

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0704.01 Richard Sweetman x4333

HOUSE BILL 16-1104

HOUSE SPONSORSHIP

Roupe,

SENATE SPONSORSHIP

Cooke,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ISSUANCE OF A SUMMONS IN LIEU OF A WARRANT
102 FOR CERTAIN NON-VIOLENT OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, except in class 1, class 2, and class 3 felonies; level 1 and level 2 drug felonies; and unclassified felonies punishable by a maximum penalty of more than 10 years, if an indictment is returned or an information, felony complaint, or complaint has been filed prior to the arrest of the person named as defendant therein, the court may issue a summons commanding the appearance of the defendant in lieu of a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

warrant for his or her arrest unless a law enforcement officer presents in writing a basis to believe that there is a significant risk of flight or that a victim or public safety may be compromised.

The bill amends this provision to state that, except for class 1, class 2, class 3, and class 4 felonies; certain crimes relating to victim's rights laws; and in unclassified felonies punishable by a maximum penalty of more than 10 years, a law enforcement officer, in his or her discretion, may issue a summons commanding the appearance of the defendant in lieu of a warrant for his or her arrest based on probable cause in the following circumstances:

- ! There is a reasonable likelihood that the defendant will appear;
- ! The defendant has had no felony arrests during the preceding 5 years; and
- ! There is no allegation that the defendant used a deadly weapon.

Not later than 10 days after the law enforcement officer issues the summons, he or she shall deliver a copy to the court and to the office of the district attorney where jurisdiction lies.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 16-5-206, **amend** (1),
3 (2), and (3) as follows:

4 **16-5-206. Summons in lieu of warrant.** (1) Except ~~in~~ FOR class
5 1, class 2, ~~and~~ class 3, AND CLASS 4 felonies; ~~level 1 and level 2 drug~~
6 ~~felonies~~, CRIMES DESCRIBED IN SECTION 24-4.1-302 (1), C.R.S.; and in
7 unclassified felonies punishable by a maximum penalty of more than ten
8 years, ~~if an indictment is returned or an information, felony complaint, or~~
9 ~~complaint has been filed prior to the arrest of the person named as~~
10 ~~defendant therein, the court has power to~~ A LAW ENFORCEMENT OFFICER,
11 IN HIS OR HER DISCRETION, MAY issue a summons commanding the
12 appearance of the defendant in lieu of a warrant for his or her arrest
13 ~~unless a law enforcement officer presents in writing a basis to believe~~
14 ~~there is a significant risk of flight or that the victim or public safety may~~

1 ~~be compromised.~~ BASED ON PROBABLE CAUSE IN THE FOLLOWING
2 CIRCUMSTANCES:

3 (a) THERE IS A REASONABLE LIKELIHOOD THAT THE DEFENDANT
4 WILL APPEAR;

5 (b) THE DEFENDANT HAS HAD NO FELONY ARRESTS DURING THE
6 PRECEDING FIVE YEARS; AND

7 (c) THERE IS NO ALLEGATION THAT THE DEFENDANT USED A
8 DEADLY WEAPON, AS DEFINED IN SECTION 18-1-901 (3) (e), C.R.S.

9 (2) If a summons is issued: ~~in lieu of a warrant under subsection~~
10 ~~(1) of this section:~~

11 (a) It ~~shall~~ MUST be in writing;

12 (b) It ~~shall~~ MUST state the name of the person summoned and his
13 address;

14 (c) It ~~shall~~ MUST identify the nature of the offense;

15 (d) It ~~shall~~ MUST state the date when issued and the county where
16 issued;

17 (e) It ~~shall~~ MUST be signed by the ~~judge or clerk of the court with~~
18 ~~the title of his office.~~ LAW ENFORCEMENT OFFICER ISSUING THE SUMMONS;

19 (f) It ~~shall~~ MUST command the person to appear before the court
20 at a certain time and place; AND

21 (g) NOT LATER THAN TEN DAYS AFTER THE LAW ENFORCEMENT
22 OFFICER ISSUES THE SUMMONS, HE OR SHE SHALL DELIVER A COPY TO THE
23 COURT AND TO THE OFFICE OF THE DISTRICT ATTORNEY WHERE
24 JURISDICTION LIES.

25 (3) ~~A summons issued under this section may be served in the~~
26 ~~same manner as the summons in a civil action or by mailing it to the~~
27 ~~defendant's last-known address by certified mail with return receipt~~

1 ~~requested not less than fourteen days prior to the time the defendant is~~
2 ~~requested to appear. Service by mail is complete upon the return of the~~
3 ~~receipt signed by the defendant~~ WHEN THE PROCEDURE DESCRIBED IN THIS
4 SECTION IS USED, AN INFORMATION OR COMPLAINT MAY BE FILED IN OPEN
5 COURT ON THE DATE SPECIFIED IN THE SUMMONS.

6 **SECTION 2. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.