

2022 Regular Session

HOUSE BILL NO. 492

BY REPRESENTATIVE FONTENOT

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

1 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 arising from the same incident.

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, battery of a dating partner, violation of protective orders, stalking, or any  
7           other offense involving the use or threatened use of force or a deadly weapon upon  
8           the defendant's family members, as defined in R.S. 46:2132, upon the defendant's  
9           household member, as defined in R.S. 14:35.3, or upon the defendant's dating  
10          partner, as defined in R.S. 46:2151.

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.

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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)]

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HB 492 Engrossed   2022 Regular Session   Fontenot

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

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 retains present law 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 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 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, including but not limited to domestic abuse battery, battery of a dating partner, and stalking.

Proposed law 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))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Relative to the proposed law exception for when a written summons shall not be issued, provide that the misdemeanor offense and felony offense arise from the same offense.
2. Add the present law crime of battery of a dating partner to the proposed law exception to the issuance of a summons by an officer.