

§708. Preparation of complaints

The clerk may, in the absence or unavailability of a justice of the peace or of a prosecuting attorney or any of the justice of the peace's or prosecuting attorney's assistants, prepare and draft complaints upon the request of any law enforcement officer, except that a complaint may not issue to any person who is not a law enforcement officer or for any criminal homicide or Class A, B or C crime unless approved by the district attorney or the district attorney's designee or the Attorney General or the Attorney General's designee. [RR 2023, c. 2, Pt. D, §49 (COR).]

Except in prosecutions instituted by the Attorney General or the Attorney General's designee, the district attorney or the district attorney's designee shall, whenever practical, prepare all complaints for criminal homicide and Class A, B and C crimes and for all complainants who are not law enforcement officers. A complaint may not be filed nor process issued until such time as the complainant has made oath to the complaint or process before the proper official. [RR 2023, c. 2, Pt. D, §49 (COR).]

Each district attorney shall establish written guidelines for the approval of issuance of complaints pursuant to this section. In those guidelines, the district attorney may extend the above procedure to Class D and E crimes, as long as the approval of the district attorney is not necessary for any complaint issued with the approval of the Attorney General or the Attorney General's designee. [RR 2023, c. 2, Pt. D, §49 (COR).]

Whenever a complaint is not approved for prosecution by the district attorney or the district attorney's designee or the Attorney General or the Attorney General's designee, the district attorney or the district attorney's designee or the Attorney General or the Attorney General's designee shall, if requested, inform the complainant, orally or in writing, of the reasons the complaint was not approved. [RR 2023, c. 2, Pt. D, §49 (COR).]

SECTION HISTORY

PL 1969, c. 504, §§24-I (NEW). PL 1973, c. 567, §20 (AMD). PL 1977, c. 579, §E1 (RPR). PL 1987, c. 736, §25 (AMD). RR 2023, c. 2, Pt. D, §49 (COR).

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