COMMITTEE REPORT

April 6, 2011

**H. 3543**

Introduced by Rep. Hart

S. Printed 4/6/11--H.

Read the first time February 2, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3543) to amend the Code of Laws of South Carolina, 1976, by adding Section 17‑15‑175 so as to provide that a judge may not issue a bench warrant, 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 deleting Section 17‑15‑175, as contained in SECTION 1, page 1, lines 29‑35, and inserting:

/ “Section 17‑15‑175. A judge may not issue a bench warrant for failure to appear in court, unless the solicitor or clerk of court has provided notice to the attorney of record before the bench warrant is issued.” /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17‑15‑175 SO AS TO PROVIDE THAT A JUDGE MAY NOT ISSUE A BENCH WARRANT FOR FAILURE TO APPEAR UNLESS THE SOLICITOR FILES AN AFFIDAVIT WITH THE COURT TO CONFIRM THAT WRITTEN NOTICE OF HIS INTENT TO SEEK A BENCH WARRANT FOR FAILURE TO APPEAR HAS BEEN GIVEN TO THE DEFENDANT, HIS ATTORNEY, AND THE BOND SURETY COMPANY AND TO REQUIRE THE COURT TO HOLD A RULE TO SHOW CAUSE HEARING BEFORE ISSUING THE BENCH WARRANT.

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

SECTION 1. Chapter 15, Title 17 of the 1976 Code is amended by adding:

“Section 17‑15‑175. A judge may not issue a bench warrant for failure to appear in court, unless the:

(1) solicitor files an affidavit with the court attesting to the fact that written notice was given to the defendant, the defendant’s attorney, and the bond surety company, if applicable, of the solicitor’s intent to seek a bench warrant for failure to appear; and

(2) court first holds a rule to show cause hearing.”

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founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action,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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