HLS 22RS-288 ORIGINAL

2022 Regular Session

HOUSE BILL NO. 492

1

BY REPRESENTATIVE FONTENOT

CRIMINAL/PROCEDURE: Provides relative to the issuance of a summons by a peace officer

AN ACT

2	To enact Code of Criminal Procedure Article 211(A)(1)(e) and (f), (E), and (F), relative to
3	arrest; to provide relative to the issuance of a summons by a peace officer instead of
4	arrest and booking; to require an officer to make an arrest under certain conditions;
5	to provide an exception to the issuance of a summons by an officer instead of arrest
6	and booking for certain domestic violence offenses; to provide relative to causes of
7	action; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Code of Criminal Procedure Article 211(A)(1)(e) and (f), (E), and (F) are
10	hereby enacted to read as follows:
11	Art. 211. Summons by officer instead of arrest and booking
12	A.(1) When it is lawful for a peace officer to arrest a person without a
13	warrant for a misdemeanor, or for a felony charge of theft or illegal possession of
14	stolen things when the thing of value is five hundred dollars or more but less than
15	one thousand dollars, he shall issue a written summons instead of making an arrest
16	unless one or more of the following conditions exist:
17	* * *
18	(e) The officer has reasonable grounds to believe a person committed a
19	misdemeanor offense and a felony offense.

1	(f) The officer stops a person for a misdemeanor offense and ascertains that
2	the person has an outstanding warrant for a felony offense.
3	* * *
4	E. The provisions of this Article shall not apply when the officer has
5	reasonable grounds to believe a person committed the offense of domestic abuse
6	battery, violation of protective orders, stalking, or any other offense involving the
7	use or threatened use of force or a deadly weapon upon the defendant's family
8	members, as defined in R.S. 46:2132, upon the defendant's household member, as
9	defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined in R.S.
10	<u>46:2151.</u>
11	F. Notwithstanding any other provision of law to the contrary, no person
12	shall have a cause of action against any sheriff, his deputies, or employees for the
13	detention of a person in a parish or local jail when a written summons is otherwise
14	authorized pursuant to the provisions of this Article.

## **DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 492 Original

2022 Regular Session

Fontenot

**Abstract:** Provides relative to the issuance of a summons by a peace officer instead of arresting a person.

<u>Present law</u> requires a peace officer to issue a written summons instead of arresting 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 \$500 or more but less than \$1,000, unless one or more of the following conditions exist:

- (1) The officer has reasonable grounds to believe that the person will not appear upon summons.
- (2) The officer has 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 similar offense unless immediately arrested and booked.
- (3) There is a necessity to book the person to comply with routine identification procedures.
- (4) The officer has ascertained that the person has two or more prior felony convictions.

<u>Proposed law</u> retains <u>present law</u> and further provides that a written summons shall not be issued for the following conditions:

- (1) The officer has reasonable grounds to believe a person committed a misdemeanor offense and a felony offense.
- (2) The officer stops a person for a misdemeanor offense and ascertains that the person has an outstanding warrant for a felony offense.

<u>Proposed law</u> provides that a peace officer shall not issue a written summons when the officer has reasonable grounds to believe a person committed certain domestic violence crimes.

<u>Proposed law</u> further provides that no person shall have a cause of action against any sheriff, his deputies, or employees for the detention of a person in a parish or local jail when a written summons is otherwise authorized.

(Adds C.Cr.P. Art. 211(A)(1)(e) and (f), (E), and (F))