

IC 35-33-4

Chapter 4. Summons and Promise to Appear in Lieu of Arrest Warrant

IC 35-33-4-1

Summons in lieu of arrest warrant; contents; service; return; failure to appear; forms

Sec. 1. (a) When an indictment or information is filed against a person charging him with a misdemeanor, the court may, in lieu of issuing an arrest warrant under IC 35-33-2, issue a summons. The summons must set forth substantially the nature of the offense, and command the accused person to appear before the court at a stated time and place. However, the date set by the court must be at least seven (7) days after the issuance of the summons. The summons may be served in the same manner as the summons in a civil action.

(b) If the person summoned fails, without good cause, to appear as commanded by the summons and the court has determined that there is probable cause to believe that a crime (other than failure to appear) has been committed, the court shall issue a warrant of arrest.

(c) If after issuing a summons the court:

(1) is satisfied that the person will not appear as commanded by the summons; and

(2) has determined that there is probable cause that a crime (other than failure to appear) has been committed;

it may at once issue a warrant of arrest.

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

STATE OF INDIANA) IN THE _____ COURT
)
vs.) OF _____ COUNTY
)
)
_____)
Defendant) CAUSE NO. _____

SUMMONS

THE STATE OF INDIANA TO

THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at _____, _____, _____ at _____ .m. on (day) _____, _____, 20____, with respect to an (information or indictment) for _____.

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

ISSUED: _____,
20____

in

(City or County) _____, _____

BY THE CLERK OF SAID COURT:

CLERK

(e) When any law enforcement officer in the state serves a summons on a person, he shall file a return of service with the court

issuing the summons. The return shall be in substantially the following form:

RETURN OF SERVICE

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

DATED: _____, 20 __.

(Signature) _____

LAW ENFORCEMENT AGENCY

(f) In lieu of arresting a person who has allegedly committed a misdemeanor (other than a traffic misdemeanor) in his presence, a law enforcement officer may issue a summons and promise to appear. The summons must set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time.

(g) The summons and promise to appear may be in substantially the following form:

STATE OF INDIANA) IN THE _____ COURT
)
 vs.) OF _____ COUNTY
)

Defendant)

SUMMONS AND PROMISE TO APPEAR

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

(Address)

at _____ .m. on _____,
Month Day

20 __, in respect to the charge of _____.

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

ISSUED: _____, 20 __,

in

_____, Indiana

(City or County)

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) When any law enforcement officer issues a summons and promise to appear, he 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.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.9; P.L.320-1983, SEC.5; P.L.2-2005, SEC.116.