

HOUSE BILL NO. 317

INTRODUCED BY K. PETERSON

BY REQUEST OF THE ATTORNEY GENERAL

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PEACE OFFICER SIGNING A CRIMINAL CHARGE BY COMPLAINT NEED NOT SIGN UNDER OATH; PROVIDING THAT IF THE COMPLAINT IS SIGNED BY A PERSON WITH KNOWLEDGE OF THE FACTS THE PERSON MUST SIGN UNDER OATH; ~~AND~~ AMENDING SECTION 46-11-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 46-11-401, MCA, is amended to read:

**"46-11-401. Form of charge.** (1) The charge must be in writing and in the name of the state or the appropriate county or municipality and must specify the court in which the charge is filed. The charge must be a plain, concise, and definite statement of the offense charged, including the name of the offense, whether the offense is a misdemeanor or felony, the name of the person charged, and the time and place of the offense as definitely as can be determined. The charge must state for each count the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.

(2) If the charge is by information or indictment, it must include endorsed on the information or indictment the names of the witnesses for the ~~state~~ prosecution, if known.

(3) If the charge is by complaint, it must be signed ~~on oath~~ by a sworn peace officer, under oath by a person having knowledge of the facts, or by the prosecutor.

(4) If the charge is by information, it must be signed by the prosecutor. If the charge is by indictment, it must be signed by the foreman of the grand jury.

(5) The court, on motion of the defendant, may strike surplusage from ~~the~~ an indictment or information.

(6) A charge may not be dismissed because of a formal defect that does not tend to prejudice a substantial right of the defendant."

