

804.1 Arrest by warrant — complaint and citation defined.

A criminal proceeding may be commenced by the filing of a complaint before a magistrate. When such complaint is made, charging the commission of some designated public offense in which such magistrate has jurisdiction, and it appears from the complaint or from affidavits filed with it that there is probable cause to believe an offense has been committed and a designated person has committed it, the magistrate shall, except as otherwise provided, issue a warrant for the arrest of such person.

If the complaint charges a public offense, the magistrate may issue a citation instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated in the citation. The magistrate shall prescribe the manner of service for the citation at the time the citation is issued.

The citation may be served in the same manner as an original notice in a civil action.

If the person named in the citation is actually served as provided herein and willfully fails without good cause to appear as commanded by the citation, the person shall be guilty of a simple misdemeanor and the magistrate may issue a warrant of arrest for the offense originally charged.

If after issuing a citation the magistrate becomes satisfied that the person to whom such citation has been directed will not appear, the magistrate may at once issue a warrant of arrest without waiting for the date mentioned in the citation.

[C51, §2822; R60, §4530; C73, §4111, 4185; C97, §5101, 5182; C24, 27, 31, 35, 39, §13458 – 13460; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §754.1 – 754.3; C79, 81, §804.1]

83 Acts, ch 50, §1, 7

Referred to in §708.11, 805.8C(3a)

[P] See R.Cr.P. 2.2; 2.6; 2.36 – Form 5; 2.54; 2.76 – Form 1