

Regular Session, 2014

HOUSE BILL NO. 1108

BY REPRESENTATIVE TERRY LANDRY

CRIME: Provides with respect to the issuance of arrest warrants by magistrates

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 213 and to enact Code of
3 Criminal Procedure Article 202(F), relative to warrants of arrest; to prohibit
4 magistrates from making arrests with or without a warrant for school employees for
5 certain acts committed during the course and scope of employment; to authorize the
6 issuance of a summons in lieu of a warrant for arrest; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 213 is hereby amended and reenacted
10 and Code of Criminal Procedure Article 202(F) is hereby enacted to read as follows:

11 Art. 202. Warrant of arrest; issuance

12 * * *

13 F. Notwithstanding any other provisions of law to the contrary, no magistrate
14 shall have the authority to issue a warrant of arrest for a school employee, as defined
15 by R.S. 17:16(G), for any misdemeanor act allegedly committed during the course
16 and scope of the school employee's employment. In all such instances, a summons
17 shall be issued to the school employee pursuant to Code of Criminal Procedure
18 Article 209.

19 * * *

1 Art. 213. Arrest by officer without warrant; when lawful

2 A. A peace officer may, without a warrant, arrest a person when any of the
3 following occur:

4 (1) The person to be arrested has committed an offense in his presence; and
5 if the arrest is for a misdemeanor, it must be made immediately or on close pursuit;

6 (2) The person to be arrested has committed a felony, although not in the
7 presence of the officer;

8 (3) The peace officer has reasonable cause to believe that the person to be
9 arrested has committed an offense, although not in the presence of the officer; ~~or.~~

10 (4) The peace officer has received positive and reliable information that
11 another peace officer from this state holds an arrest warrant, or a peace officer of
12 another state or the United States holds an arrest warrant for a felony offense.

13 ~~B. A peace officer in close pursuit of a person to be arrested, who is making~~
14 ~~an arrest pursuant to this Article, A peace officer making an arrest pursuant to this~~
15 Article who is in close pursuit of the person to be arrested may enter another
16 jurisdiction in this state and make the arrest.

17 C. Notwithstanding any other provisions of law to the contrary, no
18 magistrate shall have the authority to arrest a school employee, as defined by R.S.
19 17:16(G), for any misdemeanor act allegedly committed during the course and scope
20 of the school employee's employment. In all such instances, a summons shall be
21 issued to the school employee pursuant to Code of Criminal Procedure Article 209.

22 Section 2. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

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)]

Terry Landry

HB No. 1108

Abstract: Prohibits a magistrate from making an arrest without a warrant or issuing a warrant for arrest for a school employee for certain acts committed during the course and scope of his employment.

Proposed law prohibits a magistrate from issuing a warrant for arrest for any school employee for a misdemeanor act committed during the course and scope of employment and further authorizes the issuance of a summons.

Present law authorizes arrest without a warrant by a peace officer when the person to be arrested has committed certain offenses in his presence, certain offenses not in the presence of the officer, or the peace officer has received positive and reliable information that another peace officer from this state or another state within the U.S. holds an arrest warrant.

Present law authorizes the peace officer to enter another jurisdiction to make an arrest without a warrant when in close pursuit.

Proposed law retains present law and prohibits a magistrate from making an arrest without a warrant for a school employee that commits a misdemeanor act during the course and scope of his employment and further authorizes the issuance of a summons.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 213; Adds C.Cr.P. Art. 202(F))