6-04/000.00 Arrests and Warrants

This Chapter covers the service of bench warrants in general and civil bench warrants in particular. The Legal Sourcebook published by the Attorney General addresses the service of criminal bench warrants in greater detail.

AB 1150 (2005) addressed outdated protocols governing the issuance and execution of civil bench warrants that have hampered the sheriff for many years. The following changes became effective on January 1, 2006.

a. The provision for civil forfeiture for failing to appear pursuant to a subpoena was expanded to include failure to appear as directed by a court order.

b. As an alternative to issuing a contempt warrant that is criminal in nature, the court may issue a civil bench warrant with civil sanctions rather than criminal penalties.

c. If the court specifies in the civil bench warrant that the sheriff may release the arrested person on a promise to appear, the arrestee is subject to civil, rather than criminal, sanctions for failing to appear as promised.

d. Sheriff fees increased and are applicable to warrants issued in all civil actions, not just judgment debtor examinations.

e. The sheriff is required to bring the arrested person before the court no later than twelve hours after arrest, but the sheriff may also take the person to nearest magistrate, not just the issuing court.

f. The contents of a civil bench warrant are codified to protect the arresting officer by safeguarding the arrestee’s due process rights to be informed on the specific reason for arrest. Similarly, an adequate description of the person to be arrested must be stated in the warrant.