**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4462**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rutherford, Clyburn and Jefferson

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Companion/Similar bill(s): 4463

Introduced in the House on January 10, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Transfer of criminal cases to magistrate court

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/29/2011 House Prefiled

11/29/2011 House Referred to Committee on **Judiciary**

1/10/2012 House Introduced and read first time ([House Journal‑page 49](file:///h:\hj%20archive\2012\01-10-12.docx))

1/10/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 49](file:///h:\hj%20archive\2012\01-10-12.docx))

**VERSIONS OF THIS BILL**

[11/29/2011](file:///p:\pprever\2011-12\4462_20111129.docx)

**A** **BILL**

TO AMEND SECTION 22‑3‑545, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF CERTAIN CRIMINAL CASES FROM GENERAL SESSIONS COURT TO MAGISTRATES OR MUNICIPAL COURT, SO AS TO CLARIFY THE TYPES OF CASES THAT MAY BE TRANSFERRED INCLUDES APPROPRIATE CRIMINAL CASES ORIGINALLY CHARGED AND THOSE IN WHICH THE CHARGES ARE REDUCED TO FALL WITHIN THE PARAMETERS OF THE STATUTE, TO ALLOW DEFENDANTS TO WAIVE CERTAIN RIGHTS, AND TO DELETE THE REQUIREMENT FOR APPROVAL OF THE CHIEF ADMINISTRATIVE JUDGE OF THE GENERAL SESSIONS COURT REGARDING TERMS OF COURT OF THE MAGISTRATES AND MUNICIPAL COURTS FOR THE DISPOSITION OF TRANSFERRED CASES.

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

SECTION 1. Section 22‑3‑545 of the 1976 Code is amended to read:

“Section 22‑3‑545. (A) Notwithstanding the provisions of Sections 22‑3‑540 and 22‑3‑550, a criminal case, the penalty for which the crime in the case does not exceed five thousand five hundred dollars or one‑year imprisonment, or both, either as originally charged or as a reduced charge, may be transferred from general sessions court if the provisions of this section are followed.

(B)(1) The solicitor, upon ten days’ written notice to the defendant, may petition a circuit court judge in the circuit to transfer one or more cases from the general sessions court docket to a docket of a magistrate’s or municipal court in the circuit for disposition. The solicitor’s notice must fully apprise the defendant of his right to have his case heard in general sessions court. The notice must include the difference in jury size in magistrate’s or municipal court and in general sessions court. Both parties must have the opportunity to be heard by the circuit court judge and the case may be transferred from the general sessions court unless the defendant objects after notification by the solicitor pursuant to the provisions of this item. The objection may be made orally or in writing at any time prior to the trial of the case or prior to a guilty plea being entered. The objection may be made to the circuit court judge who granted the petition, the trial judge, or the solicitor. Before impaneling the jury or accepting the guilty plea of the defendant, the ~~trial~~ judge must receive an affirmative waiver by the defendant, if present, of his right to have the case tried in general sessions court. The defendant must be informed that, if tried in general sessions court, the case would be tried in front of twelve jurors who must reach a unanimous verdict before a finding of guilty of the offense can be rendered in his case, and that if tried in magistrate’s or municipal court, the case would be tried in front of six jurors who must reach a unanimous verdict before a finding of guilty of the offense can be reached in his case. The defendant may waive any and all of the rights provided in this section, in writing, prior to the impaneling of the jury or the acceptance of the defendant’s guilty plea.

(2) The judge ~~must~~ may consider, but is not limited to, the following factors in granting the petition for transfer:

(a) case workload;

(b) age of the case;

(c) the speedy disposition of the case.

(3) A case transferred to a magistrate’s or municipal court not disposed of in one hundred eighty days from the date of transfer automatically reverts to the docket of the general sessions court.

(C) All cases transferred to the magistrate’s or municipal court must be prosecuted by the solicitor’s office. The chief judge for administrative purposes for the court of general sessions shall retain administrative supervision of cases transferred pursuant to this section. The chief magistrate of the county or the chief municipal judge of the municipality, upon petition of the solicitor~~, and approval of the chief judge for administrative purposes for the court of general sessions~~, shall set the terms of court and order the magistrates and municipal judges to hold terms of court on specific times and dates for the disposition of these cases.

(D) Provision for an adequate record must be made by the solicitor’s office.

(E) Notwithstanding another provision of law, all fines and assessments imposed by a magistrate or municipal judge presiding pursuant to this section must be distributed as if the fine and assessment were imposed by a circuit court pursuant to Sections 14‑1‑205 and 14‑1‑206. This section must not result in increased compensation to a magistrate presiding over a trial or hearing pursuant to this section or in other additional or increased costs to the county.”

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

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