant is made by exhibiting the original warrant or a duplicate original warrant at the place or to the person to be searched. The officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the search warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. Failure to leave a copy and receipt may not render the property seized inadmissible at trial."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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