

CHAPTER 194
SB 262-FN – FINAL VERSION

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04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT revising the form for “summons instead of arrest” and prohibiting prejudgment attachments in small claims actions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 194:1 Arrests in Criminal Cases; Summons Instead of Arrest. Amend RSA 594:14, I to read as
2 follows:

3 I. In any case in which it is lawful for a peace officer to arrest without a warrant a person for
4 a misdemeanor or violation, he **or she** may instead issue to ~~him~~ **the person** in hand a written
5 summons in substantially the following form:

6 The State of New Hampshire

7 To

8 You are hereby notified to appear before the [~~..... district (municipal) court~~]
9 **..... circuit court** of the State of New Hampshire, **district division**, to be holden **in**
10 **.....** on the day of [~~19.....~~] **20.....** at o'clock in the forenoon
11 (afternoon) to answer to a complaint (to be filed in said court) charging you with in violation of
12 the laws of the State of New Hampshire. ***If you are charged with a class A misdemeanor or***
13 ***felony and you want a lawyer to represent you at the arraignment and throughout your***
14 ***case, but you cannot afford to hire a lawyer, you must fill out an application for court-***
15 ***appointed counsel and deliver it to the circuit court identified above as soon as possible.***
16 ***The court will appoint an attorney to represent you if your application shows that you are***
17 ***eligible. If you believe that you are eligible for appointed counsel, you may apply prior to***
18 ***your arraignment.***

19 Hereof fail not, as you will answer your default under the penalty of the law in that behalf made and
20 provided.

21 Dated at

22

23 the..... day of [~~19..~~] **20.....**

24 Name

25

26 Title

27

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1 Upon failure to appear, a warrant of arrest may issue. Any person who fails to appear in answer to
2 such summons shall be guilty of a misdemeanor.

3 194:2 Litigation of Small Claims; Notice to Defendant. Amend RSA 503:6, I to read as follows:

4 I. The court shall cause notice of the claim and the substance thereof to be given to the
5 defendant, whether or not the defendant is a resident of this state, by sending a written statement to
6 the defendant by postpaid first class mail, addressed to the defendant at the defendant's last known
7 post office address and directing the defendant to indicate, in writing within 30 days from the date
8 said notice is mailed, the defendant's desire to be heard. ~~[If a small claim action includes a petition
9 for pre-judgment attachment, the claim shall be served on the defendant as in all other actions at
10 law.]~~

11 194:3 New Section; Litigation of Small Claims; Pre-judgment Attachments. Amend RSA 503 by
12 inserting after section 12 the following new section:

13 503:13 Pre-judgment Attachments. RSA 511-A shall not apply to the litigation of small claims
14 under this chapter.

15 194:4 Pre-judgment Attachment; Limitations. Amend RSA 511-A:1 to read as follows:

16 511-A:1 Pre-Judgment Attachments; Limitation. In ~~[all]~~ civil actions ***in which pre-judgment***
17 ***attachment is authorized***, except as otherwise provided in replevin actions, a defendant shall be
18 given notice and an opportunity for a preliminary hearing before any pre-judgment attachment,
19 including attachments of property held by a trustee, shall be made. This chapter shall apply only to
20 pre-judgment attachments, except as provided in RSA 676:17.

21 194:5 Pre-judgment Attachment Procedure; Notice of Intent. Amend the introductory paragraph
22 of RSA 511-A:2 to read as follows:

23 511-A:2 Notice of Intent. In ~~[all]~~ civil actions or suits in equity ~~[where]~~ ***in which*** the plaintiff
24 ~~[desires]~~ ***is authorized*** to make pre-judgment attachments, the plaintiff shall cause to be served on
25 the defendant and to be simultaneously filed with the court a notice, which shall be incorporated
26 prominently in the writ or order of notice, which shall read substantially as follows:

27 194:6 Repeal. The following are repealed:

- 28 I. RSA 503:3-c, relative to prejudgment attachment process in small claims actions.
29 II. RSA 503:6, V, relative to hearings on objections to petitions for prejudgment attachment
30 in small claims actions.

31 194:7 Effective Date.

- 32 I. Section 1 of this act shall take effect 60 days after its passage.
33 II. The remainder of this act shall take effect July 1, 2015.

34
35 Approved: July 11, 2014

36 Effective Date: I. Section 1 shall take effect September 9, 2014.

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1 II. Remainder shall take effect July 1, 2015.

