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CHAPTER 1.

GENERAL PROVISIONS

**SECTION 17‑1‑10.** Manner of prosecuting criminal action.

A criminal action is prosecuted by the State, as a party, against a person charged with a public offense, for the punishment thereof.

HISTORY: 1962 Code Section 17‑1; 1952 Code Section 17‑1; 1942 Code Section 5; 1932 Code Section 5; Civ. P. '22 Section 5; Civ. P. '12 Section 5; Civ. P. '02 Section 5; 1870 (14) 423.

**SECTION 17‑1‑20.** Prosecuting officer shall not accept fees or rewards, nor act in a civil case as counsel for either party.

No prosecuting officer shall receive any fee or reward from or in behalf of a prosecutor for services in any prosecution or business to which it is his official business to attend, nor be concerned as counsel or attorney for either party in a civil action depending upon the same state of facts.

HISTORY: 1962 Code Section 17‑2; 1952 Code Section 17‑2; 1942 Code Section 3123; 1932 Code Section 3123; Civ. C. '22 Section 805; Civ. C. '12 Section 720; Civ. C. '02 Section 648; G. S. 505; R. S. 565; 1868 (14) 88.

**SECTION 17‑1‑30.** Rule of strict construction is inapplicable to this title.

The rule of the common law that statutes in derogation of that law are to be strictly construed has no application to this title.

HISTORY: 1962 Code Section 17‑3; 1960 (51) 1744.

**SECTION 17‑1‑40.** Destruction of records where charges dismissed; fee; exception; promulgation of regulations.

(A)(1) A person who after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and state detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and, where necessary, to defend such facilities during litigation proceedings except when an action, complaint, or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. Such information only may be disclosed by judicial order, pursuant to a subpoena filed in a civil action, or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.

(2) If a person has been issued a courtesy summons pursuant to Section 22‑3‑330 or another provision of law and the charge for which the courtesy summons was issued is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency in accordance with the provisions of item (1).

In addition, a person who violates the provisions of this item is subject to the same penalty as provided in item (1).

(B) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to the provisions of this section.

(C) This section does not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation.

(D) If a charge enumerated in subsection (C) is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the charge must be removed from any Internet‑based public record no later than thirty days from the disposition date.

(E) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

HISTORY: 1962 Code Section 17‑4; 1973 (58) 637; 2007 Act No. 82, Section 8, eff June 12, 2007; 2009 Act No. 36, Section 3, eff June 2, 2009; 2010 Act No. 167, Section 1, eff May 12, 2010; 2013 Act No. 75, Section 2, eff June 13, 2013.

**SECTION 17‑1‑45.** Expungement notice requirement.

South Carolina Court Administration shall include on all bond paperwork and courtesy summons the following notice: "If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged."

HISTORY: 2009 Act No. 36, Section 4, eff June 2, 2009.

**SECTION 17‑1‑50.** Interpreters in criminal proceedings.

(A) As used in this section:

(1) "Certified interpreter" means an interpreter who meets the standards contained in subitem (A)(4) and is certified by the administrative office of the United States courts, by the office of the administrator for the state courts, or by a nationally recognized professional organization.

(2) "Legal proceeding" means a proceeding in which a nonEnglish speaking person is a party or a witness.

(3) "NonEnglish speaking person" means a party or a witness participating in a legal proceeding who has limited ability to speak or understand the English language.

(4) "Qualified interpreter" means a person who:

(a) is eighteen years of age or older;

(b) is not a family member of a party or a witness;

(c) is not a person confined to an institution; and

(d) has education, training, or experience that enables him to speak English and a foreign language fluently, and is readily able to interpret simultaneously and consecutively and to sight‑translate documents from English into the language of a nonEnglish speaking person, or from the language of that person into spoken English.

(5) "Victim" means a victim as defined in Section 16‑3‑1110.

(6) "Witness" means a person who testifies in a legal proceeding.

(B)(1) Notwithstanding any other provision of law, whenever a party, witness, or victim in a criminal legal proceeding does not sufficiently understand or speak the English language to comprehend the proceeding or to testify, the court must appoint a certified or otherwise qualified interpreter to interpret the proceedings to the party or victim or to interpret the testimony of the witness.

(2) However, the court may waive the use of a certified or otherwise qualified interpreter if the court finds that it is not necessary for the fulfillment of justice. The court must first make a finding on the record that the waiver of a certified or otherwise qualified interpreter is requested by a nonEnglish speaking party, witness, or victim in a legal proceeding; that the waiver has been made knowingly, voluntarily, and intelligently; and that granting the waiver is in the best interest of justice.

(C) The selection, use, and reimbursement of interpreters must be determined under such guidelines as may be established by the Chief Justice of the Supreme Court. All fees for interpreting services must be paid out of the general fund of the State from funds appropriated to the Judicial Department for this purpose by the General Assembly.

(D) The Division of Court Administration must maintain a centralized list of certified or otherwise qualified interpreters to interpret the proceedings to a party and testimony of a witness. A party or a witness is not precluded from using a qualified interpreter who is not on the centralized list as long as the interpreter meets the requirements of subitem (A)(4) and submits a sworn affidavit to the court specifying his qualifications or submits to a voir dire by the court.

HISTORY: 1998 Act No. 390, Section 1; 2001 Act No. 103, Section 3.