Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title} This Act may be cited as the Hearsay in Public Hearings Act.

Section 2. {Admissibility of hearsay in preliminary proceedings} In connection with a criminal case, where the issue to be determined is whether probable cause exists to believe the defendant has committed the crime, hearsay evidence shall be admissible, and the finding of probable cause may be based upon hearsay evidence in whole or in part. No victim or witness shall be required to appear unless the court, in light of the evidence and arguments submitted by the parties, determines that the appearance of the victim or witness likely would lead to a finding that there is no probable cause, or unless other compelling circumstances exist.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}

ALEC’s Sourcebook of American State Legislation 1995

Center for Media and Democracy’s quick summary

This is a bill aimed at rolling-back constitutional protections in criminal justice, specifically common law rules aimed at deterring police misconduct (see also “Exclusionary Rule Act”). Hearsay is already admissible when a judge is deciding whether probable cause exists to issue an arrest warrant. This bill instead would apply at trial, in determining whether the original search, arrest, or entry was justified. This bill would allow the admission of hearsay evidence in determining whether probable cause originally existed, essentially denying the accused his or her constitutional rights to confront his or her accusers and cross-examine witnesses against him or her.

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?