~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 22, 2012

**H. 3607**

Introduced by Reps. Harrison, Weeks and McLeod

S. Printed 2/22/12--S.

Read the first time April 14, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3607) to amend Section 22‑5‑190, Code of Laws of South Carolina, 1976, relating to endorsement and execution of warrants issued in other counties or by municipal authorities, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Section 22‑5‑190 of the 1976 Code is amended to read:

“Section 22‑5‑190. (A) ~~A magistrate may endorse a~~ An arrest warrant issued by a magistrate ~~of another county~~ when the person charged with a crime in the warrant resides in or is located in ~~the~~ a different county ~~of the endorsing magistrate~~ is not required to be endorsed by a magistrate in the county where the person resides or is located, and may be served by a law enforcement officer within the jurisdiction where the person resides or is located, or by a law enforcement officer from the issuing jurisdiction while accompanied by a law enforcement officer in the jurisdiction where the warrant is being served. ~~When a warrant is presented to a magistrate for endorsement, as provided in this section, the magistrate shall authorize the person presenting it or any special constable to execute it within his county.~~

(B) ~~Whenever a~~ When an arrest warrant is issued by a ~~mayor,~~ recorder, judge, or other proper judicial officer ~~of any municipality requiring~~ entitled by law to issue a warrant for a municipality requiring the arrest of ~~any~~ a person charged with a violation of a municipal ordinance, or a state statute within the trial jurisdiction of the municipal authorities, and the person sought to be arrested is presently incarcerated in a jail or detention center of the county ~~in which~~ where the municipality is located, law enforcement officers of ~~that~~ the municipality with the assistance of law enforcement officials of the county operating the jail or detention center may serve the warrant on ~~that~~ the person without the necessity of a magistrate of the county endorsing the warrant ~~as required by this section~~.

(C) ~~Except as otherwise provided in subsection (B), whenever a~~ When an arrest warrant is issued by an intendant, ~~mayor,~~ recorder, judge, or other proper judicial officer ~~of any municipality of this State, requiring~~ entitled by law to issue a warrant for a municipality requiring the arrest of ~~anyone~~ a person charged with ~~the~~ a violation of a municipal ordinance, or ~~of~~ a state statute within the trial jurisdiction of the municipal authorities, and the person sought to be arrested cannot be found within the municipal limits but is within the State, ~~the officer issuing the warrant may send it to the magistrate having jurisdiction over the area in which the person may be found, which magistrate may endorse the warrant, which shall then be executed by the magistrates’ constable or the sheriff of the county of the endorsing magistrate~~ the warrant is not required to be endorsed by a magistrate in the county where the person resides or may be located. However, a law enforcement officer from the jurisdiction where the person is located and is to be arrested must accompany the law enforcement officer effecting the arrest with the warrant. ~~The endorsement shall be to the following effect: It shall be addressed to the sheriff or any lawful constable of the county of the endorsing magistrate, directing the officer to arrest the person named in the warrant and bring the person before the endorsing magistrate, to be dealt with according to law.~~ Unless a proper bond is filed ~~with the endorsing magistrate~~ by the person arrested, conditioned upon ~~his or her~~ the person’s appearance before the officer originally issuing the warrant, to answer the charges in it, the person arrested ~~shall~~ must be promptly turned over to police officers of the municipality ~~from which~~ where the warrant was originally issued who are ~~hereby~~ empowered to return the person to the municipality involved. ~~A magistrate shall not be required to endorse the warrant when the maximum penalty for each offense charged by the warrant does not exceed ten dollars or when the offense consists of the illegal parking of a motor vehicle.~~

(D) All costs, fees, travel, and other expenses in connection with the endorsement and execution of such warrants shall be paid by the municipality involved to the county or officers entitled thereto.” /

Renumber sections to conform.

Amend title to conform.

A. SHANE MASSEY for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

**EXPLANATION OF IMPACT:**

There is no fiscal impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

The State Budget Division surveyed members of the FIST network of local governments. One county responded by indicating the impact of this legislation would be minimal and another county indicated no cost.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 22‑5‑190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENDORSEMENT AND EXECUTION OF WARRANTS ISSUED IN OTHER COUNTIES OR BY MUNICIPAL AUTHORITIES, SO AS TO PROVIDE A WARRANT IS NOT REQUIRED TO BE ENDORSED BY A MAGISTRATE IN THE COUNTY WHERE A PERSON CHARGED WITH A CRIME RESIDES OR WHERE HE IS LOCATED, TO PROVIDE PROCEDURES FOR SERVING A WARRANT, AND TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 22‑5‑190 of the 1976 Code is amended to read:

“Section 22‑5‑190. (A) ~~A magistrate may endorse a~~ An arrest warrant issued by a magistrate of another county when the person charged with a crime in the warrant resides in or is in ~~the~~ another county ~~of the endorsing magistrate~~ is not required to be endorsed by a magistrate in the county where the person resides or another county where he is located, and may be served by a law enforcement officer within the jurisdiction where the person resides or another county where he is located, or a law enforcement officer from the issuing jurisdiction while accompanied by a law enforcement officer in the jurisdiction where the warrant is being served. ~~When a warrant is presented to a magistrate for endorsement, as provided in this section, the magistrate shall authorize the person presenting it or any special constable to execute it within his county.~~

(B) ~~Whenever~~ When a warrant is issued by a ~~mayor,~~ recorder, judge, or other proper judicial officer ~~of any municipality requiring~~ entitled by law to issue a warrant for a municipality and that warrant requires the arrest of ~~any~~ a person charged with a violation of a municipal ordinance, or a state statute within the trial jurisdiction of the municipal authorities, and the person sought to be arrested is presently incarcerated in a jail or detention center of the county ~~in which~~ where the municipality is located, law enforcement officers of that municipality with the assistance of law enforcement officials of the county operating the jail or detention center may serve the warrant on that person without the necessity of a magistrate of the county endorsing the warrant ~~as required by this section~~.

(C) ~~Except as otherwise provided in subsection (B), whenever a~~ When an arrest warrant ~~is~~ issued by an intendant, ~~mayor,~~ recorder, judge, or other proper judicial officer ~~of any municipality of this State, requiring~~ entitled by law to issue a warrant for a municipality, and that warrant requires the arrest of ~~anyone~~ a person charged with the violation of a municipal ordinance~~,~~ or of a state statute within the trial jurisdiction of the municipal authorities, and the person sought to be arrested cannot be found within the municipal limits but is within the State, ~~the officer issuing the warrant may send it to the magistrate having jurisdiction over the area in which the person may be found, which magistrate may endorse the warrant, which shall then be executed by the magistrates’ constable or the sheriff of the county of the endorsing magistrate~~ the warrant is not required to be endorsed by a magistrate in the county where the person resides or another county where he may be located. However, a law enforcement officer from the jurisdiction where the person is located and is to be arrested must accompany the law enforcement officer effecting the arrest with the warrant. ~~The endorsement shall be to the following effect: It shall be addressed to the sheriff or any lawful constable of the county of the endorsing magistrate, directing the officer to arrest the person named in the warrant and bring the person before the endorsing magistrate, to be dealt with according to law.~~ Unless a proper bond is filed ~~with the endorsing magistrate~~ by the person arrested, conditioned upon his ~~or her~~ appearance before the officer originally issuing the warrant, to answer the charges in it, the person arrested ~~shall~~ must be promptly turned over to police officers of the municipality ~~from which~~ where the warrant was originally issued who are ~~hereby~~ empowered to return the person to the municipality involved. ~~A magistrate shall not be required to endorse the warrant when the maximum penalty for each offense charged by the warrant does not exceed ten dollars or when the offense consists of the illegal parking of a motor vehicle.~~

(D) All costs, fees, travel, and other expenses in connection with the endorsement and execution of such warrants shall be paid by the municipality involved to the county or officers entitled thereto.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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