

RÉSUMÉ DIGEST

HB 492

2022 Regular Session

Fontenot

Present law 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.

Proposed law would have further provided 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 arising from the same offense.
- (2) The officer stops a person for a misdemeanor offense and ascertains that the person has an outstanding warrant for a felony offense.

Proposed law would have provided 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.

(Proposed to add C.Cr.P. Art. 211(A)(1)(e) and (f) and (E))

VETO MESSAGE:

"This bill, in part, provides for an exception to La. C. Cr. P. art. 211 in that an officer may make an arrest for a misdemeanor offense, instead of issuing a summons, if the officer believes the person also committed a felony or has an outstanding felony warrant. I would have signed the bill if it had been limited to this change. However, the bill also contains a provision that provides an immunity, to sheriffs' offices only, for arresting an individual when a written summons was authorized. The effect of this change provides for clear inequitable treatment for law enforcement agencies. If a deputy sheriff, a city police officer, and a state trooper all encountered someone who committed the same offense that required a summons to be issued rather than an arrest, only the deputy sheriff would be immune from suit for making an arrest. While I am generally opposed to providing immunities in law that deny accountability for wrongful conduct, I certainly cannot support a change in law that provides this protection for some law enforcement officers and not others."