

# HOUSE BILL No. 1085

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-38-9.5-6; IC 35-33-4-1.

**Synopsis:** Summons to appear. Requires a local or regional advisory council to determine and compile a list of which Class B and Class C misdemeanor offenses would qualify as an offense for which a local law enforcement officer may issue a summons and promise to appear in lieu of arresting a person. Provides that the summons must: (1) include only a misdemeanor offense approved by a local or regional advisory council located in the officer's jurisdiction; and (2) set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time. Provides that, a law enforcement officer may not issue a summons if the person has committed a violent misdemeanor offense that involves a victim or a weapon or if the person has committed an offense involving the impaired operation of a motor vehicle. Provides that if the person summoned fails without good cause to appear as commanded by the summons and the court has determined that there is probable cause to believe that a crime (other than a failure to appear) has been committed, the court shall issue a warrant of arrest.

**Effective:** July 1, 2022.

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January 4, 2022, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## HOUSE BILL No. 1085

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 33-38-9.5-6, AS ADDED BY P.L.30-2021,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2022]: Sec. 6. A local or regional advisory council shall do the  
4 following:  
5 (1) Review, evaluate, and make recommendations for local:  
6 (A) criminal justice systems and corrections programs;  
7 (B) pretrial services;  
8 (C) behavioral health treatment and recovery services;  
9 (D) community corrections; and  
10 (E) county jail and probation services.  
11 (2) Promote state and local collaboration between the advisory  
12 council and the local or regional advisory council.  
13 (3) Review and evaluate local jail overcrowding and recommend  
14 a range of possible overcrowding solutions.  
15 (4) Compile reports regarding local criminal sentencing as  
16 directed by the advisory council.  
17 (5) Establish committees to inform the work of the local or



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- regional advisory council.
- (6) Communicate with the advisory council in order to establish and implement best practices and to ensure consistent collection and reporting of data as requested by the advisory council.
- (7) Determine the Class B and Class C misdemeanor offenses for which a local law enforcement officer may issue a summons and promise to appear in lieu of arresting a person as described in IC 35-33-4-1 and compile a list of the offenses described in this subdivision for a local law enforcement officer to use as a reference. An offense may not include:**
  - (A) a violent misdemeanor offense that involves a victim or a weapon; or**
  - (B) an offense involving the impaired operation of a motor vehicle.**
- ~~(7)~~ **(8)** Prepare and submit an annual report to the advisory council not later than March 31 of each year.

SECTION 2. IC 35-33-4-1, AS AMENDED BY P.L.2-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) When an indictment or information is filed against a person charging ~~him~~ **the person** with a misdemeanor, the court may, in lieu of issuing an arrest warrant under IC 35-33-2, issue a summons. The summons must set forth substantially the nature of the offense, and command the accused person to appear before the court at a stated time and place. However, the date set by the court must be at least seven (7) days after the issuance of the summons. The summons may be served in the same manner as the summons in a civil action.

(b) If the person summoned fails, without good cause, to appear as commanded by the summons and the court has determined that there is probable cause to believe that a crime (other than failure to appear) has been committed, the court shall issue a warrant of arrest.

(c) If after issuing a summons the court:

- (1) is satisfied that the person will not appear as commanded by the summons; and
- (2) has determined that there is probable cause that a crime (other than failure to appear) has been committed;

it may at once issue a warrant of arrest.

(d) The summons may be in substantially the following form:

STATE OF INDIANA     )     IN THE \_\_\_\_\_ COURT  
                                   )     )  
                               vs.     )     OF \_\_\_\_\_ COUNTY  
                                   )     )



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\_\_\_\_\_) )  
Defendant ) CAUSE NO. \_\_\_\_\_

SUMMONS

THE STATE OF INDIANA TO  
THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ .m. on (day) \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_, with respect to an (information or indictment) for \_\_\_\_\_.

If you do not so appear, an application may be made for the Issuance of a Warrant for your arrest.

ISSUED: \_\_\_\_\_, 20\_\_\_\_  
in

(City or County) \_\_\_\_\_, \_\_\_\_\_

BY THE CLERK OF SAID COURT:

\_\_\_\_\_  
CLERK

(e) When any law enforcement officer in the state serves a summons on a person, **he the officer** shall file a return of service with the court issuing the summons. The return shall be in substantially the following form:

RETURN OF SERVICE

I hereby certify that I served this summons upon the above named defendant by delivering a copy of it and of the Information to the defendant personally or by certified mail return receipt requested, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_.

DATED: \_\_\_\_\_, 20\_\_\_\_.  
(Signature) \_\_\_\_\_

\_\_\_\_\_  
LAW ENFORCEMENT AGENCY

(f) In lieu of arresting a person who has allegedly committed a misdemeanor (other than a traffic misdemeanor) in **his the officer's** presence, a law enforcement officer may issue a summons and promise to appear. The summons must:

- (1) include only a Class B or Class C misdemeanor offense approved by a local or regional advisory council, as described in IC 33-38-9.5-6, located in the officer's jurisdiction; and**
- (2) set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time.**

**However, a law enforcement officer may not issue a summons if the person has committed a violent misdemeanor offense that involves a victim or a weapon or if the person has committed an offense**



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**involving the impaired operation of a motor vehicle.**

(g) The summons and promise to appear may be in substantially the following form:

STATE OF INDIANA ) IN THE \_\_\_\_\_ COURT  
 )  
 vs. ) OF \_\_\_\_\_ COUNTY  
 )  
 )  
 )  
 Defendant )

**SUMMONS AND PROMISE TO APPEAR**

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at \_\_\_\_\_  
(Address)  
at \_\_\_\_\_ .m. on \_\_\_\_\_,  
Month Day  
20\_\_\_, in respect to the charge of \_\_\_\_\_.

If you do not so appear, an application may be made for the issuance of a warrant for your arrest.

ISSUED: \_\_\_\_\_, 20 \_\_\_\_,  
in  
\_\_\_\_\_, Indiana  
(City or County)  
BY THE UNDERSIGNED LAW  
ENFORCEMENT OFFICER:  
\_\_\_\_\_  
Officer's Signature  
I.D. No. \_\_\_\_\_  
Div. Dist. \_\_\_\_\_  
Police Agency \_\_\_\_\_

**COURT APPEARANCE**

I promise to appear in court at the time and place designated above, or be subject to arrest.

Signature \_\_\_\_\_

YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.

(h) When any law enforcement officer issues a summons and promise to appear, ~~he~~ **the officer** shall:

- (1) promptly file the summons and promise to appear and the certificate of service with the court designated in the summons and promise to appear; and
- (2) provide the prosecuting attorney with a copy thereof.

**(i) If the person summoned, as described in subsection (f), fails**



1     **without good cause to appear as commanded by the summons and**  
2     **the court has determined that there is probable cause to believe**  
3     **that a crime (other than a failure to appear) has been committed,**  
4     **the court shall issue a warrant of arrest.**

