

## CHAPTER 118

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 16-1104**

BY REPRESENTATIVE(S) Roupe, Carver, Fields, Hamner, Lee, Melton, Moreno, Pettersen, Rosenthal, Saine;  
also SENATOR(S) Cooke, Roberts, Woods.

**AN ACT****CONCERNING THE ISSUANCE OF A SUMMONS IN LIEU OF A WARRANT FOR CERTAIN NON-VIOLENT OFFENDERS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 16-5-206, **amend** (2) introductory portion and (2) (e); and **add** (1.5) as follows:

**16-5-206. Summons in lieu of warrant.** (1.5) (a) EXCEPT IN CLASS 1, CLASS 2, CLASS 3, AND CLASS 4 FELONIES; IN CRIMES DESCRIBED IN SECTION 24-4.1-302 (1), C.R.S.; AND IN UNCLASSIFIED FELONIES PUNISHABLE BY A MAXIMUM PENALTY OF MORE THAN TEN YEARS, A LAW ENFORCEMENT OFFICER MAY ISSUE A SUMMONS COMMANDING THE APPEARANCE OF THE DEFENDANT IN LIEU OF A WARRANT FOR HIS OR HER ARREST BASED ON PROBABLE CAUSE IF:

(I) THE LOCAL DISTRICT ATTORNEY CONSENTS TO SUCH PROCEDURE AND HAS DEVELOPED AND APPROVED CRITERIA FOR THE ISSUANCE OF SUCH A SUMMONS PURSUANT TO THIS SUBSECTION (1.5);

(II) THERE IS A REASONABLE LIKELIHOOD THAT THE DEFENDANT WILL APPEAR;

(III) THE DEFENDANT HAS HAD NO FELONY ARRESTS DURING THE PRECEDING FIVE YEARS;

(IV) THERE IS NO ALLEGATION THAT THE DEFENDANT USED A DEADLY WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e), C.R.S., IN THE COMMISSION OF THE CRIME; AND

(V) THERE ARE NO OUTSTANDING WARRANTS FOR THE DEFENDANT'S ARREST.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(b) NO LATER THAN TEN DAYS AFTER A LAW ENFORCEMENT OFFICER ISSUES A SUMMONS PURSUANT TO THIS SUBSECTION (1.5), HE OR SHE SHALL DELIVER A COPY TO THE COURT AND TO THE OFFICE OF THE DISTRICT ATTORNEY WHERE JURISDICTION LIES.

(c) WHEN THE PROCEDURE DESCRIBED IN THIS SUBSECTION (1.5) IS USED, AN INFORMATION OR COMPLAINT MAY BE FILED IN OPEN COURT ON THE DATE SPECIFIED IN THE SUMMONS.

(2) If a summons is issued in lieu of a warrant under ~~subsection (1)~~ of this section:

(e) It shall be signed by the judge or clerk of the court with the title of his office OR BY THE LAW ENFORCEMENT OFFICER WHO ISSUED THE SUMMONS.

**SECTION 2. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 21, 2016