~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 25, 2011

**S. 30**

Introduced by Senators McConnell, Leventis and Ford

S. Printed 5/25/11--H.

Read the first time April 6, 2011.

**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.

Amend Title To Conform

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:

(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) 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.”

SECTION 2.A. This SECTION may be cited as “Lollis’s Law”.

B. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14‑25‑40. Notwithstanding another provision of law, the clerk of court of the municipal court shall send a summons or other written notification which designates a court date and time or alters or changes a court date or time for a particular matter before the municipal court by certified letter, return receipt requested, to the person required to appear or to the person’s attorney of record.”

C. Article 9, Chapter 3, Title 22 of the 1976 Code is amended by adding:

“Section 22‑3‑1020. Notwithstanding another provision of law, a magistrate or his designated clerk shall send a summons or other written notification which designates a court date and time or alters or changes a court date or time for a particular matter before the magistrates court by certified letter, return receipt requested, to the person required to appear or to the person’s attorney of record.”

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

‑‑‑‑XX‑‑‑‑