

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1647

By: Martin

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 199, which relates to authority of arrest without a warrant; making language gender neutral; requiring certain waiver forms for certain circumstances; creating sample forms; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2001, Section 199, is amended to read as follows:

Section 199. When arresting a person without a warrant, the officer must inform ~~him~~ the person of ~~his~~ the officer's authority and the cause of the arrest, except when ~~he~~ the person is in actual commission of a public offense, or is pursued immediately after an escape.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 199a of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Every peace officer in this state when conducting an investigation and search by consent without a warrant shall have the person sign consent forms for waiver of any constitutional rights under the Fourth and Fifth Amendments of the United States Constitution. The consent forms shall be in a form as provided in this section or in a substantially similar form.

B. Miranda rights waiver form:

MIRANDA RIGHTS

4TH AMENDMENT RIGHTS WAIVER

Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court or other proceedings. You have the right to talk to a lawyer for advice before we ask you questions, and to have your lawyer with you during questioning. You have this right to the advice and presence of a lawyer even if you cannot afford to hire one. In such a case you have a right to have a court-appointed attorney present at the interrogation. If you wish to answer questions now without a lawyer present, you have the right to stop answering questions at any time. You also have the right to stop answering at any time until you talk to a lawyer.

You may waive the right to advice of counsel and your right to remain silent and answer questions or make a statement without consulting a lawyer if you so desire.

WAIVER

I ___ have read ___ had read to me the statement of my rights shown above. I understand what my rights are and I elect to waive them. I am willing to answer questions and make a statement. I do not want a lawyer. I understand and know what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me. I was taken into custody at (time) _____ A.M. _____ P.M., on (date) _____, and have signed this document at (time) _____ A.M. _____ P.M., on (date) _____.

Signature of person waiving rights

WITNESSES:

C. Consent to search without search warrant form:

VOLUNTARY CONSENT TO SEARCH

5TH AMENDMENT RIGHTS WAIVER

DATE: _____

LOCATION: _____

I, _____, having been informed of my constitutional right not to have a search made of the premises hereinafter described without a search warrant and of my right to refuse to consent to such a search, hereby authorize

_____ of the _____ (Law Enforcement Agency Name) to conduct a complete search of my _____ premises, _____ curtilage, _____ vehicles, located at _____.

The above-named officers are authorized by me to take from my premises any letters, papers, materials, or other property which they may desire, after giving me a receipt for the same. I further state that I am the proper person to give the consent and authorization referred to herein.

This written permission is being given by me to the above-named peace officers voluntarily and without threats or promises of any kind.

Signature

WITNESSES:

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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