
DIGEST

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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)