**South Carolina General Assembly**

119th Session, 2011-2012

**A169, R193, H4463**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrison, Clyburn, Murphy, McLeod and Weeks

Document Path: l:\council\bills\ms\7619ahb12.docx

Companion/Similar bill(s): 4462

Introduced in the House on January 10, 2012

Introduced in the Senate on February 8, 2012

Last Amended on February 7, 2012

Passed by the General Assembly on April 24, 2012

Governor's Action: May 14, 2012, Signed

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 50](file:///h%3A%5Chj%20archive%5C2012%5C01-10-12.docx))

 1/10/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 50](file:///h%3A%5Chj%20archive%5C2012%5C01-10-12.docx))

 1/25/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 18](file:///h%3A%5Chj%20archive%5C2012%5C01-25-12.docx))

 1/25/2012 House Member(s) request name added as sponsor: McLeod

 1/26/2012 House 24 hour point of order ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2012%5C01-26-12.docx))

 1/26/2012 House Member(s) request name added as sponsor: Weeks

 1/31/2012 House Debate adjourned until Wed., 02‑01‑12 ([House Journal‑page 37](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 2/1/2012 House Debate adjourned until Thur., 02‑02‑12 ([House Journal‑page 9](file:///h%3A%5Chj%20archive%5C2012%5C02-01-12.docx))

 2/2/2012 House Debate adjourned until Tues., 02‑07‑12 ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2012%5C02-02-12.docx))

 2/7/2012 House Amended ([House Journal‑page 24](file:///h%3A%5Chj%20archive%5C2012%5C02-07-12.docx))

 2/7/2012 House Read second time ([House Journal‑page 24](file:///h%3A%5Chj%20archive%5C2012%5C02-07-12.docx))

 2/7/2012 House Roll call Yeas‑106 Nays‑0 ([House Journal‑page 27](file:///h%3A%5Chj%20archive%5C2012%5C02-07-12.docx))

 2/8/2012 Scrivener's error corrected

 2/8/2012 House Read third time and sent to Senate ([House Journal‑page 19](file:///h%3A%5Chj%20archive%5C2012%5C02-08-12.docx))

 2/8/2012 Senate Introduced and read first time ([Senate Journal‑page 10](file:///h%3A%5Csj%20archive%5C2012%5C02-08-12.docx))

 2/8/2012 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 10](file:///h%3A%5Csj%20archive%5C2012%5C02-08-12.docx))

 2/10/2012 Senate Referred to Subcommittee: Malloy (ch), Ford, Massey, S.Martin

 4/18/2012 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2012%5C04-18-12.docx))

 4/19/2012 Senate Read second time ([Senate Journal‑page 51](file:///h%3A%5Csj%20archive%5C2012%5C04-19-12.docx))

 4/19/2012 Senate Roll call Ayes‑31 Nays‑0 ([Senate Journal‑page 51](file:///h%3A%5Csj%20archive%5C2012%5C04-19-12.docx))

 4/24/2012 Senate Read third time and enrolled ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2012%5C04-24-12.docx))

 5/8/2012 Ratified R 193

 5/14/2012 Signed By Governor

 5/17/2012 Effective date 05/14/12

 5/21/2012 Act No. 169

**VERSIONS OF THIS BILL**

[11/29/2011](file:///p%3A%5Cpprever%5C2011-12%5C4463_20111129.docx)

[1/25/2012](file:///p%3A%5Cpprever%5C2011-12%5C4463_20120125.docx)

[2/7/2012](file:///p%3A%5Cpprever%5C2011-12%5C4463_20120207.docx)

[2/8/2012](file:///p%3A%5Cpprever%5C2011-12%5C4463_20120208.docx)

[4/18/2012](file:///p%3A%5Cpprever%5C2011-12%5C4463_20120418.docx)

(A169, R193, H4463)

**AN ACT 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 CRIMINAL CASES ORIGINALLY CHARGED AND THOSE IN WHICH THE CHARGES ARE PURSUANT TO A PLEA AGREEMENT, TO ALLOW DEFENDANTS TO WAIVE CERTAIN RIGHTS, AND TO DELETE PROVISIONS WHICH REQUIRED THE APPROVAL OF THE CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES FOR 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:

**Transfer of criminal cases to magistrates or municipal court**

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 charged pursuant to the terms of a plea agreement, 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 magistrates 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 magistrates or municipal court and in general sessions court. 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 the entry of a guilty plea. The objection may be made to the chief judge for administrative purposes in the judicial circuit where the charges are pending, 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 magistrates 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 subsection, in writing, prior to the impaneling of the jury or the acceptance of the defendant’s guilty plea.

 (2) A case transferred to a magistrates 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 magistrates or municipal court must be prosecuted by the solicitor’s office. The chief magistrate of the county or the chief municipal judge of the municipality, upon petition of the solicitor, 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.”

**Time effective**

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

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