~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 6, 2009

**S. 282**

Introduced by Senators McConnell and Ford

S. Printed 5/06/09--S.

Read the first time January 15, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 282) to amend Section 22‑5‑110, Code of Laws of South Carolina, 1976, related to magistrates’ powers and duties regarding the issuance of arrest warrants and courtesy summons, 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 all after the enacting words and inserting:

/ SECTION 1. Section 22‑5‑110 of the 1976 Code is 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 ~~escape~~flee out of ~~it,~~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)~~ ~~Notwithstanding another provision of law, a person charged with any misdemeanor offense requiring a warrant signed by nonlaw enforcement personnel to ensure the arrest of a person must be given a courtesy summons.~~

(B)(1) No arrest warrant shall be issued for the arrest of a person unless sought by a member of a law enforcement agency 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. This provision does not apply to a business seeking an arrest warrant for any offense against the business, a person seeking an arrest warrant for a fraudulent check, if the fraudulent check is presented to the magistrate at the time the warrant is sought, or offenses involving criminal domestic violence, harassment, or assault and battery of a high and aggravated nature.

(3) If a person named in a courtesy summons fails to appear before the court pursuant to the summons, the court may issue an arrest warrant for the underlying offense if the court finds that probable cause exists to issue the arrest warrant.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO 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:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department indicates this bill will have no impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

Counties in the FIST network of local governments were contacted regarding the impact of this legislation. One county responded and indicated that there is no fiscal impact with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 22‑5‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO MAGISTRATES’ POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS 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 THEIR OFFICIAL CAPACITY; AND TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, EXCEPT WHEN A BUSINESS IS SEEKING AN ARREST WARRANT FOR ANY OFFENSE AGAINST THE BUSINESS OR A PERSON IS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK, IF THE FRAUDULENT CHECK IS PRESENTED TO THE MAGISTRATE AT THE TIME THE WARRANT IS SOUGHT.

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

SECTION 1. Section 22‑5‑110 of the 1976 Code is amended to read:

“Section 22‑5‑110. (A) Magistrates shall cause to be arrested all persons found within their counties charged with any offense and persons who after committing any offense within the county escape out of it, examine into treasons, felonies, grand larcenies, high crimes and misdemeanors, commit or bind over for trial those who appear to be guilty of crimes or offenses not within their jurisdiction, and punish those guilty of such offenses within their jurisdiction.

~~(B)~~ ~~Notwithstanding another provision of law, a person charged with any misdemeanor offense requiring a warrant signed by nonlaw enforcement personnel to ensure the arrest of a person must be given a courtesy summons.~~

(B)(1) No arrest warrant shall be issued for the arrest of a person unless sought by a member of a law enforcement agency 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. This provision does not apply to a business seeking an arrest warrant for any offense against the business or a person seeking an arrest warrant for a fraudulent check, if the fraudulent check is presented to the magistrate at the time the warrant is sought.”

SECTION 2. This act takes effect upon approval by the Governor.

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