

Regular Session, 2012

HOUSE BILL NO. 980

BY REPRESENTATIVE MACK

CRIMINAL/PROCEDURE: Provides relative to warrants for arrest on indictments or bills of information

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 496, relative to procedure after  
3 indictment; to provide relative to warrants of arrest on indictment or information; to  
4 require affidavits establishing probable cause for the issuance of warrants of arrest  
5 based on indictment or information; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 496 is hereby amended and reenacted  
8 to read as follows:

9 Art. 496. Warrant of arrest on indictment or information

10 A. When an indictment has been found ~~or an information filed~~ against a  
11 defendant who is not in custody or at large on bail for the offense charged, the court  
12 shall issue a warrant for the defendant's arrest, unless ~~it~~ the court issues a summons  
13 ~~under~~ pursuant to Article 497.

14 B. When an information has been filed against a defendant who is not in  
15 custody or at large on bail for the offense charged, the court shall issue a warrant for  
16 the defendant's arrest if the information is accompanied by one or more affidavits  
17 which establish probable cause to believe that an offense has been committed and  
18 that the defendant named in the information committed it, unless the court issues a  
19 summons pursuant to Article 497.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Mack

HB No. 980

**Abstract:** Requires affidavits establishing probable cause for the issuance of warrants of arrest based on an information filed against a defendant who is not in custody.

Present law (C.Cr.P. Art. 496) provides that when an information is filed against a defendant who is not in custody or at large on bail for the offense charged, the court shall issue a warrant for the defendant's arrest.

Present law (C.Cr.P. Art. 202) provides that an arrest warrant may only be issued after an affidavit has been filed describing the nature of the offense and a judicial determination of probable cause has been made.

The La. Supreme Court, in the case *State v. Rochon*, 2011-KA-0009, held that C.Cr.P. Art. 496 is constitutional when read in conjunction with C.Cr.P. Art. 202, such that the present law requirements set forth in C.Cr.P. Art. 202 shall be met before an arrest warrant can be issued based upon a bill of information pursuant to present law C.Cr.P. Art. 496.

Proposed law amends present law to reflect the La. Supreme Court's holding in the *Rochon* case, and provides that a warrant for arrest based on an information filed against a defendant, may only be issued when accompanied by one or more affidavits which establish probable cause.

(Amends C.Cr.P. Art. 496)