

HB1201\_L.003

## HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
 Chairman of Committee  
 Committee on Judiciary.

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 Date

After consideration on the merits, the Committee recommends the following:

HB10-1201 be amended as follows:

1 Amend proposed committee amendment (HB1201\_L.002), page 1, strike  
 2 lines 7 through 13 and substitute:

3           "(b) A PEACE OFFICER MAY CONDUCT A CONSENSUAL SEARCH  
 4 ONLY AFTER ARTICULATING THE FOLLOWING FACTORS TO, AND  
 5 SUBSEQUENTLY RECEIVING CONSENT FROM, THE PERSON SUBJECT TO THE  
 6 SEARCH OR THE PERSON WITH THE AUTHORITY TO PROVIDE PERMISSION TO  
 7 SEARCH THE VEHICLE. THE FACTORS ARE:

8           (I) THE PERSON IS NOT IN CUSTODY;

9           (II) THE PERSON IS BEING ASKED TO VOLUNTARILY CONSENT TO A  
 10 SEARCH; AND

11           (III) THE PERSON HAS THE RIGHT TO REFUSE THE REQUEST TO  
 12 SEARCH."

13 Page 1 of the amendment, line 17, strike "CONSENT." and substitute  
 14 "CONSENT. OTHER EVIDENCE OF AFFIRMATION MAY BE ACCEPTABLE, IF  
 15 THE PERSON IS UNABLE TO PROVIDE WRITTEN OR VERBAL CONSENT.".

16 Page 1 of the amendment, strike lines 19 and 20.

17 Page 2 of the amendment, strike lines 1 through 11 and substitute:

18           "(3) IF A DEFENDANT MOVES TO SUPPRESS ANY EVIDENCE  
 19 OBTAINED IN THE COURSE OF THE SEARCH, THE COURT SHALL CONSIDER  
 20 THE FAILURE TO COMPLY WITH THIS FACTOR IN DETERMINING THE  
 21 VOLUNTARINESS OF THE CONSENT.".

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