

Regular Session, 2011

HOUSE BILL NO. 272

BY REPRESENTATIVES BISHOP, ARNOLD, AUSTIN BADON, BROSSETT,
HENDERSON, LEGER, AND STIAES AND SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 211, 211.1, and 211.2 and to
3 repeal Code of Criminal Procedure Articles 211.3, 211.4, 211.5, and 211.6, relative
4 to arrest; to provide relative to the issuance of a written summons in lieu of arrest for
5 certain crimes; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 211, 211.1, and 211.2 are hereby
8 amended and reenacted to read as follows:

9 Art. 211. Summons by officer instead of arrest and booking

10 A.(1) When it is lawful for a peace officer to arrest a person without a
11 warrant for a misdemeanor, or for a felony charge of theft or illegal possession of
12 stolen things when the thing of value is ~~three~~ five hundred dollars or more but less
13 than ~~five hundred~~ one thousand dollars, he ~~may give~~ may issue a written summons
14 instead of making an arrest if all of the following exist:

15 ~~(1)~~(a) The officer has reasonable grounds to believe that the person will
16 appear upon summons;

17 ~~(2)~~(b) The officer has no reasonable grounds to believe that the person will
18 cause injury to himself or another or damage to property or will continue in the same
19 or a similar offense unless immediately arrested and booked;

1 ~~(3)~~(c) There is no necessity to book the person to comply with routine
 2 identification procedures.

3 ~~(4)~~(d) If an officer issues a summons for a felony described in this
 4 Paragraph, the officer issuing the summons ~~shall ascertain~~ has ascertained that the
 5 person has no prior criminal convictions.

6 B.(2) In any case in which a summons has been issued, a warrant of arrest
 7 may later be issued in its place.

8 B.(1) When a peace officer has reasonable grounds to believe a person has
 9 committed the offense of issuing worthless checks as defined by R.S. 14:71, he may
 10 issue a written summons instead of making an arrest if all of the following exist:

11 (a) He has reasonable grounds to believe that the person will appear upon
 12 summons.

13 (b) He has no reasonable grounds to believe that the person will cause injury
 14 to himself or another or damage to property unless immediately arrested.

15 (2) In any case in which a summons has been issued, a warrant of arrest may
 16 later be issued in its place.

17 C.(1) When a peace officer has reasonable grounds to believe a person has
 18 committed an offense of driving without a valid driver's license in his possession, the
 19 officer shall make every practical attempt based on identifying information provided
 20 by the person to confirm that the person has been issued a valid driver's license. If
 21 the officer determines that the person has been issued a valid driver's license which
 22 is not under revocation, suspension, or cancellation, but that the license is not in his
 23 possession, the officer shall issue a written summons to the offender in accordance
 24 with law, commanding him to appear and answer the charge.

25 (2) The provisions of this Article shall in no way limit a peace officer from
 26 issuing a citation for operating a motor vehicle without physical possession of a valid
 27 driver's license.

1 C. The provisions of this Article shall not apply to any of the following
2 circumstances:

3 (1) When the information available to the officer indicates that the warrant
4 or attachment was issued for any of the following offenses:

5 (a) Any offense involving the operation of a vehicle while intoxicated.

6 (b) Any offense involving the use or possession of a weapon.

7 (c) Any offense involving the use of force or violence, except the crime of
8 simple battery unless the warrant or attachment indicates that the battery was
9 prosecuted as a domestic abuse battery as defined in R.S. 14:35.3.

10 (d) Any offense or bench warrant issued involving the failure to pay a legal
11 child support obligation.

12 (2) When the offender has an outstanding felony warrant.

13 D. In addition to any other legal remedies provided by law, any officer of the
14 court may seek the collection of past due court costs, fines, or fees associated with
15 the judicial system from state or federal tax refunds by sending notice to the federal
16 secretary of the treasury or to the state treasurer that a person owes past due court
17 costs, fines, or fees associated with the judicial system. The officer of the court shall
18 comply with all rules and regulations imposed by the federal secretary of the treasury
19 or the state treasurer including payment of any fee assessed by the secretary of the
20 treasury or the state treasurer for the cost of applying the offset procedure.

21 ~~Art. 211.2. Issuing worthless checks; summons by peace officer instead of arrest~~
22 Contempt; attachment of arrest for failing to appear; summons by peace
23 officer instead of arrest

24 ~~A. When a peace officer has reasonable grounds to believe a person has~~
25 ~~committed the offense of issuing worthless checks as defined by R.S. 14:71, he may~~
26 ~~give a written summons instead of making an arrest if:~~

27 ~~(1) He has reasonable grounds to believe that the person will appear upon~~
28 ~~summons, and~~

29 ~~(2) He has no reasonable grounds to believe that the person will cause injury~~
30 ~~to himself or another or damage to property unless immediately arrested.~~

1 B. ~~In any case in which a summons has been issued, a warrant of arrest may~~
2 ~~later be issued in its place.~~

3 A. Notwithstanding any other provision of law to the contrary, in Orleans
4 Parish, when a peace officer serving a subpoena, summons, or notice to appear in
5 court for a misdemeanor traffic offense or a nonviolent offense, except for
6 possession of illegal weapons and driving under the influence, has reasonable
7 grounds to believe that the conduct of an offender constitutes a direct contempt of
8 court because the offender contumaciously fails to comply with such subpoena,
9 summons, or notice to appear in court, and proof of service of the subpoena,
10 summons, or notice appears of record, then either the court may order the offender
11 attached and brought to court or the peace officer may issue a written citation or
12 summons to the offender commanding him to appear and answer the direct contempt
13 charge.

14 B. If an order of attachment is issued, it may be executed in any parish by
15 the sheriff of the parish from which the attachment was issued, or by the sheriff of
16 the parish where the offender is found.

17 Section 2. Code of Criminal Procedure Articles 211.3, 211.4, 211.5, and 211.6 are
18 hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____