**South Carolina General Assembly**

119th Session, 2011-2012

**A70, R104, S30**

**STATUS INFORMATION**

General Bill

Sponsors: Senators McConnell, Leventis and Ford

Document Path: l:\s-jud\bills\mcconnell\jud0021.jjg.docx

Companion/Similar bill(s): 3606

Introduced in the Senate on January 11, 2011

Introduced in the House on April 6, 2011

Last Amended on June 22, 2011

Passed by the General Assembly on June 22, 2011

Governor's Action: June 28, 2011, Signed

Summary: Magistrates' powers and duties

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/1/2010 Senate Prefiled

 12/1/2010 Senate Referred to Committee on **Judiciary**

 1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C01-11-11.docx))

 1/11/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C01-11-11.docx))

 2/23/2011 Senate Referred to Subcommittee: Hutto (ch), Rose, Shoopman

 3/30/2011 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 27](file:///h%3A%5Csj%20archive%5C2011%5C03-30-11.docx))

 3/31/2011 Senate Committee Amendment Adopted ([Senate Journal‑page 24](file:///h%3A%5Csj%20archive%5C2011%5C03-31-11.docx))

 4/1/2011 Scrivener's error corrected

 4/5/2011 Senate Read second time ([Senate Journal‑page 26](file:///h%3A%5Csj%20archive%5C2011%5C04-05-11.docx))

 4/5/2011 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 26](file:///h%3A%5Csj%20archive%5C2011%5C04-05-11.docx))

 4/6/2011 Senate Read third time and sent to House ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2011%5C04-06-11.docx))

 4/6/2011 House Introduced and read first time ([House Journal‑page 73](file:///h%3A%5Chj%20archive%5C2011%5C04-06-11.docx))

 4/6/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 73](file:///h%3A%5Chj%20archive%5C2011%5C04-06-11.docx))

 5/18/2011 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 59](file:///h%3A%5Chj%20archive%5C2011%5C05-18-11.docx))

 5/24/2011 House Debate adjourned ([House Journal‑page 66](file:///h%3A%5Chj%20archive%5C2011%5C05-24-11.docx))

 5/24/2011 House Debate adjourned until Wednesday, May 25, 2011 ([House Journal‑page 106](file:///h%3A%5Chj%20archive%5C2011%5C05-24-11.docx))

 5/25/2011 House Amended ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Read second time ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Roll call Yeas‑107 Nays‑3 ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/26/2011 House Read third time and returned to Senate with amendments ([House Journal‑page 6](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 6/1/2011 Senate House amendment amended ([Senate Journal‑page 169](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 6/1/2011 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 169](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 6/1/2011 Senate Returned to House with amendments ([Senate Journal‑page 169](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 6/2/2011 House Non‑concurrence in Senate amendment ([House Journal‑page 89](file:///h%3A%5Chj%20archive%5C2011%5C06-02-11.docx))

 6/14/2011 Senate Senate insists upon amendment and conference committee appointed Hutto, Massey, and Shoopman ([Senate Journal‑page 24](file:///h%3A%5Csj%20archive%5C2011%5C06-14-11.docx))

 6/14/2011 House Conference committee appointed Reps. Bannister, Tallon and Rutherford ([House Journal‑page 655](file:///h%3A%5Chj%20archive%5C2011%5C06-14-11.docx))

 6/22/2011 House Conference report received and adopted ([House Journal‑page 317](file:///h%3A%5Chj%20archive%5C2011%5C06-22-11.docx))

 6/22/2011 Senate Conference report received and adopted ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2011%5C06-22-11.docx))

 6/22/2011 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2011%5C06-22-11.docx))

 6/22/2011 House Ordered enrolled for ratification ([House Journal‑page 321](file:///h%3A%5Chj%20archive%5C2011%5C06-22-11.docx))

 6/22/2011 Ratified R 104 ([Senate Journal‑page 50](file:///h%3A%5Csj%20archive%5C2011%5C06-22-11.docx))

 6/28/2011 Signed By Governor

 7/1/2011 Effective date 06/28/11

 7/6/2011 Act No. 70

**VERSIONS OF THIS BILL**

[12/1/2010](file:///p%3A%5Cpprever%5C2011-12%5C30_20101201.docx)

[3/30/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110330.docx)

[3/31/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110331.docx)

[4/1/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110401.docx)

[5/18/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110518.docx)

[5/25/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110525.docx)

[6/1/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110601.docx)

[6/22/2011](file:///p%3A%5Cpprever%5C2011-12%5C30_20110622.docx)

(A70, R104, S30)

**AN ACT TO AMEND SECTION 22‑5‑110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MAGISTRATES’ POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT NO ARREST WARRANT SHALL BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN HIS OFFICIAL CAPACITY, CERTAIN BUSINESSES SEEKING AN ARREST WARRANT FOR AN OFFENSE AGAINST THE BUSINESS, AND PERSONS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK OR OFFENSES INVOLVING CRIMINAL DOMESTIC VIOLENCE, HARASSMENT, OR ASSAULT AND BATTERY, TO PROVIDE THAT A COURTESY SUMMONS MUST BE ISSUED WHEN AN ARREST WARRANT IS SOUGHT BY ANY OTHER PERSON, AND TO PROVIDE THAT AN ARREST WARRANT MAY BE ISSUED WHEN A PERSON FAILS TO APPEAR BEFORE THE COURT PURSUANT TO A COURTESY SUMMONS; TO AMEND SECTION 22-1-10, RELATING TO THE APPOINTMENT OF MAGISTRATES, THEIR TERMS AND JURISDICTION, SO AS TO PROVIDE THAT THE GOVERNOR MAY APPOINT A MAGISTRATE TO A POSITION THAT BECOMES VACANT ONCE THE TERM OF A SITTING MAGISTRATE IS TERMINATED UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 22-1-30, RELATING TO THE SUSPENSION OR REMOVAL OF A MAGISTRATE, SO AS TO PROVIDE A PROCEDURE TO END A MAGISTRATE’S TERM OF OFFICE AND NOT ALLOW HIM TO CONTINUE TO SERVE UNTIL HIS SUCCESSOR IS APPOINTED; AND TO AMEND SECTION 22-2-40, RELATING TO THE NUMBER AND LOCATION OF MAGISTRATES THAT MAY SERVE IN A COUNTY, SO AS TO PROVIDE AN ADDITIONAL PROVISION THAT WOULD ALLOW THE NUMBER AND LOCATION OF MAGISTRATES TO BE INCREASED OR DECREASED.**

Be it enacted by the General Assembly of the State of South Carolina:

**Magistrates**

SECTION 1. Section 22‑5‑110 of the 1976 Code, as last amended by Act 346 of 2008, is further amended to read:

 “Section 22‑5‑110. (A) Magistrates shall:

 (1) cause to be arrested all persons found within their counties charged with any offense and persons who after committing any offense within the county flee out of the county;

 (2) examine into treasons, felonies, grand larcenies, high crimes, and misdemeanors;

 (3) commit or bind over for trial those who appear to be guilty of crimes or offenses not within their jurisdiction; and

 (4) punish those guilty of such offenses within their jurisdiction.

 (B)(1) An arrest warrant may not be issued for the arrest of a person unless sought by a law enforcement officer acting in their official capacity.

 (2) If an arrest warrant is sought by someone other than a law enforcement officer, the court must issue a courtesy summons.

 (3) If a defendant named in a courtesy summons fails to appear before the court pursuant to the summons, the court must issue an arrest warrant for the underlying offense based upon the original sworn statement of the affiant who sought the courtesy summons, provided the sworn statement establishes probable cause that the underlying offense was committed.”

**Magistrates, appointment**

SECTION 2. The first sentence of Section 22‑1‑10(A) of the 1976 Code is amended to read:

 “(A) The Governor, by and with the advice and consent of the Senate, may appoint magistrates in each county of the State for a term of four years and until their successors are appointed and qualified, or their positions are terminated as provided in subsection (B), Section 22‑1‑30, or Section 22‑2‑40.”

**Magistrates, suspension or removal from office**

SECTION 3. Section 22‑1‑30 of the 1976 Code is amended to read:

 “Section 22‑1‑30. (A) A magistrate may be suspended or removed by order of the Supreme Court pursuant to its rules for incapacity, misconduct, or neglect of duty. A magistrate’s failure to retire in accordance with Section 22‑1‑25 or a magistrate’s failure to comply with the training and examination requirements of Section 22‑1‑10(C) may subject the magistrate to suspension or removal by order of the Supreme Court.

 (B) If a senatorial delegation recommends that the Governor not reappoint a magistrate upon completion of his term of office, the Governor may send a message to the Senate that the magistrate is not reappointed. Upon receipt of the message, the Senate must ratify the message not to reappoint by the confirmation process. If the ratification takes place, the magistrate’s service is terminated at the end of his term and the magistrate does not continue to serve until a successor is appointed. Notice of the ratification must be sent to the Supreme Court.”

**Magistrates, number and location**

SECTION 4. Section 22‑2‑40(C) of the 1976 Code is amended to read:

 “(C) Notwithstanding the provisions of subsection (A), Section 22‑1‑10(A), or Section 22‑8‑40(C) and (D), the number, location, and full‑time or part‑time status of magistrates in the county may be increased or decreased from the required and permissive provisions in Section 22‑8‑40(C) and (D) as provided in Section 22‑1‑30(B), or by filing with court administration a written agreement between the members of the Senate delegation for the county and the county governing body; however, a magistrate’s compensation must not be decreased during his term in office.”

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 22nd day of June, 2011.

Approved the 28th day of June, 2011.

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