

We are enclosing a copy of our preliminary charge statute which we trust will be of assistance to you.

Assuring you of our cooperation at all times we remain,

Very truly yours,

ROBERT E. REILLY,
Chief of Police.
By CARL C. SCHMIDT,
Inspector of Detectives.

BURNS INDIANA STATUTES

1956 REPACEMENT—BOOK 4, PART 1

9-704a. *Preliminary charge—Procedure.*—Whenever any law enforcement officer shall have arrested and taken into custody any person reasonably believed to have committed a felony and said detained person(s) offers or advances any explanation, justification, alibi or excuse, or circumstances exist which might or could negative the presence at or participation in said crime by such person under detention, and said officer nevertheless because of reliable information or investigation still verily believes that such detained person is involved in a commission of the felony, there is hereby created an additional and alternative pleading and procedure to the criminal statutes of the State which shall be known as the preliminary charge, and which may be filed against any arrested and detained person under such circumstances.

When any person is so held and detained under such preliminary charge the law enforcement officers shall forthwith take such person before the magistrate, justice, municipal, city, criminal or circuit judge, and shall cause to be prepared forthwith before the court hearing such matters, and if said court be not in session then for the next session of the court having jurisdiction in such matters, an affidavit entitled preliminary charge of _____ (naming the felony involved) and said person so accused shall be entitled to a hearing thereon.

Said affidavit shall otherwise follow the form of affidavit now or hereafter prescribed by statute for the felony on which the preliminary charge is filed, but may be in summary form, and the person so detained under said charge shall at said hearing be apprised of the facts concerning the felony with which he or she is charged, and said court shall apprise said person as to whom is accusing him, shall likewise advise said detained person that anything he may say may be used against him and shall also advise said person that he is entitled to legal counsel. Thereafter said person so charged shall after hearing the accusation against said detained person and any explanation offered by said detained person be permitted to give any explanation, or offer any answer thereto. The court shall thereupon rule in discharge or commitment. If the court should find that the person so held under a preliminary charge should be committed, an order shall issue directed to the county sheriff, the superintendent or chief of police, the marshal, constable or other chief law enforcement officer ordering the holding and detention of any such person, committing said person for a period not exceeding 7 days from the date of said commitment. Said commitment shall be in the following form.

IN _____ COURT

STATE OF INDIANA,
County of _____

To the SHERIFF OF _____ COUNTY:

To the MARSHAL OF _____:

To the CHIEF or SUPERINTENDENT OF POLICE OF _____:

To the CONSTABLE OF _____ TOWNSHIP:

_____ having been brought before me on the preliminary charge of _____ is hereby committed to _____ until the _____ day of _____ at _____ o'clock _____m., at which time you shall produce said person before me in open court and if the said person be not charged with _____ on or before said date said person will at said time be discharged.

_____, Judge.

Any person so committed on any such preliminary charge shall be entitled to bail upon providing sufficient surety in the amount now or hereinafter pro-