

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

***** 764.1.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2021 *****

764.1.amended Issuance of processes; authorization for issuance of warrant or summons; exception; making complaint for arrest warrant or summons by electronic or electromagnetic means; proof of signing; location.

Sec. 1. (1) For the apprehension or summons of persons charged with a felony, misdemeanor, or ordinance violation, a judge or district court magistrate may issue processes to implement this chapter, except that a judge or district court magistrate shall not issue a warrant or summons for other than a minor offense unless an authorization in writing allowing the issuance of the warrant or summons is filed with the judge or district court magistrate and, except as otherwise provided in this act, the authorization is signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate.

(2) A judge or district court magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the judge or district court magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate, except if the warrant is requested by any of the following officials for the following offenses:

(a) Agents of the state transportation department, a county road commission, or the public service commission for violations of the motor carrier act, 1933 PA 254, MCL 475.1 to 479.42, or the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, the enforcement of which has been delegated to them.

(b) The director of the department of natural resources, or a special assistant or conservation officer appointed by the director of the department of natural resources and declared by statute to be a peace officer, for a violation of a law that provides for the protection of wild game or fish.

(3) A complaint for an arrest warrant or summons may be made and an arrest warrant or summons may be issued by any electronic or electromagnetic means of communication from any location in this state, if all of the following occur:

(a) The prosecuting attorney authorizes the issuance of the warrant or summons. Authorization may consist of an electronically or electromagnetically transmitted facsimile of the signed authorization.

(b) The judge or district court magistrate orally administers the oath or affirmation, in person or by any electronic or electromagnetic means of communication, to an applicant for an arrest warrant or summons who submits a complaint under this subsection.

(c) The applicant signs the complaint. Proof that the applicant has signed the complaint may consist of an electronically or electromagnetically transmitted facsimile of the signed complaint.

(4) The person or department receiving an electronically or electromagnetically issued arrest warrant or summons must receive proof that the issuing judge or district court magistrate has signed the warrant or summons before the warrant or summons is executed. Proof that the issuing judge or district court magistrate has signed the warrant or summons may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or summons.

(5) A judge or district court magistrate may sign an electronically or electromagnetically issued arrest warrant or summons when he or she is at any location in this state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 290, Eff. Aug. 28, 1929;—CL 1929, 17135;—Am. 1931, Act 173, Imd. Eff. May 27, 1931;—CL 1948, 764.1;—Am. 1978, Act 616, Eff. Aug. 1, 1979;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1990, Act 41, Imd. Eff. Mar. 29, 1990;—Am. 2004, Act 318, Imd. Eff. Aug. 27, 2004;—Am. 2014, Act 389, Imd. Eff. Dec. 22, 2014;—Am. 2020, Act 394, Eff. Apr. 1, 2021.

Former law: See section 1 of Ch. 163 of R.S. 1846, being CL 1857, § 5977; CL 1871, § 7843; How., § 9454; CL 1897, § 11838; CL 1915, § 15665; Act 4 of 1858; and section 1 of Act 108 of 1883, being How., § 7135a; CL 1897, § 1061; and CL 1915, § 15811.