

RULE 3.120 | COMMITTING JUDGE

Each state and county judge is a committing judge and may issue a summons to, or a warrant for the arrest of, a person against whom a complaint is made in writing and sworn to before a person authorized to administer oaths, when the complaint states facts that show that such person violated a criminal law of this state within the jurisdiction of the judge to whom the complaint is presented. The judge may take testimony under oath to determine if there is reasonable ground to believe the complaint is true. The judge may commit the offender to jail, may order the defendant to appear before the proper court to answer the charge in the complaint, or may discharge the defendant from custody or from any undertaking to appear. The judge may authorize the clerk to issue a summons.

Committee Notes

1968 Adoption. This is substantially the same as part of section 901.01, Florida Statutes. (The remaining part should be retained as a statute.) It differs from the statute by requiring the complaint to be in writing and by identifying the initiating instrument as a “complaint,” thus adopting the federal terminology which is more meaningful and modern. Some doubt was expressed as to whether the terms of the statute incorporated in the rule are within the rulemaking power of the Supreme Court.

1972 Amendment. Substantially same as former rule. Altered to incorporate the provision for testimony under oath formerly contained in rule 3.121(a), and authorize the execution of the affidavit before a notary or other person authorized to administer oaths.

