

VERMONT COURT RULES ANNOTATED  
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\*\*\* Rules current as amended through February 23, 2017 \*\*\*

RULES OF CRIMINAL PROCEDURE  
II. PRELIMINARY PROCEEDINGS

V.R.Cr.P. Rule 3 (2017)

Rule 3. Arrest Without A Warrant; Citation to Appear

(a) Arrest Without a Warrant for a Felony Offense. -- A law enforcement officer may arrest without warrant a person whom the officer has probable cause to believe has committed or is committing a felony.

(b) Arrest Without a Warrant for a Misdemeanor Offense Committed in the Presence of an Officer. -- A law enforcement officer may arrest without a warrant a person whom the officer has probable cause to believe has committed or is committing a misdemeanor in the presence of the officer. Such an arrest shall be made while the crime is being committed or without unreasonable delay.

(c) Nonwitnessed Misdemeanor Offenses. -- If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

(1) The person has failed to provide satisfactory proof of identity.

(2) Arrest is necessary to obtain nontestimonial evidence upon the person or within the reach of the person, including an evidentiary test for purposes of determining blood alcohol content.

(3) Arrest is necessary to prevent the continuation of the criminal conduct for which the person was detained, to prevent harm to the person detained or harm to another person.

(4) The person has no ties to the community reasonably sufficient to assure his or her appearance, or there is a likelihood that he or she will refuse to respond to a citation.

(5) The person has previously failed to appear in response to a citation, summons, warrant, or other court order issued in connection with the same or another offense.

(6) The person has violated an order issued by a court in this state pursuant to 12 V.S.A. chapter 178, 15 V.S.A. chapter 21, or 33 V.S.A. chapter 69 or subsection 5115(e).

(7) The person has violated a foreign abuse prevention order issued by a court in any other state, federally-recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico or the District of Columbia.

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

(9) The person has committed a misdemeanor offense prohibited by 13 V.S.A. §§ 1376-1379 against a vulnerable adult as defined in 13 V.S.A. § 1375(8).

(10) The person has violated 23 V.S.A. § 1201 (operating a vehicle under the influence), and has a prior conviction under section 1201.

(11) The person has violated a hate-motivated crime injunction issued pursuant to chapter 33 of Title 13.

(12) The person has violated a condition of release that relates to:

(A) a restriction on travel, including curfew;

(B) the operation of a motor vehicle; or

(C) direct or indirect contact or harassment of a victim or potential witness.

(13) The person has violated 13 V.S.A. § 1062 (stalking).

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

(15) The person has violated 13 V.S.A. § 1025 (recklessly endangering another person).

(16) The person has violated 13 V.S.A. § 1304(a) (cruelty to a child).

(17) The person is a sex offender who has failed to comply with the provisions of subchapter 3 of chapter 167 of Title 13 (sex offender registration and notification).

(d) Persons under the Supervision of the Commissioner of Corrections. -- A law enforcement officer may arrest without a warrant a person under the supervision of the commissioner of corrections:

(1) pursuant to 28 V.S.A. § 301, if the person is on probation and a correctional officer believes the person has violated a condition of his or her probation; or

(2) pursuant to 28 V.S.A. § 363, if the person is serving a supervised community sentence, and a correctional officer believes the person has violated a condition of his or her supervised community sentence; or

(3) pursuant to 28 V.S.A. § 551, if the person is on parole, and a correctional officer believes the person has violated a condition of his or her parole; or

(4) pursuant to 28 V.S.A. § 808, if the person is on furlough, and the law enforcement officer or a correctional officer believes the person has violated a condition of his or her furlough.

(e) Continuation of Custody for Felony Offenses. -- A person who has been arrested without a warrant for a felony offense may be continued in custody unless the charge for which the arrest was made is reduced to a misdemeanor, and none of the exceptions in subsection (c) of this rule apply.

(f) Continuation of Custody for Misdemeanor Offenses. -- A person who has been arrested without a warrant for a misdemeanor offense shall be released on citation if:

(1) none of the exceptions in subsection (c) of this rule apply; or