

Regular Session, 2011

ACT No. 403

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.

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

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

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

~~(2)~~(b) The officer has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property or will continue in the same 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 Art. 211.1. ~~Criminal trespass; summons by officer instead of arrest~~ Persons with
 2 outstanding warrant; arrest or release of person

3 ~~When a peace officer has reasonable grounds to believe a person has~~
 4 ~~committed criminal trespass as defined by Section 63 of Title 14 of the Louisiana~~
 5 ~~Revised Statutes of 1950, he shall give a written summons instead of making an~~
 6 ~~arrest if:~~

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

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

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

13 A. Notwithstanding the provisions of Article 203, or any other provision of
 14 law to the contrary, when a peace officer stops a person who has an outstanding
 15 warrant or an attachment for failing to comply with a summons to appear in court on
 16 a misdemeanor offense, including a traffic offense, the officer in his discretion, may
 17 issue a summons based on such warrant or attachment in lieu of making an arrest if
 18 the warrant or attachment is issued in the jurisdiction where the detention occurs, or
 19 release the person or arrest the person pursuant to the provisions of Article 207, if
 20 the warrant or attachment was issued outside the jurisdiction where the detention
 21 occurs.

22 B. Any summons issued pursuant to this Article shall be in writing and shall
 23 be issued and signed by a magistrate or a peace officer in the name of the state. It
 24 shall state the offense charged and the name of the alleged offender, and shall
 25 command him to appear before the court designated in the summons at the time and
 26 place stated in the summons and to show proof that the obligation of the outstanding
 27 warrant has been fulfilled. A duplicate original of the summons shall be forwarded
 28 by the peace officer or a designee of the officer's employing agency to the court that
 29 issued the initial warrant within seventy-two hours, excluding weekends, of the
 30 issuance of the summons.

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: _____