

HOUSE BILL No. 1023

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-4-1.

Synopsis: Summons to appear for a misdemeanor. Provides that in lieu of arresting a person who has allegedly committed a misdemeanor (other than a traffic misdemeanor) in a law enforcement officer's presence, the officer shall issue a summons and promise to appear unless the person: (1) has committed a violent misdemeanor offense that involves a victim or a weapon or involves an offense related to the impaired operation of a motor vehicle; (2) poses a safety risk to the person, the officer, or the public; or (3) has falsely identified the person to the officer. Provides, however, that the law enforcement officer is not required to issue a summons if the person: (1) is subject to arrest for another offense; (2) has violated the terms of supervised release; or (3) has an outstanding warrant. Requires that the summons set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time not later than two business days after issuance of the summons.

Effective: July 1, 2021.

Pryor

January 4, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1023



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-33-4-1, AS AMENDED BY P.L.2-2005,
2 SECTION 116, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) When an indictment or
4 information is filed against a person charging **him the person** with a
5 misdemeanor, the court may, in lieu of issuing an arrest warrant under
6 IC 35-33-2, issue a summons. The summons must set forth
7 substantially the nature of the offense, and command the accused
8 person to appear before the court at a stated time and place. However,
9 the date set by the court must be at least seven (7) days after the
10 issuance of the summons. The summons may be served in the same
11 manner as the summons in a civil action.
12 (b) If the person summoned fails, without good cause, to appear as
13 commanded by the summons and the court has determined that there
14 is probable cause to believe that a crime (other than failure to appear)
15 has been committed, the court shall issue a warrant of arrest.
16 (c) If after issuing a summons the court:
17 (1) is satisfied that the person will not appear as commanded by



1 the summons; and
2 (2) has determined that there is probable cause that a crime (other
3 than failure to appear) has been committed;
4 it may at once issue a warrant of arrest.

5 (d) The summons may be in substantially the following form:

6 STATE OF INDIANA) IN THE _____ COURT
7)
8 vs.) OF _____ COUNTY
9)
10 _____)
11 Defendant) CAUSE NO. _____

12 SUMMONS

13 THE STATE OF INDIANA TO
14 THE ABOVE NAMED DEFENDANT:
15 YOU ARE HEREBY SUMMONED, to appear before the above
16 designated Court at _____, _____, _____ at _____ .m. on (day)
17 _____, _____, 20____, with respect to an (information or indictment)
18 for _____.

19 If you do not so appear, an application may be made for the Issuance
20 of a Warrant for your arrest.

21 ISSUED: _____, 20____
22 in
23 (City or County) _____, _____
24 BY THE CLERK OF SAID COURT:
25 _____
26 CLERK

27 (e) When any law enforcement officer in the state serves a summons
28 on a person, **he the officer** shall file a return of service with the court
29 issuing the summons. The return shall be in substantially the following
30 form:

31 RETURN OF SERVICE

32 I hereby certify that I served this summons upon the above named
33 defendant by delivering a copy of it and of the Information to the
34 defendant personally or by certified mail return receipt requested, on
35 _____, 20____, at _____.

36 DATED: _____, 20____.
37 (Signature) _____

38 _____
39 LAW ENFORCEMENT AGENCY

40 (f) **Except as provided in subsection (g)**, in lieu of arresting a
41 person who has allegedly committed a misdemeanor (other than a
42 traffic misdemeanor) in **his the officer's** presence, a law enforcement



1 officer ~~may~~ **shall** issue a summons and promise to appear **as described**
2 **in subsection (i)**. The summons must set forth substantially the nature
3 of the offense and direct the person to appear before a court at a stated
4 place and time **not later than two (2) business days after issuance of**
5 **the summons. However, a law enforcement officer may not issue a**
6 **summons if the person:**

7 **(1) has committed:**

8 **(A) a violent misdemeanor offense that involves a victim or**
9 **a weapon; or**

10 **(B) an offense involving the impaired operation of a motor**
11 **vehicle;**

12 **(2) poses a safety risk to the person, the officer, or the public;**
13 **or**

14 **(3) has falsely identified the person to the officer.**

15 **(g) Notwithstanding subsection (f), a law enforcement officer is**
16 **not required to issue a summons to a person described in**
17 **subsection (f), and may arrest the person, if the person:**

18 **(1) is subject to arrest for another offense;**

19 **(2) has violated the terms of supervised release; or**

20 **(3) has an outstanding warrant.**

21 ~~(g)~~ **(h) The summons and promise to appear may be in substantially**
22 **the following form:**

23 STATE OF INDIANA) IN THE _____ COURT
24)
25 vs.) OF _____ COUNTY
26)
27 _____)
28 Defendant)

29 **SUMMONS AND PROMISE TO APPEAR**

30 **YOU ARE HEREBY SUMMONED, to appear before the above**
31 **designated Court at _____**

32 **(Address)**

33 **at _____ .m. on _____,**

34 **Month Day**

35 **20___, in respect to the charge of _____**

36 **_____.**

37 **If you do not so appear, an application may be made for the issuance**
38 **of a warrant for your arrest.**

39 **ISSUED: _____, 20 _____,**

40 **in**

41 **_____, Indiana**

42 **(City or County)**



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BY THE UNDERSIGNED LAW
ENFORCEMENT OFFICER:

Officer's Signature
I.D. No. _____
Div. Dist. _____
Police Agency _____

COURT APPEARANCE

I promise to appear in court at the time and place designated above,
or be subject to arrest.

Signature _____

YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.

~~(h)~~ **(i)** When any law enforcement officer issues a summons and
promise to appear, ~~he~~ **the officer** shall:

- (1) promptly file the summons and promise to appear and the certificate of service with the court designated in the summons and promise to appear; and
- (2) provide the prosecuting attorney with a copy thereof.

