

Colorado Revised Statutes: Title 16: Criminal Proceedings:

16-3-108: Issuance of Arrest Warrant Without Information or Complaint:

TITLE 16. CRIMINAL PROCEEDINGS. CODE OF CRIMINAL PROCEDURE.

ARTICLE 3. ARREST - SEARCHES AND SEIZURES.

PART 1. AUTHORITY OF PEACE OFFICER TO MAKE AN ARREST.

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**A court shall issue an arrest warrant
only
on affidavit sworn to or affirmed
before the judge or a notary public
and relating facts sufficient to establish
probable cause
that an offense has been committed
and probable cause
that a particular person committed that offense.**

**The court shall issue a warrant for the arrest of such person
commanding any peace officer to arrest the person so named
and to take the person without unnecessary delay
before the nearest judge of a court of record.**

Case Notes, Annotation:

Law reviews. For article, "One Year Review of Criminal Law and Procedure", see 39 Dicta 81 (1962).

Annotator's note. Since § 16-3-108 is similar to repealed § 39-2-3, C.R.S. 1963, relevant cases construing that provision have been included in the annotations to this section.

This section does not authorize a private citizen to seek an arrest warrant. *Kailey v. Chambers*, 261 P.3d 792 (Colo. App. 2011).

An arrest warrant is not appropriate where there are no facts to show that the arrestee has yet committed a criminal offense. *People v. Hively*, 173 Colo. 485, 480 P.2d 558 (1971).

But federal warrants supported by affidavits provide basis for arrest. Even though the complaint filed by a district attorney, standing alone, would not support an arrest warrant because no facts were set forth to establish probable cause, where federal warrants were supported by affidavits which complied with all constitutional requirements, they provided a legitimate basis for an arrest. *Sergent v. People*, 177 Colo. 354, 497 P.2d 983 (1972).

Applied in *People v. Schultz*, 200 Colo. 47, 611 P.2d 977 (1980).