

SENATE BILL 1434

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 40,
Chapter 6, relative to warrants of arrest and
criminal summons in lieu of arrest warrants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-6-205, is amended by deleting the final sentence of subsection (a) and subsection (b) in its entirety and by substituting instead the following:

(b) In determining whether to issue an arrest warrant or a criminal summons as pursuant to subsection (a), the following shall apply:

(1) If a single or multiple affiants are seeking a warrant of arrest for a felony or misdemeanor offense, and at least one (1) or more of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall issue an arrest warrant unless the affiant requests a summons be issued instead.

(2) If a single or multiple affiants are seeking a warrant of arrest for a misdemeanor offense, as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall issue a criminal summons unless the affiant or affiants request, and the magistrate agrees, that an arrest warrant should be issued instead.

(3) If a single or multiple affiants are seeking a warrant of arrest for a felony offense as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall not issue either a criminal summons as provided in § 40-6-215, or an arrest warrant unless, after examination of the affiant and the affidavit of complaint, the

magistrate has probable cause to believe that the issuance of an arrest warrant is necessary to prevent an immediate danger of aggravated assault or felony domestic abuse to a victim as defined in § 36-3-601.

SECTION 2. Tennessee Code Annotated, Section 40-6-215, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) As an alternative to an arrest warrant as provided in § 40-6-205, the magistrate or clerk may issue a criminal summons instead of an arrest warrant. In determining whether to issue a criminal summons or an arrest warrant as provided in § 40-6-205, this subsection shall apply.

(2) If a single or multiple affiants are seeking a warrant of arrest for a misdemeanor offense, as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall issue a criminal summons unless the affiant or affiants request, and the magistrate agrees, that an arrest warrant should be issued instead.

(2) If a single or multiple affiants are seeking a warrant of arrest for a felony or misdemeanor offense, and at least one (1) or more of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall issue an arrest warrant unless the affiant requests a summons be issued instead.

(3) If a single or multiple affiants are seeking a warrant of arrest for a felony offense as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall not issue either a criminal summons as provided in § 40-6-215, or an arrest warrant unless, after examination of the affiant and the affidavit of complaint, the magistrate has probable cause to believe that the issuance of an arrest warrant is necessary to prevent an immediate danger of aggravated assault or felony domestic abuse to a victim as defined in § 36-3-601.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it and shall apply to all warrants of arrest and criminal summons issued before or after such date.