

IC 35-33-2

Chapter 2. Arrest Warrants

IC 35-33-2-1

Grounds; indictment or information filed; probable cause

Sec. 1. (a) Except as provided in chapter 4 of this article, whenever an indictment is filed and the defendant has not been arrested or otherwise brought within the custody of the court, the court, without making a determination of probable cause, shall issue a warrant for the arrest of the defendant.

(b) Whenever an information is filed and the defendant has not been arrested or otherwise brought within the custody of the court, the court shall issue a warrant for the arrest of the defendant after first determining that probable cause exists for the arrest.

(c) No warrant for arrest of a person may be issued until:

- (1) an indictment has been found charging him with the commission of an offense; or
- (2) a judge has determined that probable cause exists that the person committed a crime and an information has been filed charging him with a crime.

As added by Acts 1981, P.L.298, SEC.2.

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Contents; form

Sec. 2. (a) A warrant of arrest shall:

- (1) be in writing;
- (2) specify the name of the person to be arrested, or if his name is unknown, shall designate such person by any name or description by which he can be identified with reasonable certainty;
- (3) set forth the nature of the offense for which the warrant is issued;
- (4) state the date and county of issuance;
- (5) be signed by the clerk or the judge of the court with the title of his office;
- (6) command that the person against whom the indictment or information was filed be arrested and brought before the court issuing the warrant, without unnecessary delay;
- (7) specify the amount of bail, if any; and
- (8) be directed to the sheriff of the county.

(b) An arrest warrant may be in substantially the following form:

TO: _____

You are hereby commanded to arrest _____ forthwith, and hold that person to bail in the sum of _____ dollars, to answer in the _____ Court of _____ County, in the State of Indiana, an information or indictment for _____.

And for want of bail commit him to the jail of the County, and thereafter without unnecessary delay to bring him before the said

court.

IN WITNESS WHEREOF, I, _____ (Clerk/Judge) of said Court, hereto affix the seal thereof, and subscribe my name at _____ this _____ day of _____ A.D. 20__.

Clerk or Judge of the Court

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.2-2005, SEC.115.

IC 35-33-2-3

Issuance; service or arrests; forcible entry; wrongful entry, recovery of damages

Sec. 3. (a) The warrant is issued to the sheriff of the county where the indictment or information is filed. This warrant may be served or arrests on it made:

- (1) by any law enforcement officer;
- (2) on any day of the week; and
- (3) at any time of the day or night.

(b) A law enforcement officer may break open any outer or inner door or window in order to execute an arrest warrant, if the officer is not admitted following an announcement of the officer's authority and purpose.

(c) The accused person shall be delivered to the sheriff of the county in which the indictment or information was filed, and the sheriff shall commit the accused person to jail or hold the accused person to bail as provided in this article.

(d) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court or superior court in the county where the wrongful entry took place.
As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.8; P.L.320-1983, SEC.4; P.L.201-2011, SEC.110.

IC 35-33-2-4

Expiration; reissuance

Sec. 4. A warrant of arrest for a misdemeanor expires one hundred eighty (180) days after it is issued. A warrant of arrest for a felony and a rearrest warrant for any offense do not expire. A sheriff who has an expired warrant shall make a return on the warrant stating that it has expired and shall return it to the clerk of the court that issued it. The clerk shall enter the fact that the warrant has expired in his records and shall notify the prosecuting attorney of the county that the warrant has expired. Upon request of the prosecuting attorney, the court shall issue another warrant.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-2-5**Dismissal of information or indictment; return**

Sec. 5. When an information or indictment has been dismissed, the court shall order the sheriff to make a return on any outstanding arrest warrant or summons issued regarding a charge stating that the charge has been dismissed. The sheriff shall notify any law enforcement officer to whom the arrest warrant or summons has been delivered that it has been revoked.

As added by Acts 1981, P.L.298, SEC.2.