

Regular Session, 2014

SENATE BILL NO. 608

BY SENATOR BROWN

CRIMINAL JUSTICE. Provides relative to arrest warrants. (gov sig)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 213 and to enact Code of Criminal  
3 Procedure Art. 202(F), relative to warrants of arrest; to prohibit the issuance of  
4 warrants of arrest for school employees under certain circumstances; and to provide  
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Art. 213 is hereby amended and reenacted  
8 and Code of Criminal Procedure Art. 202(F) is hereby enacted to read as follows:

9 Art. 202. Warrant of arrest; issuance

10 \* \* \*

11 **F. Notwithstanding any other provision of law to the contrary, no**  
12 **magistrate shall have the authority to issue a warrant for the arrest of a school**  
13 **employee, as defined by R.S. 17:16(G), for any misdemeanor allegedly**  
14 **committed upon a student during the course and scope of the school employee's**  
15 **employment regardless whether the act is alleged to have occurred on or off the**  
16 **school campus. In all such instances, a summons shall be issued to the school**  
17 **employee pursuant to Code of Criminal Procedure Article 209.**

\* \* \*

Art. 213. Arrest by officer without warrant; when lawful

**A.** A peace officer may, without a warrant, arrest a person ~~when~~ **under any of the following circumstances:**

(1) The person to be arrested has committed an offense in his presence; and if the arrest is for a misdemeanor, it must be made immediately or on close pursuit;

(2) The person to be arrested has committed a felony, although not in the presence of the officer;

(3) The peace officer has reasonable cause to believe that the person to be arrested has committed an offense, although not in the presence of the officer; ~~or,~~

(4) The peace officer has received positive and reliable information that another peace officer from this state holds an arrest warrant, or a peace officer of another state or the United States holds an arrest warrant for a felony offense.

**B.** A peace officer in close pursuit of a person to be arrested, who is making an arrest pursuant to this Article may enter another jurisdiction in this state and make the arrest.

**C.(1) Except as provided in Paragraph (2) of this Subsection, and notwithstanding any other provision of law to the contrary, no peace officer shall have the authority to arrest a school employee, as defined by R.S. 17:16(G), for any misdemeanor allegedly committed upon a student during the course and scope of the school employee's employment regardless whether the act is alleged to have occurred on or off the school campus. In all such instances, a summons shall be issued to the school employee pursuant to Code of Criminal Procedure Article 209.**

**(2) A peace officer may arrest a school employee as defined in R.S. 17:16(G) and as provided in Subsection A of this Section in either of the following instances:**

**(a) The peace officer personally witnesses an alleged violation of R.S. 14:35 committed upon a student by a school employee, whether on or off**

1 **campus.**

2 **(b) The peace officer receives a complaint of an alleged violation of R.S.**  
 3 **14:35 committed upon a student by a school employee, whether alleged to have**  
 4 **occurred on or off campus, and there is physical evidence of a resulting injury**  
 5 **to the student which is personally witnessed by the officer.**

6 Section 2. This Act shall become effective upon signature by the governor or, if not  
 7 signed by the governor, upon expiration of the time for bills to become law without signature  
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 10 effective on the day following such approval.

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

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#### DIGEST

Brown (SB 608)

Present law provides relative to the issuance of warrants of arrest.

Present law defines "magistrate" as any judge, justice of the peace, or mayor of a mayor's court.

Present law defines "school employee" as any employee of a city, parish, or other local public school board or other governing authority of a public elementary or secondary school, including a teacher, substitute teacher, bus driver, substitute bus driver, or janitor, and all temporary, part-time, and permanent school employees.

Present law provides that any magistrate may issue a warrant of arrest for a person under certain circumstances.

Proposed law provides that, notwithstanding any other provision of present law to the contrary, a magistrate cannot issue a warrant for the arrest of a school employee for any misdemeanor allegedly committed upon a student during the course and scope of the school employee's employment regardless whether the act is alleged to have occurred on or off the school campus. Proposed law further provides that in such instances, a summons is to be issued to the school employee pursuant to present law relative to the issuance of a summons by a magistrate.

Proposed law otherwise retains present law.

Present law provides that a peace officer may arrest a person without a warrant under certain circumstances.

Proposed law provides that, notwithstanding any other provision of present law to the contrary, a peace officer cannot arrest a school employee for any misdemeanor allegedly committed upon a student during the course and scope of the school employee's employment regardless whether the act is alleged to have occurred on or off the school campus. Proposed

law further provides that in such instances, a summons is to be issued to the school employee pursuant to present law relative to the issuance of a summons by a magistrate.

Proposed law provides as an exception, a peace officer may arrest a school employee without a warrant for a misdemeanor if:

- (1) The peace officer personally witnesses an alleged simple battery committed upon a student by a school employee, whether on or off campus; or
- (2) The peace officer receives a complaint of an alleged simple battery committed upon a student by a school employee, whether alleged to have occurred on or off campus, and there is physical evidence of a resulting injury to the student which is personally witnessed by such officer.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 213; adds C.Cr.P. Art. 202(F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Adds exception under which a peace officer may arrest a school employee without a warrant for a misdemeanor.