~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 6, 2011

**H. 3606**

Introduced by Rep. Harrison

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

Read the first time February 8, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3606) to amend Section 22‑5‑110, as amended, Code of Laws of South Carolina, 1976, related to magistrates’ powers and duties regarding the issuance of arrest warrants, 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 22‑5‑110(B), as contained in SECTION 1, page 2, lines 1‑19, and inserting:

/ ~~(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 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.

(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.” /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 22‑5‑110, AS AMENDED, 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 AN ARREST WARRANT MAY NOT BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN THEIR OFFICIAL CAPACITY, TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, AND TO PROVIDE FOR EXCEPTIONS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. Section 22‑5‑110 of the 1976 Code, as last amended by Act 346 of 2008, is further 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 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 an 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.

(3) If a defendant 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 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. This act takes effect upon approval by the Governor.

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