6-04/020.00 Civil Bench Warrant

A person may not be arrested and imprisoned for a civil debt or tort. However, a person is subject to arrest for disobeying a court order or subpoena.

CCP 501 A person may not be imprisoned in a civil action for debt or tort, whether before or after judgment. Nothing in this section affects any power a court may have to imprison a person who violates a court order.

CAL CONSTITUTION, ARTICLE 1 Sec. 10 Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine.

• 6-04/020.10 Issuance

A chief characteristic of a warrant issued pursuant to CCP 1993 is a determination by the court of the immediacy to produce the arrestee in court to testify or comply with a court order. The court will not even order the issuance of the warrant for a witness without leave to release the person on a promise to appear unless it determines that the person's immediate presence is required. CCP 1993 (2)

1993 CCP (cited in part)

(a) (1) As an alternative to issuing a warrant for contempt pursuant to paragraph (5) or (9) of subdivision (a) of Section 1209, the court may issue a warrant for the arrest of a witness who failed to appear pursuant to a subpoena or a person who failed to appear pursuant to a court order. . .

(2) Before issuing a warrant for a failure to appear pursuant to a subpoena pursuant to this section, the court shall issue a "failure to appear" notice informing the person subject to the subpoena that a failure to appear in response to the notice may result in the issuance of a warrant. This notice requirement may be omitted only upon a showing that the appearance of the person subject to the subpoena is material to the case and that urgency dictates the person's immediate appearance.

• 6-04/020.20 Warrant Contents

The warrant must directed to the sheriff rather than any peace officer, and include the:

1. Title and case number,
2. Name and description of the person be arrested
3. Last known address
4. Date and county of issuance
5. Signature, title and name of court of the issuing magistrate

6. Date of service of the subpoena or order that was disobeyed
7. Command to bring the person before the court or nearest magistrate
8. A statement indicating the expiration date of the warrant as determined by the court.
9. Bail amount
10. Nighttime service endorsement, if approved by the court
11. Authorization to release on promise to appear, if approved by the court, and
12. Appearance date, time and place if the court authorizes release on promise to appear
13. CCP 1993

• 6-04/020.30 Arrest

The sheriff should not arrest the person, assuming that release on a promise to appear is not authorized, unless the arrestee can be brought before the issuing court or nearest magistrate within twelve hours of the arrest. If not timely produced in court, the person must be released from custody. 1993 (b) (7) CCP

1993 CCP (cited in part)

(b) The warrant shall contain . . .:

(7) A command to bring the person to be arrested before the issuing court, or the nearest court if in session, for the setting of bail in the amount of the warrant or to release on the person's own recognizance. Any person so arrested shall be released from custody if he or she cannot be brought before the court within 12 hours of arrest, and the person shall not be arrested if the court will not be in session during the 12-hour period following the arrest.

• 6-04/020.40 Promise to Appear

The court may specify in the warrant that the person to be arrested can be released on a promise to appear. The procedures for release on a promise to appear are unlike those used for a misdemeanor under PC 853.6: (1) there are fewer reasons for non-release, and (2) the contents, filing protocols and form of the promise to appear are different from the form used for a PC 853.6 release. CCP 1993(b)(11); CCP 1993.1

CCP 1993 (cited in part) (b) The warrant shall contain

1. A statement indicating whether the person may be released upon a promise to appear as provided by Section 1993.1. The court shall permit release upon a promise to appear, unless it makes a written finding that the urgency and materiality of the person's appearance in court precludes use of the promise to appear process.
2. The date and time to appear in court if arrested and released pursuant to paragraph (11).
CCP 1993.1

a. If authorized by the court as provided by paragraph (11) of subdivision (b) of Section 1993, the sheriff may release the person arrested upon his or her promise to appear as provided in this section.
b. The sheriff shall prepare in duplicate a written notice to appear in court, containing the title of the case, case number, name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. In addition, the notice shall advise the person arrested of the provisions of Section 1992.
c. The date and time specified in the notice to appear in court shall be that determined by the issuing court pursuant to paragraph (12) of subdivision (b) of Section 1993.
d. The sheriff shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice, which shall be retained by the sheriff, and the sheriff may require the arrested person, if he or she has no satisfactory identification, to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear. Except for law enforcement purposes relating to the identity of the arrestee, no person or entity may sell, give away, allow the distribution of, include in a database, or create a database with, this print. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.
e. The sheriff shall, as soon as practicable, file the original notice with the issuing court. The notice may be electronically transmitted to the court.
f. The person arrested shall be released unless one of the following is a reason for non-release, in which case the arresting officer either may release the person or shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the non-release:
    1. The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
    2. The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
    3. There were one or more additional outstanding arrest warrants for the person.
    4. The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

• 6-04/020.50 Failure to Appear as Promised

The failure of a person to appear as promised does not constitute a violation of PC 853.7. Instead, the court may issue another warrant and/or assess a civil assessment of not more than $1,000.

(CCP 1993.2)