**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3672**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Cobb‑Hunter

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Introduced in the House on March 5, 2009

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

Summary: Criminal proceedings venues

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/5/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\03-05-09.docx)‑10

3/5/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\03-05-09.docx)‑10

**VERSIONS OF THIS BILL**

[3/5/2009](file:///p:\pprever\2009-10\3672_20090305.docx)

**A** **BILL**

TO AMEND SECTION 17-21-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHANGE OF VENUE IN CRIMINAL PROCEEDINGS, SO AS TO PROVIDE THAT IF A PERSON CHARGED WITH A CRIMINAL OFFENSE IS A LAW ENFORCEMENT OFFICER, MAGISTRATE, OR CIRCUIT JUDGE, IT IS REBUTTABLY PRESUMED THAT A FAIR AND IMPARTIAL TRIAL CANNOT BE OBTAINED IN THE COUNTY IN WHICH THE DEFENDANT SERVED AND THAT THE VENUE IN SUCH A CASE MUST BE CHANGED TO ANOTHER COUNTY.

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

SECTION 1. Section 17‑21‑80 of the 1976 Code is amended to read:

“Section 17‑21‑80. (A) The circuit courts shall have power to change the venue in all criminal cases pending therein, and over which they have original jurisdiction, by ordering the record to be removed to another county in the same circuit. The application for removal must be made to the judge sitting in regular term by some party interested, by the solicitor of the circuit or by the accused, supported by affidavit that a fair and impartial trial cannot be had in the county where such action or prosecution was commenced. The State shall have the same right to make application for a change of venue that a defendant has in cases of murder, arson, rape, burglary, perjury, forgery or grand larceny; provided, that no change of venue shall be granted in such cases until a true bill has been found by a grand jury. Four days’ notice of such application in civil and criminal cases shall be given to the adverse party, and if a change is ordered, it shall be to a county in the same judicial circuit; provided, further, that such adverse party to whom notice is given shall have the right to waive it. The circuit judge shall have the power, upon application made to him by either party, upon proper cause shown, to shorten or extend the time for the hearing of the application for a change of venue.

(B) Notwithstanding the provisions of subsection (A), if a defendant in a criminal case was a law enforcement officer, magistrate, or circuit judge at the time the offense was committed, there is a rebuttable presumption that a fair and impartial trial cannot be had in the county in which the defendant served at the time of the commission of the offense, and upon motion of any party, with notice as provided for in subsection (A), the action, if brought in that county, must be moved to another county and in the case of a circuit judge, to a county in another judicial circuit.”

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

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