

The State of South Carolina



Office of the Attorney General

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June 16, 1993

Mark R. Elam, Esquire
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Office of the Governor
Post Office Box 11369
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of June 10, 1993, you have asked for the opinion of this Office as to the constitutionality of S.455, R-211, an act which authorizes the transfer of certain cases from general sessions court to magistrate's or municipal court.

In considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.


The referenced legislation provides that "(n)otwithstanding the provisions of Sections 22-3-540 and 22-3-550" specified criminal cases may be transferred from general sessions court to a magistrate's or municipal court. Sections 22-3-540 and 22-3-550 provide the jurisdictional limits for criminal cases in a magistrate's or municipal court. Pursuant to S.C. Code Section 14-25-45 a municipal court has the same jurisdiction as a magistrate's court as to criminal cases. The legislation expands the jurisdiction for magistrates and municipal courts as to criminal cases. Such expansion is consistent with Article I, Section 11 of the State Constitution which authorizes the expansion of the criminal jurisdiction of a magistrates' court.

Mr. Elam
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Based upon our review, it appears that S.455, R-211 is probably constitutional.

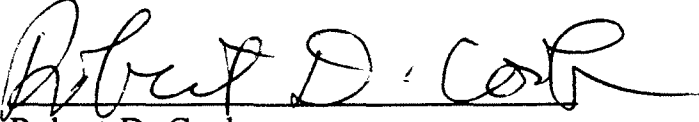
With kind regards, I am

Very truly yours,


Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:


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