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Summons Modifications
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the issuance of a summons.

Highlighted Provisions:

This bill:

- creates a presumption against issuing a warrant in lieu of a summons in certain circumstances;
- provides the requirements for overcoming the presumption; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7-5, as last amended by Laws of Utah 2023, Chapter 497

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-7-5** is amended to read:

77-7-5 . Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners.

(1) As used in this section:

- (a) "Daytime hours" means the hours after 6 a.m. and before 10 p.m.
- (b) "Nighttime hours" means the hours after 10 p.m. and before 6 a.m.

(2) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

- 29 (a) probable cause to believe that the person to be arrested has committed a public
 30 offense; and
- 31 (b) under [~~the~~] Rule 6 of the Utah Rules of Criminal Procedure[;] and this section that a
 32 warrant is necessary to:
- 33 (i) prevent risk of injury to a person or property;
- 34 (ii) secure the appearance of the accused; or
- 35 (iii) protect the public safety and welfare of the community or an individual.
- 36 (3) There is a presumption against the issuance of a warrant in lieu of a summons if:
- 37 (a) after being booked into jail on conduct that would constitute an offense, the accused
 38 was released from jail because the prosecuting attorney did not file an information
 39 within the time period required under Rule 9 of the Utah Rules of Criminal
 40 Procedure; and
- 41 (b) the prosecuting attorney filed an information more than 60 days after the day on
 42 which the accused was released from jail.
- 43 (4) The presumption described in Subsection (3) may be overcome if:
- 44 (a) the accused fails to appear on a served summons;
- 45 (b) a summons is unable to be served after good faith efforts; or
- 46 (c) the prosecuting attorney establishes good cause for issuing a warrant in lieu of a
 47 summons to:
- 48 (i) prevent risk of injury to a person or property; or
- 49 (ii) protect the public safety and welfare of the community or an individual.
- 50 [~~(3)~~] (5) If the offense charged is:
- 51 (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or
- 52 (b) a misdemeanor, the arrest upon a warrant may be made during nighttime hours only
 53 if:
- 54 (i) the magistrate has endorsed authorization to do so on the warrant;
- 55 (ii) the person to be arrested is upon a public highway, in a public place, or in a place
 56 open to or accessible to the public; or
- 57 (iii) the person to be arrested is encountered by a peace officer in the regular course
 58 of that peace officer's investigation of a criminal offense unrelated to the
 59 misdemeanor warrant for arrest.
- 60 [~~(4)~~] (6)(a) If the magistrate determines that the accused must appear in court, the
 61 magistrate shall include in the arrest warrant the name of the law enforcement agency
 62 in the county or municipality with jurisdiction over the offense charged.

63 (b)(i) The law enforcement agency identified by the magistrate under Subsection [
64 ~~(4)(a)~~ (6)(a) is responsible for providing inter-county transportation of the
65 defendant, if necessary, from the arresting law enforcement agency to the court
66 site.

67 (ii) The law enforcement agency named on the warrant may contract with another
68 law enforcement agency to have a defendant transported.

69 [~~(5)~~] (7) The law enforcement agency identified by the magistrate under Subsection [~~(4)(a)~~]
70 (6)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays,
71 Sundays, and legal holidays if a warrant issued in accordance with this section is an
72 extradition warrant.

73 [~~(6)~~] (8) The law enforcement agency identified by the magistrate under Subsection [~~(4)(a)~~]
74 (6)(a) shall report any changes to the status of a warrant issued in accordance with this
75 section to the Bureau of Criminal Identification.

76 Section 2. **Effective Date.**

77 This bill takes effect on May 7, 2025.