

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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** (2)
3 introductory portion and (2) (e); and **add** (1.5) as follows:

4 **16-5-206. Summons in lieu of warrant.** (1.5) (a) EXCEPT IN
5 CLASS 1, CLASS 2, CLASS 3, AND CLASS 4 FELONIES; IN CRIMES DESCRIBED
6 IN SECTION 24-4.1-302 (1), C.R.S.; AND IN UNCLASSIFIED FELONIES
7 PUNISHABLE BY A MAXIMUM PENALTY OF MORE THAN TEN YEARS, A LAW
8 ENFORCEMENT OFFICER MAY ISSUE A SUMMONS COMMANDING THE
9 APPEARANCE OF THE DEFENDANT IN LIEU OF A WARRANT FOR HIS OR HER
10 ARREST BASED ON PROBABLE CAUSE IF:

11 (I) THE LOCAL DISTRICT ATTORNEY CONSENTS TO SUCH
12 PROCEDURE AND HAS DEVELOPED AND APPROVED CRITERIA FOR THE
13 ISSUANCE OF SUCH A SUMMONS PURSUANT TO THIS SUBSECTION (1.5);

14 (II) THERE IS A REASONABLE LIKELIHOOD THAT THE DEFENDANT

1 WILL APPEAR;

2 (III) THE DEFENDANT HAS HAD NO FELONY ARRESTS DURING THE
3 PRECEDING FIVE YEARS;

4 (IV) THERE IS NO ALLEGATION THAT THE DEFENDANT USED A
5 DEADLY WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e), C.R.S., IN THE
6 COMMISSION OF THE CRIME; AND

7 (V) THERE ARE NO OUTSTANDING WARRANTS FOR THE
8 DEFENDANT'S ARREST.

9 (b) NO LATER THAN TEN DAYS AFTER A LAW ENFORCEMENT
10 OFFICER ISSUES A SUMMONS PURSUANT TO THIS SUBSECTION (1.5), HE OR
11 SHE SHALL DELIVER A COPY TO THE COURT AND TO THE OFFICE OF THE
12 DISTRICT ATTORNEY WHERE JURISDICTION LIES.

13 (c) WHEN THE PROCEDURE DESCRIBED IN THIS SUBSECTION (1.5)
14 IS USED, AN INFORMATION OR COMPLAINT MAY BE FILED IN OPEN COURT
15 ON THE DATE SPECIFIED IN THE SUMMONS.

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

18 (e) It shall be signed by the judge or clerk of the court with the
19 title of his office OR BY THE LAW ENFORCEMENT OFFICER WHO ISSUED THE
20 SUMMONS. ■■■ ■■■

21 **SECTION 2. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2016 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.