

HOUSE BILL NO. 246
INTRODUCED BY C. HARRIS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PEACE OFFICER MAKING AN ARREST TO GIVE THE ARRESTED PERSON THE MIRANDA WARNING; AND AMENDING SECTIONS 46-6-216 AND 46-6-312, MCA."

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

Section 1. Section 46-6-216, MCA, is amended to read:

"46-6-216. Manner of arrest with warrant. (1) When making an arrest pursuant to a warrant, a peace officer shall inform the person to be arrested of the officer's authority, the intention to arrest ~~that the~~ the person, the cause of the arrest, ~~and~~ the fact that a warrant has been issued for ~~that the~~ the person's arrest, that the person has the right to remain silent, that anything the person says can be used against the person in a court of law, that the person has the right to speak to an attorney and to have an attorney present during any questioning, and that if the person cannot afford an attorney, one will be provided for the person at no cost to the person, except:

(a) when the person flees or forcibly resists before the peace officer has an opportunity to inform the person; or

(b) when the giving of the information will imperil the arrest.

(2) The peace officer need not have possession of the warrant at the time of the arrest, but after the arrest, the warrant must be shown to the person arrested as soon as practicable if the person requests."

Section 2. Section 46-6-312, MCA, is amended to read:

"46-6-312. Manner of arrest without warrant. A peace officer making an arrest without a warrant shall inform the person to be arrested of the officer's authority, ~~of~~ the intention to arrest ~~that the~~ the person, ~~and of~~ the cause of the arrest, that the person has the right to remain silent, that anything the person says can be used against the person in a court of law, that the person has the right to speak to an attorney and to have an attorney present during any questioning, and that if the person cannot afford an attorney, one will be provided for the person at no cost to the person, except when the person to be arrested is actually engaged in the commission of or in an attempt to commit an offense or is pursued immediately after its commission, after an escape, or when the giving of the information will imperil the arrest."

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