

Assembly Bill 8

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CHAPTER 181, LAWS OF 1967

AN ACT to repeal 954.01 (2); to renumber and amend 954.01 (1); to amend 52.25, 954.02 (1), (3), (4) and (5) (a) and 960.36 (par. in parentheses after "SUMMONS"); and to create 954.02 (4m) of the statutes relating to issuance of summons and warrant.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 52.25 of the statutes is amended to read:

52.25 On complaint made to any district attorney by any woman who has born a child out of wedlock or who is pregnant with a child likely to be born out of wedlock, accusing a named person of being the father of such child, the district attorney shall take such complaint in writing, under oath of such woman, and ~~shall may~~ thereupon issue his warrant, returnable before a court or court commissioner of the county, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before the court or court commissioner before whom the warrant is returnable to answer such complaint. The district attorney shall forthwith deliver any complaint filed with him to the court or court commissioner before whom the warrant is returnable. ~~With the consent of the complainant and the district attorney, petition a magistrate of the county for a warrant, which magistrate upon finding probable cause shall thereupon issue his warrant directed to the sheriff of his county, commanding him forthwith to bring such accused person before the court or magistrate before whom the warrant is returnable to answer such complaint. This district attorney shall forthwith deliver any complaint filed with him to the court or magistrate before whom the warrant is returnable. In the alternative the district attorney may proceed as provided in s. 52.24 or he may take the complaint in writing, under oath, and issue a summons may be issued as provided in under s. 954.02.~~

SECTION 2. 954.01 (1) of the statutes is renumbered 954.01 and amended to read:

954.01 For the arrest of persons accused of crime, the judges of courts of record, court commissioners, justices of the peace, ~~district attorneys~~ and other officers expressly empowered thereto are authorized to issue process. The officials mentioned ~~in this subsection (except district attorneys)~~ are referred to generally in chs. 954 to 963 as magistrates.

SECTION 3. 954.01 (2) of the statutes is repealed.

SECTION 4. 954.02 (1), (3), (4) and (5) (a) of the statutes are amended to read:

954.02 (1) A complaint is a written statement of the essential facts constituting the offense charged and may be upon information and belief. *Except as provided in sub. (3), it shall be made upon oath before a magistrate or other person empowered to issue warrants of arrest.*

(3) A complaint may be subscribed and sworn to before the district attorney and thereupon he may issue a ~~warrant for the arrest of the accused~~ summons returnable before a named judge of the county court. The district attorney shall forthwith deliver the complaint to the clerk of court for that county. *If the defendant fails to appear in response to the summons, a warrant may be applied for pursuant to subs. (1) and (2).*

(4) The magistrate ~~or district attorney~~ may issue a summons instead of a warrant. If the defendant fails to appear in response to the summons, the magistrate shall issue a warrant.

(5) (a) The warrant shall be signed by the magistrate, ~~judge or district attorney~~ and shall contain the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. The warrant shall contain the charge stated in the complaint. It shall command that the defendant be arrested and brought before the magistrate, or it shall command that he be brought before a named judge of the county court. In counties having a population of 200,000 or more ~~the clerk or one of his deputies may issue all processes~~

~~under his hand and the seal of the court and attest it in the name of a judge of said county court, signing it by his title of office, and said clerk or one of his deputies may issue warrants upon complaints duly filed in writing and upon oath.~~ the complaints, warrants, recognizance, commitments, attachments, venires, subpoenas and all other writs and papers in said county court and pertaining to criminal matters shall be in substance in the form hitherto used in the district, superior and municipal courts of such counties, except as otherwise provided by law or by rule of the court.

SECTION 5. 954.02 (4m) of the statutes is created to read:

954.02 (4m) If the defendant has previously been validly arrested without warrant and is still in custody, no summons or warrant is required and the defendant may be brought before a judge of the county court with a complaint subscribed and sworn to before either the district attorney or a magistrate.

SECTION 6. 960.36 (par. in parentheses after "SUMMONS") is amended to read:

960.36 (par in parentheses after "SUMMONS") (If defendant is a corporation, strike words "arrested and" and amend last clause to read: "and in case of your failure to appear, judgment will be rendered against you." *If a summons against a natural person is issued by a district attorney, strike the words "arrested and" and for the final word "issued" substitute the words "may be applied for."*)

Approved November 6, 1967.