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CHAPTER 1

General Provisions

**SECTION 14‑1‑10.** “Property” defined.

 The word “property,” as used in this Title, includes property, real and personal.

HISTORY: 1962 Code Section 15‑3; 1952 Code Section 15‑3; 1942 Code Section 899; 1932 Code Section 899; Civ. P. ‘22 Section 847; Civ. P. ‘12 Section 484; Civ. P. ‘02 Section 446; 1870 (14) Section 468.

**SECTION 14‑1‑20.** “Real property” and “real estate” defined.

 The words “real property” and “real estate,” as used in this Title, are coextensive with lands, tenements and hereditaments.

HISTORY: 1962 Code Section 15‑1; 1952 Code Section 15‑1; 1942 Code Section 897; 1932 Code Section 897; Civ. P. ‘22 Section 845; Civ. P. ‘12 Section 482; Civ. P. ‘02 Section 444; 1870 (14) 466.

**SECTION 14‑1‑30.** “Personal property” defined.

 The words “personal property,” as used in this Title, include money, goods, chattels, things in action and evidences of debt.

HISTORY: 1962 Code Section 15‑2; 1952 Code Section 15‑2; 1942 Code Section 898; 1932 Code Section 898; Civ. P. ‘22 Section 846; Civ. P. ‘12 Section 483; Civ. P. ‘02 Section 445; 1870 (14) 467.

**SECTION 14‑1‑40.** “Clerk” defined.

 The word “clerk”, as used in this title, signifies the clerk of the court where the action is pending and, in the Supreme Court or court of appeals, the clerk of the county mentioned in the title of the complaint or in another county to which the court may have changed the place of trial, unless otherwise specified.

HISTORY: 1962 Code Section 15‑4; 1952 Code Section 15‑4; 1942 Code Section 900; 1932 Code Section 900; Civ. P. ‘22 Section 848; Civ. P. ‘12 Section 485; Civ. P. ‘02 Section 447; 1870 (14) 469; 1999 Act No. 55, Section 12, eff June 1, 1999.

Effect of Amendment

The 1999 amendment added the reference to the court of appeals.

**SECTION 14‑1‑50.** Common law of England shall continue in effect.

 All, and every part, of the common law of England, where it is not altered by the Code or inconsistent with the Constitution or laws of this State, is hereby continued in full force and effect in the same manner as before the adoption of this section.

HISTORY: 1962 Code Section 1‑19; 1972 (57) 2775.

**SECTION 14‑1‑60.** Rules of construction.

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

HISTORY: 1962 Code Section 15‑5; 1952 Code Section 15‑5; 1942 Code Section 902; 1932 Code Section 902; Civ. P. ‘22 Section 850; Civ. P. ‘12 Section 487; Civ. P. ‘02 Section 448; 1870 (14) 470.

**SECTION 14‑1‑70.** Designation of the several courts of the State.

 The following are courts of justice in this State:

 (1) the court for trial of impeachments;

 (2) the Supreme Court;

 (3) the court of appeals;

 (4) the circuit courts, to wit:

 (a) a court of common pleas and

 (b) a court of general sessions;

 (5) probate courts;

 (6) the family courts;

 (7) magistrates’ courts; and

 (8) municipal courts.

HISTORY: 1962 Code Section 15‑6; 1952 Code Section 15‑6; 1942 Code Section 9; 1932 Code Section 9; Civ. P. ‘22 Section 9; Civ. P. ‘12 Section 9; Civ. P. ‘02 Section 9; 1870 (14) 423 Section 9; Const. Art. 5 Section 1; 1903 (24) 89; 1911 (27) 16; 1961 (52) 139; 1999 Act No. 55, Section 13, eff June 1, 1999.

Effect of Amendment

The 1999 amendment added item (3), renumbered item (3) as item (4), deleted item (4) “County courts”, in item (6), substituted “the family courts” for “Juvenile and domestic relations courts”, deleted item (7) “Children’s courts”, renumbered items (8) and (9) as items (7) and (8) and in item (8) deleted “mayors’ and”, and deleted items (10) through (22) which referred to local courts.

**SECTION 14‑1‑80.** Jurisdiction of the several courts of the state, generally.

 These courts shall exercise the jurisdiction now vested in them respectively except as otherwise prescribed.

HISTORY: 1962 Code Section 15‑7; 1952 Code Section 15‑7; 1942 Code Section 10; 1932 Code Section 10; Civ. P. ‘22 Section 10; Civ. P. ‘12 Section 10; Civ. P. ‘02 Section 10; 1870 (14) 423 Section 10; 1903 (24) 89; 1911 (27) 16.

**SECTION 14‑1‑90.** Chief Justice of Supreme Court shall be administrative head; his powers and duties; vacancy.

 The Chief Justice of the Supreme Court shall be the administrative head of all courts in this State. He shall examine the administrative methods, systems and activities of the courts and their employees, examine the dockets of the several courts and require the courts and their employees to furnish to him such information as may be appropriate to assist in the administration of the courts. Within the framework of the requirements of Section 14‑3‑390, he shall make all assignments of duties for the circuit judges and may, from time to time, transfer a circuit judge from one assignment to another, as such judge’s regularly assigned duties will permit and as the need appears. He shall have the right to call additional terms of court, to assign more than one judge to a circuit, if such additional judge’s regularly assigned duties will permit and if need appears, and generally to supervise the calendars of trial courts in the interest of the better administration of justice. In the event that there is a vacancy in the position of Chief Justice or for any reason the Chief Justice is unable to act, the powers and functions provided in this section shall be exercised by the senior associate justice.

HISTORY: 1962 Code Section 15‑7.1; 1959 (51) 306.

**SECTION 14‑1‑95.** Power of chief justice to adjust salary of judicial employees.

 Effective July 1, 1985, the Chief Justice is empowered to adjust salary levels of employees of the Judicial Department from funds appropriated to the Judicial Department.

HISTORY: 1987 Act No. 97 Section 2, eff May 13, 1987.

**SECTION 14‑1‑100.** Rights in court shall not be affected by race or color.

 Whenever authority has heretofore been conferred by law upon any free white person or persons to institute any suit or proceedings or to prefer any information or complaint in any matter, civil, penal or criminal, the same rights shall be enjoyed by and the same remedies shall be applicable to all persons whatsoever, regardless of race or color, subject to the same conditions and none other.

HISTORY: 1962 Code Section 15‑8; 1952 Code Section 15‑8; 1942 Code Section 335; 1932 Code Section 335; Civ. P. ‘22 Section 291; Civ. C. ‘12 Section 3924; Civ. C. ‘02 Section 2821; G. S. 2168; R. S. 2297; 1870 (14) 338.

**SECTION 14‑1‑110.** Effect on process pending in any court of failure of court to sit on day appointed by law.

 No process pending in any court shall be discontinued for or by reason of the failure to hold the court upon the day appointed by law. In such case all suits, process, matters and things depending shall be made to the next succeeding court in course in the same manner as if such succeeding court had been the same court to which such process stood continued or such returns or appearances should have been made. And recognizances, bonds and obligations for appearances and all returns shall be of the same force and validity for the appearance of any person at such succeeding court and all summonses for witnesses as effectual as if the succeeding court had been expressly mentioned therein.

HISTORY: 1962 Code Section 15‑9; 1952 Code Section 15‑9; 1942 Code Section 345; 1932 Code Section 345; Civ. P. ‘22 Section 301; Civ. C. ‘12 Section 3934; Civ. C. ‘02 Section 2831; G. S. 178; R. S. 2307; 1785 (7) 218.

**SECTION 14‑1‑120.** Case continued on adjournment.

 All causes depending on the docket and undetermined at any adjournment to the court in course shall stand continued in the same order to such court as fully as if such causes were called over and continued by order of court.

HISTORY: 1962 Code Section 15‑9.1; 1952 Code Section 15‑9.1; 1942 Code Section 345; 1932 Code Section 345; Civ. P. ‘22 Section 301; Civ. C. ‘12 Section 3934; Civ. C. ‘02 Section 2831; G. S. 178; R. S. 2307; 1785 (7) 218.

**SECTION 14‑1‑130.** Disqualification of judge by reason of relationship to parties.

 No judge or other judicial officer shall preside on the trial of any cause when he may be connected with either of the parties by consanguinity or affinity within the sixth degree.

HISTORY: 1962 Code Section 15‑10; 1952 Code Section 15‑10; 1942 Code Section 334; 1932 Code Section 334; Civ. P. ‘22 Section 290; Civ. C. ‘12 Section 3923; Civ. C. ‘02 Section 2820.

**SECTION 14‑1‑140.** Persons attending court shall be exempt from arrest; mileage allowed per day.

 All persons necessarily going to, attending on, or returning from, the courts of record of this State shall be free from arrest, except on criminal process for treason, felony or breach of the peace. Thirty miles per day shall be allowed such persons for travelling.

HISTORY: 1962 Code Section 15‑11; 1952 Code Section 15‑11; 1942 Code Section 338; 1932 Code Section 338; Civ. P. ‘22 Section 294; Civ. C. ‘12 Section 3927; Civ. C. ‘02 Section 2824; G. S. 2171; R. S. 2300; 1785 (7) 219; 1798 (7) 286; 1819 (11) 41.

**SECTION 14‑1‑150.** Contempt of court; offenders shall be heard.

 In case any person shall commit any misbehavior or contempt in any court of judicature in this State, by word or gesture, the judges of such court may set a fine on such offender in any sum not exceeding fifty dollars, for the use of this State, and may commit the offender till payment. But if any person shall in the presence and during the sitting of the court strike or use any violence therein, such person shall be fined at the discretion of the court and shall be committed till payment; provided, that no citizen of this State shall be sent to jail for any contempt of court or supposed contempt of court, committed during the sitting of the court and in disturbance of the court, until he be brought before the court and there be heard by himself or counsel or shall stand mute.

HISTORY: 1962 Code Section 15‑12; 1952 Code Section 15‑12; 1942 Code Section 339; 1932 Code Section 339; Civ. P. ‘22 Section 295; Civ. C. ‘12 Section 3928; Civ. C. ‘02 Section 2825; G. S. 2172; R. S. 2301; 1731 (3) 283; 1811 (5) 642.

**SECTION 14‑1‑160.** Breach of peace within hearing of court.

 When any affray shall happen during the sitting of any court within this State and within the hearing or to the disturbance of the court, the court shall order the sheriff or other lawful officer to take the affrayers or other disturbers of the peace or those guilty of contempt and bring the offenders before the court and the court shall make such order thereon as may be consistent with law, justice and good order.

HISTORY: 1962 Code Section 15‑13; 1952 Code Section 15‑13; 1942 Code Section 340; 1932 Code Section 340; Civ. P. ‘22 Section 296; Civ. C. ‘12 Section 3929; Civ. C. ‘02 Section 2826; G. S. 2173; R. S. 2302; 1811 (5) 642.

**SECTION 14‑1‑170.** Filing of undertakings.

 The various undertakings required to be given by this Title must be filed with the clerk of the court, unless the court expressly provides for a different disposition thereof.

HISTORY: 1962 Code Section 15‑14; 1952 Code Section 15‑14; 1942 Code Section 824; 1932 Code Section 824; Civ. P. ‘22 Section 772; Civ. P. ‘12 Section 458; Civ. P. ‘02 Section 420; 1870 (14) 438.

**SECTION 14‑1‑180.** Jurors for inferior courts in counties containing a city of more than 70,000.

 In each county containing a city having more than seventy thousand population, according to the official United States census, all jurors for courts inferior to the circuit court and having both civil and criminal jurisdiction shall be drawn from the jury box and tales box provided for such counties under Sections 14‑7‑170 and 14‑7‑210.

HISTORY: 1962 Code Section 15‑15; 1952 Code Section 15‑15; 1942 Code Section 609; 1932 Code Section 609; Civ. P. ‘22 Section 549; Civ. C. ‘12 Section 4018; 1902 (23) 1066; 1921 (32) 276; 1939 (41) 27; 1941 (42) 70; 1943 (43) 263.

**SECTION 14‑1‑190.** Monies received by jurors constitute expense allowance.

 Notwithstanding any other provision of law, any monies received by a person for service as a juror in any court of this State shall be considered an expense allowance for such service.

HISTORY: 1980 Act No. 320, eff March 4, 1980.

**SECTION 14‑1‑200.** Establishment of salaries of Supreme Court Justices, Court of Appeals, Circuit Court, and Family Court judges, and circuit solicitors.

 The General Assembly shall establish the salary of the Chief Justice and Associate Justices of the Supreme Court in the annual general appropriation act with the salary of the Chief Justice to be one hundred five percent of the salary fixed for Associate Justices of the Supreme Court and shall fix the salaries for the court of appeals, circuit court, and family court according to the following schedule:

 (1) The chief judge of the court of appeals shall receive a salary in an amount equal to ninety‑nine percent of the salary fixed for Associate Justices of the Supreme Court;

 (2) Judges of the court of appeals shall receive a salary in an amount equal to ninety‑seven and one‑half percent of the salary fixed for Associate Justices of the Supreme Court, and circuit court judges shall receive a salary in an amount equal to ninety‑five percent of the salary fixed for Associate Justices of the Supreme Court;

 (3) Judges of the family court shall receive a salary in an amount equal to ninety‑two and one‑half percent of the salary fixed for Associate Justices of the Supreme Court.

HISTORY: 1985 Act No. 201, Part II, Section 31, eff June 20, 1985; 1996 Act No. 458, Part II, Section 25A, eff July 1, 1996.

Editor’s Note

1996 Act No. 458, Part II, Section 25B, eff July 1, 1996, provides as follows:

“One‑half of the increase in the salaries of justices and judges provided for in the amendment to Section 14‑1‑200 of the 1976 Code in subsection A of this section takes effect on July 1, 1997, and one‑half of such increase takes effect on July 1, 1998.”

Effect of Amendment

The 1996 amendment, revised this section.

**SECTION 14‑1‑201.** Distribution of additional assessment charged to persons convicted of driving under influence of intoxicating liquors or drugs.

 The revenue from the twelve dollar additional assessments imposed pursuant to Section 56‑5‑2995 must be distributed as follows:

 (1) eighty‑four percent to the Department of Disabilities and Special Needs for the Head and Spinal Cord Injuries Family Support Program; and

 (2) sixteen percent to the Department of Health and Environmental Control for Emergency Medical Services ‑ Aid to Counties, restricted.

HISTORY: 1997 Act No. 155, Part II, Section 37B, eff July 1, 1997.

**SECTION 14‑1‑202.** Authority to collect or compromise a court‑ordered delinquent debt.

 (A) The clerk of the appropriate court, or county treasurer or municipal treasurer, as appropriate, is authorized to collect any fine, penalty, cost, fee, assessment, surcharge, service charge, restitution, or other amount imposed by a court or as a direct consequence of a court order.

 (B) The clerk of the appropriate court, or county treasurer or municipal treasurer, as appropriate, may compromise any fine, penalty, cost, fee, assessment, surcharge, service charge, restitution, or other amount imposed by a court or as a direct consequence of a court order to the extent necessary to collect these items. If a clerk or treasurer compromises an amount pursuant to this subsection, the proceeds representing the collected amount must be distributed pro rata to the entities that otherwise would have received the original amount.

HISTORY: 2001 Act No. 89, Section 60B, eff July 20, 2001.

**SECTION 14‑1‑203.** Revenues from spousal and dependent children support actions.

 The revenue from the fee set in Section 63‑3‑370(C) must be remitted to the county in which the proceeding is instituted. Forty‑four percent of the revenues must be remitted monthly by the fifteenth day of each month to the State Treasurer on forms in a manner prescribed by him. When payment is made to the county in installments, the state’s portion must be remitted to the State Treasurer by the county treasurer on a monthly basis. The forty‑four percent remitted to the State Treasurer must be deposited as follows:

 (1) 43.76 percent to the general fund;

 (2) 10.04 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities;

 (3) 6.20 percent to the State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund; and

 (4) 40.00 percent to the South Carolina Judicial Department.

HISTORY: 2002 Act No. 329, Section 3B, eff July 1, 2002.

Code Commissioner’s Note

At the direction of the Code Commissioner, the reference to Section 20‑7‑1440(C) was changed to 63‑3‑370(C) in accordance with 2008 Act No. 361 (Children’s Code).

**SECTION 14‑1‑204.** Distribution of filing fee paid for filing complaints or petitions in civil actions in a court of record.

 (A) The one hundred dollar filing fee for documents and actions described in Section 8‑21‑310(11)(a) must be remitted to the county in which the proceeding is instituted, and fifty‑six percent of these filing fee revenues must be delivered to the county treasurer to be remitted monthly by the fifteenth day of each month to the State Treasurer. When a payment is made to the county in installments, the state’s portion must be remitted to the State Treasurer by the county treasurer on a monthly basis.

 The fifty‑six percent of the one‑hundred‑dollar fee prescribed in Section 8‑21‑310(11)(a) remitted to the State Treasurer must be deposited as follows:

 (1) 31.52 percent to the state general fund;

 (2) 7.23 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities;

 (3) 4.47 percent to the State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund;

 (4) 26.78 percent to the Defense of Indigents Per Capita Fund, administered by the Commission on Indigent Defense, which shall then distribute these funds on December thirty‑first and on June thirtieth of each year to South Carolina organizations that are grantees of the Legal Services Corporation, in amounts proportionate to each recipient’s share of the state’s poverty population; and

 (5) 30.00 percent to the South Carolina Judicial Department.

 (B)(1) There is added to the fee imposed pursuant to Section 8‑21‑310(11)(a) an additional fee equal to fifty dollars. One hundred percent of the revenue from this additional fee must be remitted to the State Treasurer on the monthly schedule provided in subsection (A). The revenues from this additional fee must be allocated in each fiscal year to the following agencies in the amounts specified:

 (a) Judicial Department ‑ 67.96 percent;

 (b) Commission on Indigent Defense, Defense of Indigents per capita ‑ 14.56 percent;

 (c) Department of Probation, Parole and Pardon Services ‑ 11.30 percent;

 (d) Prosecution Coordination Commission ‑ 4.37 percent; and

 (e) Commission on Indigent Defense, Division of Appellate Defense ‑ 1.81 percent.

 (2) Fee revenues allocated pursuant to this subsection are to be retained, expended, and carried forward by the agencies specified.

HISTORY: 1997 Act No. 155, Part II, Section 36B, eff July 1, 1997; 2002 Act No. 329, Section 3.C., eff July 1, 2002; 2008 Act No. 353, Section 2, Pt 23B, eff July 1, 2009.

Effect of Amendment

The 2002 amendment substituted “one hundred” for “seventy” in the first two undesignated paragraphs and in the second undesignated paragraph substituted “31.52” for “45.03” in item (1), “7.23” for “10.33” in item (2), “4.47” for “6.38” in item (3), and “26.78” for “38.26” in item (4) and added item (5).

The 2008 amendment designated subsection (A) and added subsection (B) relating to an additional fee.

**SECTION 14‑1‑205.** Disposition of costs, fees, fines, penalties, forfeitures, and other revenues; restitution charge to Victim’s Compensation Fund.

 Except as provided in Sections 17‑15‑260, 34‑11‑90, 50‑1‑150;;;MI;;0000000;, 50‑1‑170;;;MI;;0000000;, and 56‑5‑4160, on January 1, 1995, fifty‑six percent of all costs, fees, fines, penalties, forfeitures, and other revenues generated by the circuit courts and the family courts, except the seventy dollar filing fee prescribed in Section 8‑21‑310(11)(a) must be remitted to the county in which the proceeding is instituted and forty‑four percent of the revenues must be delivered to the county treasurer to be remitted monthly by the fifteenth day of each month to the State Treasurer on forms and in a manner prescribed by him. When a payment is made to the county in installments, the state’s portion must be remitted to the State Treasurer by the County Treasurer on a monthly basis. The forty‑four percent remitted to the State Treasurer must be deposited as follows:

 (1) 72.93 percent to the general fund;

 (2) 16.73 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities;

 (3) 10.34 percent to the State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund.

 In any court, when sentencing a person convicted of an offense which has proximately caused physical injury or death to the victim, the court may order the defendant to pay a restitution charge commensurate with the offense committed, not to exceed ten thousand dollars, to the Victim’s Compensation Fund.

HISTORY: 1994 Act No. 497, Part II, Section 36A, eff January 1, 1995; 1997 Act No. 155, Part II, Section 36C, eff July 1, 1997.

Effect of Amendment

The 1997 amendment, in the first sentence of the introductory paragraph, inserted “, except the seventy dollar filing fee prescribed in Section 8‑21‑310(11)(a)”; and made other nonsubstantive changes.

**SECTION 14‑1‑206.** Additional assessment, general sessions or family court; remittance; disposition; annual audits.

 (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in general sessions court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the clerk of court in the county in which the criminal judgment is rendered for remittance to the State Treasurer by the county treasurer. The assessment is based upon that portion of the fine that is not suspended and assessments must not be waived, reduced, or suspended.

 (B) The county treasurer must remit 35.35 percent of the revenue generated by the assessment imposed in subsection (A) to the county to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer. Assessments paid in installments must be remitted as received.

 (C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of assessments received as follows:

 (1) 42.08 percent for programs established pursuant to Chapter 21 of Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13 of Title 24;

 (2) 14.74 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

 (3) .45 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;

 (4) 14.46 percent to the Office of Indigent Defense for the defense of indigents;

 (5) 11.83 percent for the State Office of Victim Assistance;

 (6) 15.39 percent to the general fund;

 (7) .89 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, “complex criminal litigation” means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel, and the county involved has expended more than two hundred fifty thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a “first received, first paid” basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year; and

 (8) .16 percent to the Office of the State Treasurer to defray the administrative expenses associated with collecting and distributing the revenue of these assessments.

 (D) The revenue retained by the county under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims’ assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15 of Title 16. All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity’s adopted budget as funds unused and carried forward from previous years.

 (E) To ensure that fines and assessments imposed pursuant to this section and Section 14‑1‑209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each county pursuant to Section 4‑9‑150 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected by the clerk of court for the court of general sessions, the amount remitted to the county treasurer, and the amount remitted to the State Treasurer.

 (1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:

 (a) all fines collected by the clerk of court for the court of general sessions;

 (b) all assessments collected by the clerk of court for the court of general sessions;

 (c) the amount of fines retained by the county treasurer;

 (d) the amount of assessments retained by the county treasurer;

 (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and

 (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

 (2) The supplementary schedule must be included in the external auditor’s report by an “in relation to” paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

 (3) Within thirty days of issuance of the audited financial statement, the county must submit to the State Treasurer a copy of the audited financial statement and a statement of the actual cost associated with the preparation of the supplemental schedule required in this subsection. Upon submission to the State Treasurer, the county may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplemental schedule required in this subsection, not to exceed one thousand dollars each year.

 (4) The clerk of court and county treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the county council and make those records available for review.

HISTORY: 1994 Act No. 497, Part II, Section 36B, eff January 1, 1995; 1995 Act No. 145, Part II, Section 113A, eff July 1, 1995; 1996 Act No. 292, Section 1, eff May 6, 1996; 1997 Act No. 141, Section 4A, eff July 1, 1997; 1999 Act No. 105, Section 1, eff June 28, 1999; 2000 Act No. 387, Part II, Section 83B, eff June 30, 2000; 2001 Act No. 107, Section 3, eff September 20, 2001; 2008 Act No. 335, Section 2, eff June 16, 2008; 2008 Act No. 353, Section 2, Pt 23D, eff July 1, 2009.

Effect of Amendment

The 1995 amendment revised subsection (C).

The 1996 amendment revised subsection (A), deleting from the first sentence “or family” before “court”.

The 1997 amendment, in the first sentence of subsection (A), substituted “one hundred percent” for “sixty‑two percent”; in subsection (B), substituted “thirty‑eight percent of the revenue generated by the assessment imposed in subsection (A) to the county to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue” for “the assessments”; in subsection (C), in the introductory paragraph, inserted “received”; and added subsection (D).

The 1999 amendment rewrote the second sentence and added the third through fifth sentences in subsection (D) and added subsection (E).

The 2000 amendment, in subsection (E)(1), added item (f).

The 2001 amendment in the second sentence of paragraph (C)(3) changed “Hall of Fame” to “South Carolina Law Enforcement Officers Hall of Fame”.

The first 2008 amendment, in paragraph (C)(2), substituted “South Carolina Criminal Justice Academy” for “Department of Public Safety”.

The second 2008 amendment, in subsection (A), substituted “A” for “Beginning January 1, 1995, and continuously after that date, a”, added “occurring after June 30, 2008,” and “107.5” for “one hundred”; in subsection (B), substituted “35.35” for “thirty‑eight”; and, in subsection (C), in the introductory paragraph substituted “After deducting amounts provided pursuant to Section 14‑1‑210, the” for “The” and added “balance of”; in paragraphs (C)(1) through (C)(7), changed the percentages; in paragraph (C)(2), substituted “Law Enforcement Training Council for” for “Department of Public Safety program of”; in paragraph (C)(3), substituted “, carry‑forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame” for “the surplus for use in its law enforcement training program”; and added paragraph (C)(8) relating to the State Treasurer’s Office.

**SECTION 14‑1‑207.** Additional assessment, magistrate’s court; remittance; disposition; annual audits.

 (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in magistrates court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the magistrate and deposited as required by Section 22‑1‑70 in the county in which the criminal judgment is rendered for remittance to the State Treasurer by the county treasurer. The assessment is based upon that portion of the fine that is not suspended and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56‑3‑1970, 56‑5‑2510, and 56‑5‑2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

 (B) The county treasurer must remit 11.16 percent of the revenue generated by the assessment imposed in subsection (A) to the county to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer. Assessments paid in installments must be remitted as received.

 (C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of the assessments received as follows:

 (1) 32.36 percent for programs established pursuant to Chapter 21 of Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13 of Title 24;

 (2) 20.72 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

 (3) .60 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;

 (4) 18.82 percent for the State Office of Victim Assistance;

 (5) 15.93 percent to the general fund;

 (6) 10.49 percent to the Office of Indigent Defense for the defense of indigents;

 (7) .92 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, “complex criminal litigation” means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel and the county involved has expended more than two hundred fifty thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a “first received, first paid” basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year; and

 (8) .16 percent to the Office of the State Treasurer to defray the administrative expenses associated with collecting and distributing the revenue of these assessments.

 (D) The revenue retained by the county under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims’ assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15 of Title 16. All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity’s adopted budget as funds unused and carried forward from previous years.

 (E) To ensure that fines and assessments imposed pursuant to this section and Section 14‑1‑209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each county pursuant to Section 4‑9‑150 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected by the magistrate’s court of that county, the amount remitted to the county treasurer, and the amount remitted to the State Treasurer.

 (1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:

 (a) all fines collected by the magistrate’s court;

 (b) all assessments collected by the magistrate’s court;

 (c) the amount of fines retained by the county treasurer;

 (d) the amount of assessments retained by the county treasurer;

 (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and

 (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

 (2) The supplementary schedule must be included in the external auditor’s report by an “in relation to” paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

 (3) Within thirty days of issuance of the audited financial statement, the county must submit to the State Treasurer a copy of the audited financial statement and a statement of the actual cost associated with the preparation of the supplemental schedule required in this section. Upon submission to the State Treasurer, the county may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplemental schedule required in this subsection, not to exceed one thousand dollars each year.

 (4) The clerk of court and county treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the county council and make those records available for review.

HISTORY: 1994 Act No. 497, Part II, Section 36C, eff January 1, 1995; 1995 Act No. 145, Part II, Section 113B, eff July 1, 1995; 1997 Act No. 141, Section 5A, eff July 1, 1997; 1999 Act No. 105, Section 2, eff June 28, 1999; 2000 Act No. 387, Part II, Section 83C, eff June 30, 2000; 2001 Act No. 107, Section 3, eff September 20, 2001; 2008 Act No. 283, Section 1, eff June 11, 2008; 2008 Act No. 335, Section 3, eff June 16, 2008; 2008 Act No. 353, Section 2, Pt 23E, eff July 1, 2009.

Code Commissioner’s Note

At the direction of the Code Commissioner, the 2008 amendments to subsection (A) were read together so that the fourth sentence relating to handicapped parking added by 2008 Act No. 283 is made a part of the subsection (A) as amended by 2008 Act No. 353.

Effect of Amendment

The 1995 amendment revised subsection (C).

The 1997 amendment, in the first sentence of subsection (A), substituted “100 percent” for “88 percent”; in subsection (B), substituted “12 percent of the revenue generated by the assessment imposed in subsection (A) to the county to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue” for “the assessments”; and added subsection (D).

The 1999 amendment rewrote the second sentence and added the third through fifth sentences in subsection (D) and added subsection (E).

The 2000 amendment, in subsection (E)(1), added item (f).

The 2001 amendment in the second sentence of paragraph (C)(3) changed “Hall of Fame” to “South Carolina Law Enforcement Officers Hall of Fame”.

The first 2008 amendment, in subsection (A), in the first sentence substituted “A” for “Beginning January 1, 1995, and continuously after that date, a”, “magistrates” for “magistrate’s”, and “one hundred” for “100” and added the fourth sentence setting forth exemptions.

The second 2008 amendment, in paragraph (C)(2), substituted “South Carolina Criminal Justice Academy” for “Department of Public Safety”.

The third 2008 amendment, in subsection (A), substituted “A” for “Beginning January 1, 1995, and continuously after that date, a”, added “occurring after June 30, 2008,” and “107.5” for “one hundred”; in subsection (B), substituted “11.16 percent” for “12 percent”; and, in subsection (C), in the introductory paragraph substituted “After deducting amounts provided pursuant to Section 14‑1‑210, the” for “The” and added “balance of” and “received”; in paragraphs (C)(1) through (C)(7), changed the percentages; in paragraph (C)(2), substituted “Law Enforcement Training Council for” for “Department of Public Safety program of”; in paragraph (C)(3), substituted “, carry‑forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame” for “the surplus for use in its law enforcement training program”; and added paragraph (C)(8) relating to the State Treasurer’s Office.

**SECTION 14‑1‑208.** Additional assessment, municipal court; remittance; disposition; annual audits.

 (A) A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56‑3‑1970, 56‑5‑2510, and 56‑5‑2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

 (B) The city treasurer must remit 11.16 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer. Assessments paid in installments must be remitted as received.

 (C) After deducting amounts provided pursuant to Section 14‑1‑210, the State Treasurer shall deposit the balance of the assessments received as follows:

 (1) 14.04 percent for programs established pursuant to Chapter 21 of Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13 of Title 24;

 (2) 13.89 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

 (3) .36 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus for the purpose of defraying the costs of maintaining and operating the Hall of Fame;

 (4) 10.38 percent for the State Office of Victim Assistance;

 (5) 11.53 percent to the general fund;

 (6) 10.56 percent to the Office of Indigent Defense for the defense of indigents;

 (7) .89 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities;

 (8) .54 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, “complex criminal litigation” means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant’s counsel and the county involved has expended more than one hundred thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution‑related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a “first received, first paid” basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year;

 (9)(a) 9.16 percent to the Department of Public Safety for the programs established pursuant to Section 56‑5‑2953(E); and

 (b) 1.31 percent to SLED for the programs established pursuant to Section 56‑5‑2953(E);

 (10) 13.61 percent to the Governor’s Task Force on Litter and in the expenditure of these funds, the provisions of Chapter 35 of Title 11 do not apply;

 (11) 13.61 percent to the Department of Juvenile Justice. The Department of Juvenile Justice must apply the funds generated by this item to offset the nonstate share of allowable costs of operating juvenile detention centers so that per diem costs charged to local governments utilizing the juvenile detention centers do not exceed twenty‑five dollars a day. Notwithstanding this provision of law, the director of the department may waive, reduce, defer, or reimburse the charges paid by local governments for juvenile detention placements. The department may apply the remainder of the funds generated by this item, if any, to operational or capital expenses associated with regional evaluation centers; and

 (12) .12 percent to the Office of the State Treasurer to defray the administrative expenses associated with the collecting and distributing the revenue of these assessments.

 (D) The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims’ assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15 of Title 16. All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity’s adopted budget as funds unused and carried forward from previous years.

 (E) To ensure that fines and assessments imposed pursuant to this section and Section 14‑1‑209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each municipality pursuant to Section 5‑7‑240 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer.

 (1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:

 (a) all fines collected by the clerk of court for the municipal court;

 (b) all assessments collected by the clerk of court for the municipal court;

 (c) the amount of fines retained by the municipal treasurer;

 (d) the amount of assessments retained by the municipal treasurer;

 (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and

 (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

 (2) The supplementary schedule must be included in the external auditor’s report by an “in relation to” paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

 (3) Within thirty days of issuance of the audited financial statement, the municipality must submit to the State Treasurer a copy of the audited financial statement and a statement of the actual cost associated with the preparation of the supplemental schedule required in this section. Upon submission to the State Treasurer, the municipality may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplemental schedule required in this subsection, not to exceed one thousand dollars each year.

 (4) The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review.

HISTORY: 1994 Act No. 497, Part II, Section 36D, eff January 1, 1995; 1995 Act No. 145, Part II, Section 113C, eff July 1, 1995; 1996 Act No. 458, Part II, Section 80A, eff upon approval (took effect June 19, 1996); 1997 Act No. 141, Section 6A, eff July 1, 1997; 1998 Act No. 434, Section 12, eff June 29, 1998; 1999 Act No. 105, Section 3, eff June 28, 1999; 2000 Act No. 387, Part II, Section 54A, eff October 1, 2000; 2000 Act No. 387, Part II, Section 83D, eff June 30, 2000; 2001 Act No. 107, Section 3, eff September 20, 2001; 2008 Act No. 283, Section 2, eff June 11, 2008; 2008 Act No. 335, Section 4, eff June 16, 2008; 2008 Act No. 353, Section 2, Pt 23F, eff July 1, 2009.

Code Commissioner’s Note

At the direction of the Code Commissioner, the 2008 amendments to subsection (A) were read together so that the fourth sentence relating to handicapped parking added by 2008 Act No. 283 is made a part of the subsection (A) as amended by 2008 Act No. 353.

The first sentence of Section 14‑1‑208(E), as amended by 1999 Act 105, was altered to substitute “municipality” for “county” at the direction of the Code Commissioner.

Effect of Amendment

The 1995 amendment revised subsection (C).

The 1996 amendment revised subsection (C), paragraph (8).

The 1997 amendment, in the first sentence of subsection (A), substituted “64 percent” for “52 percent”; in subsection (B), substituted “18.75 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue” for “the assessments”; in subsection (C), inserted “received”; and added subsection (D).

The 1998 amendment, in subsection (A), substituted “74 percent” for “64 percent”; in subsections (B) and (C), decreased the percentages; and, in subsection (C), added paragraph (9).

The 1999 amendment rewrote the second sentence and added the third through fifth sentences in subsection (D) and added subsection (E).

The first 2000 amendment (by Act No. 387, Part II, Section 54A), in subsection (A), increased the assessment from 74% to 100% of the fine; in subsection (B), decreased from 16.22% to 12% the amount remitted to the municipality; and in subsection (C), revised the percentages allocated for each listed purpose, and added items (10) and (11).

The second 2000 amendment (by Act No. 387, Part II, Section 83D), in subsection (E)(1), added item (f).

The 2001 amendment in the second sentence of paragraph (C)(3) changed “Hall of Fame” to “South Carolina Law Enforcement Officers Hall of Fame”.

The first 2008 amendment, in subsection (A), in the first sentence substituted “A” for “Beginning October 1, 2000, and continuously after that date, a” and “one hundred” for “100”, and added the fourth sentence setting forth exemptions.

The second 2008 amendment, in paragraph (C)(2), substituted “South Carolina Criminal Justice Academy” for “Department of Public Safety”.

The third 2008 amendment, in subsection (A), substituted “A” for “Beginning January 1, 1995, and continuously after that date, a”, added “occurring after June 30, 2008,” and “107.5” for “one hundred”; in subsection (B), substituted “11.16 percent” for “12 percent”; and, in subsection (C), in the introductory paragraph substituted “After deducting amounts provided pursuant to Section 14‑1‑210, the” for “The” and added “balance of”; in paragraphs (C)(1) through (C)(11), changed the percentages; in paragraph (C)(2), substituted “Law Enforcement Training Council for” for “Department of Public Safety program of”; in paragraph (C)(3), substituted “, carry‑forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame” for “the surplus for use in its law enforcement training program”; designated subparagraph (9)(a) and added “to the Department of Public Safety” and subparagraph (9)(b) relating to SLED programs; and added paragraph (C)(12) relating to the State Treasurer’s Office.

**SECTION 14‑1‑209.** Payment of fine and assessment in installments.

 (A) If a payment for a fine and assessment levied in the circuit court is made in installments, the clerk of court must treat sixty‑two percent of each installment as payment for a fine and distribute it pursuant to Section 14‑1‑205 and thirty‑eight percent of each installment as payment for an assessment and distribute it pursuant to Section 14‑1‑206.

 (B) If a payment for a fine and assessment levied in the magistrate’s court is made in installments, the magistrate must treat 47 percent of each installment as payment for an assessment and distribute it pursuant to Section 14‑1‑207.

 (C) If a payment for a fine and assessment levied in the municipal court is made in installments, the municipal court judge must treat 40 percent of each installment as payment for an assessment and distribute it pursuant to Section 14‑1‑208.

HISTORY: 1994 Act No. 497, Part II, Section 36E, eff January 1, 1995; 1996 Act No. 292, Section 2, eff May 6, 1996.

Effect of Amendment

The 1996 amendment revised subsection (A), deleting “or family” before “Court”, and substituting “sixty‑two” for “62” and “thirty‑eight” for “38”.

**SECTION 14‑1‑210.** Periodic audits of county and municipal treasurers and clerks of court to determine whether mandated fees collected and remitted; reports; collection and distribution of assessments, etc., training.

 (A) Based upon a random selection process, the State Auditor shall periodically examine the books, accounts, receipts, disbursements, vouchers, and any records considered necessary of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report whether or not the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court are properly collected and remitted to the State. In addition, these audits shall determine if the proper amount of funds have been reported, retained, and allocated for victim services in accordance with the law. These audits must be performed in accordance with standard auditing practices to include the right to respond to findings before the publishing of the audit report. The State Auditor shall submit a copy of the completed audit report to the chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, and the Governor. If the State Auditor finds that a jurisdiction has over remitted the state’s portion of the funds collected by the jurisdiction or over reported or over retained crime victim funds, the State Auditor shall notify the State Treasurer to make the appropriate adjustment to that jurisdiction. If the State Auditor finds that a jurisdiction has under remitted, incorrectly reported, incorrectly retained, or incorrectly allocated the State or victim services portion of the funds collected by the jurisdiction, the State Auditor shall determine where the error was made. If the error is determined to have been made by the county or municipal treasurer’s office, the State Auditor shall notify the State Office of Victim Assistance for the crime victim portion and the chief administrator of the county or municipality of the findings and, if full payment has not been made by the county or municipality within ninety days of the audit notification, the State Treasurer shall adjust the jurisdiction’s State Aid to Subdivisions Act funding in an amount equal to the amount determined by the State Auditor to be the state’s portion; or equal to the amount incorrectly reported, retained, or allocated pursuant to Sections 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑211.

 If an error is determined to have been made at the magistrate, municipal, family, or circuit courts, the State Auditor shall notify the responsible office, their supervising authority, and the chief justice of the State. If full payment has not been made by the court within ninety days of the audit notification, the chief magistrate or municipal court or clerk of court shall remit an amount equal to the amount determined by the State Auditor to be the state’s portion or the crime victim fund portion within ninety days of the audit notification.

 (B) The State Auditor shall conduct these examinations and the local authority is required to participate in and cooperate fully with the examination. The State Auditor may subcontract with independent auditors on audits required pursuant to subsection (A) of this section. The State Auditor shall create an audit team to perform these audits. The State Treasurer shall transfer, in each fiscal year, the first $10,900 received from the General Sessions Court pursuant to Section 14‑1‑206, the first $136,600 received from magistrates court pursuant to Section 14‑1‑207, and the first $102,500 received from municipal court pursuant to Section 14‑1‑208 for a total of $250,000 to the State Auditor’s Office to fund these audits as required pursuant to subsection (A) of this section. Notwithstanding any other provision of law, a state agency or local governmental entity receiving assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court may use any of its funds to assist the State Auditor’s Office in funding these audits.

 (C) Each municipality shall submit a copy of its annual audit report as provided pursuant to Section 5‑7‑240 without charge to both the Office of the State Treasurer and the State Auditor’s Office within thirty days of the report being made public. If a municipality fails to provide the copy of the annual audit within the time provided, the Office of the State Treasurer may withhold the municipality’s State Aid to Subdivisions Act distribution until the annual audit report is properly filed.

 (D) The Office of the State Treasurer and South Carolina Court Administration shall make available annually training on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court for the counties, municipalities, and court employees.

 (E) The State Treasurer shall transfer, in each fiscal year, $2,000 received from the General Sessions Court pursuant to Section 14‑1‑206, $5,000 received from magistrates court pursuant to Section 14‑1‑207, and $3,000 received from municipal court pursuant to Section 14‑1‑208 for a total of $10,000 to fund annual training on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court for the counties, municipalities, and court employees. The Office of the State Treasurer and South Carolina Court Administration are responsible for the annual training prescribed by this section.

HISTORY: 2008 Act No. 353, Section 2, Pt 23C, eff July 1, 2009.

**SECTION 14‑1‑211.** General Sessions Court surcharge; fund retention for crime victim services; unused funds; reports; audits.

 (A)(1) In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions obtained in general sessions court and a twenty‑five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. The surcharge may not be imposed on convictions for misdemeanor traffic offenses including, but not limited to, violations of Sections 56‑3‑1970, 56‑5‑2510, and 56‑5‑2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons. However, the surcharge applies to all violations of Section 56‑5‑2930 and Section 56‑5‑2933. No portion of the surcharge may be waived, reduced, or suspended.

 (2) In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56‑5‑2930 and Section 56‑5‑2933. No portion of the surcharges imposed pursuant to this section may be waived, reduced, or suspended.

 (B) The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision. For the purpose of funds allocation and expenditure, these funds are a part of the general funds of the city or county. These funds must be appropriated for the exclusive purpose of providing victim services as required by Chapter 3, Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims’ assistance programs which are required by Chapter 3, Article 15 of Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Chapter 3, Article 15 of Title 16. These funds must be used for, but are not limited to, salaries, equipment that includes computer equipment and internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. All unused funds must be separately identified in the governmental entity’s adopted budget as funds unused and carried forward from previous years. The revenue collected pursuant to subsection (A)(2) must be paid over to the State Treasurer monthly and placed in a separate account to be used for spinal cord research by the Medical University of South Carolina.

 All one‑time operating and administrative costs for municipal and county governments related to computer upgrades or programming related to these surcharges shall be deducted from the revenue collected pursuant to subsection (A)(2) by municipal and county governments before remission of these funds to the State Treasurer. All operating, personnel, and administrative costs and expenses of the Spinal Cord Injury Research Board and its programs as established in Article 5, Chapter 38 of Title 44, must be paid for through revenue collected pursuant to subsection (A)(2) and deposited in this separate account. A report detailing the use of these funds must be furnished to the General Assembly on an annual basis.

 (C) The surcharged revenue retained by the general sessions court, magistrate’s, or municipal courts in this State pursuant to subsection (B) must be reported by the city or county treasurer to the State Treasurer monthly. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. All unused funds must be separately identified in the governmental entity’s adopted budget as funds unused and carried forward from previous years.

 (D) To ensure that surcharges imposed pursuant to this section are properly collected and remitted to the city or county treasurer, the annual independent external audit required to be performed for each municipality pursuant to Section 5‑7‑240 and each county pursuant to Section 4‑9‑150 must include a review of the accounting controls over the collection, reporting, and distribution of surcharges from the point of collection to the point of distribution and a supplementary schedule detailing all surcharges collected at the court level, and the amount remitted to the municipality or county.

 (1) The supplementary schedule must include the following elements:

 (a) all surcharges collected by the clerk of court for the general sessions, magistrate’s, or municipal court;

 (b) the amount of surcharges retained by the city or county treasurer pursuant to this section;

 (c) the amount of funds allocated to victim services by fund source; and

 (d) how those funds were expended, and any carry forward balances.

 (2) The supplementary schedule must be included in the external auditor’s report by an “in relation to” paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

HISTORY: 1997 Act No. 141, Section 7, eff July 1, 1997; 1998 Act No. 343, Section 1G, eff June 8, 1998; 1999 Act No. 105, Section 4, eff June 28, 1999; 2000 Act No. 387, Part II, Section 83E, eff June 30, 2000; 2000 Act No. 390, Section 1; 2008 Act No. 283, Section 3, eff June 11, 2008.

Editor’s Note

1998 Act No. 343, Section 1.H., effective June 8, 1998, provides as follows:

“This section does not affect an action or proceeding commenced or a right accrued before the effective date of this act.”

2000 Act No. 390, Section 34, provides as follows:

“Except for SECTIONS 9, 31, and 32, the provisions of this act shall not take effect until the later of the following dates: January 1, 2001, or when the Chief of SLED certifies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that all breath test sites in the State have been equipped with video cameras so that a person’s conduct may be videotaped pursuant to Section 56‑5‑2953(A)(2). SECTION 9 becomes effective March 1, 2002, and applies to all pending cases that have not been adjudicated on the date the law goes into effect. SECTIONS 31 and 32 become effective upon approval by the Governor.”

Effect of Amendment

The 1998 amendment rewrote subsection (B) and added subsection (C).

The 1999 amendment rewrote the fourth sentence, added the fifth sentence, and rewrote the seventh sentence in subsection (B), rewrote the second sentence and added the third sentence in subsection (C) and added subsection (D).

The first 2000 amendment (by Act No. 387), in subsection (D)(1), added item (d).

The second 2000 amendment (by Act No. 390) designated former subsection (A) as subd. (A)(1), and added subd. (A)(2); in subsection (B), added the last sentence to the existing paragraph, relating to payment of revenue to the State Treasurer for spinal cord research, and added the second paragraph, relating to one‑time costs, and made conforming reference changes.

The 2008 amendment, in paragraph (A)(1), in the first sentence substituted, “magistrates and municipal courts” for “magistrate’s and municipal court” and added the clause at the end of the second sentence starting with “included,”exempting parking in a prohibited zone and handicapped space.

**SECTION 14‑1‑212.** Surcharges on fines; distribution.

 (A) In addition to all other assessments and surcharges, a twenty‑five dollar surcharge is imposed on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of the surcharge may be waived, reduced, or suspended.

 (B)(1) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer may retain in a fiscal year the actual cost associated with the collection of this surcharge not to exceed forty thousand dollars. The State Treasurer shall allocate and transfer quarterly the remaining revenue as follows:

 (a) 18.50 percent to the Prosecution Coordination Commission for allocations to circuit solicitors in the manner provided pursuant to this subsection for the operations of solicitors’ offices, a portion of which, at the option of a solicitor, may be used for drug courts in the judicial circuit;

 (b) 22.10 percent to the Department of Juvenile Justice for the Coastal Evaluation Center, for Assault Prevention, and other federal lawsuit related expenses;

 (c) 15 percent to the State Law Enforcement Division for its general purposes;

 (d) 15 percent to the Department of Corrections for its general purposes;

 (e) 3.75 percent to the Office of the Attorney General for its general purposes;

 (f) 8.56 percent to the Judicial Department for its general purposes;

 (g) 1.55 percent to the Department of Natural Resources for statewide police responsibilities;

 (h) 1 percent to the Office of Indigent Defense, Division of Appellate Defense for its general purposes;

 (i) 0.10 percent to the Forestry Commission for statewide police responsibilities; and

 (j) 14.44 percent to the Department of Public Safety for the Highway Patrol Division for equipment, vehicle purchases, and associated vehicle expenses, including maintenance and gasoline.

 (2) The State Treasurer shall transmit the portion of these funds earmarked for the solicitors’ offices to the Prosecution Coordination Commission which then shall apportion these funds among the circuit solicitors of this State on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States Census. Amounts generated by this section for use by solicitors’ offices must be in addition to any amounts presently being provided by the county for these services and may not be used to supplant funding already allocated for these services by the county.

 (C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 2008 Act No. 353, Section 2, Pt 32C, eff July 1, 2009.

**SECTION 14‑1‑213.** Surcharge on monetary penalties imposed for drug offenses; apportionment and use of funds; examination of financial records by State Auditor.

 (A) In addition to all other assessments and surcharges required to be imposed by law, a one hundred fifty dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.

 (B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only.

 (C) It is the intent of the General Assembly that the amounts generated by this section are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services.

 (D) The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 2008 Act No. 353, Section 2, Pt 11C.1, eff July 1, 2008; 2010 Act No. 273, Section 35, eff June 2, 2010.

Effect of Amendment

The 2010 amendment in subsection (A) substituted “one hundred and fifty dollar” for “one‑hundred dollar”.

**SECTION 14‑1‑214.** Payment of fines, fees, court costs, etc., by credit or debit card.

 (A) Clerks of court, registers of deeds, magistrates, and municipal court judges may:

 (1) accept payment by credit card or debit card of a fine, fee, assessment, court cost, or other surcharge; and

 (2) impose a fee for processing payment by credit card. Notwithstanding fees imposed by other provisions of law, the clerk of court, register of deeds, magistrate, and municipal court judge must impose a separate fee on the person making a payment by credit card that wholly offsets the amount of administrative fees charged to the court.

 (B) If a payment by credit card is not honored by the credit card company on which the funds are drawn, the:

 (1) court or register of deeds, may collect a service charge from the person who owes the fine, fee, assessment, court cost, or other surcharge. The service charge is an addition to the original fine, fee, assessment, court cost, or other surcharge and is for the collection of that original amount. The amount of the service charge must be the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds; and

 (2) underlying obligation survives and the state or local government retains all remedies for enforcement which would have applied if the credit card transaction had not occurred.

 (C) The court or register of deeds, collecting a fee or service charge pursuant to this section must deposit the credit card fee or service charge in the general fund of the court’s respective governmental unit.

 (D) The clerk of court, register of deeds, magistrate, or municipal court judge who accepts payment by credit card or debit card pursuant to this section may refuse acceptance of credit or debit cards of an individual if, the:

 (1) individual has been convicted of a violation of Chapter 14, Title 16;

 (2) individual has previously tendered to the court a credit or debit card or credit or debit card information which did not ultimately result in payment by the credit or debit card issuer;

 (3) bank or credit card issuer does not authorize payment; or

 (4) validity of the credit or debit card is not verifiable.

HISTORY: 2002 Act No. 295, Section 1, eff July 1, 2002; 2010 Act No. 229, Section 1, eff June 7, 2010.

Editor’s Note

2002 Act No. 295, Section 3, provides as follows:

“This act takes effect July 1, 2002, and applies to the payment of fines, fees, assessments, court costs, and surcharges made on or after that date.”

Effect of Amendment

The 2010 amendment inserted reference to “registers of deeds” and “register of deeds”, and made other nonsubstantive changes.

**SECTION 14‑1‑215.** Retired judges or justices may preside in certain courts.

 A retired judge or justice from the Supreme Court, court of appeals, or circuit court of this State may be assigned by the Chief Justice of the Supreme Court to preside over any official proceeding in any circuit court of this State. A retired judge or justice from the Supreme Court or court of appeals of this State may be assigned by the Chief Justice of the Supreme Court to act as an associate justice or judge in any proceeding before the Supreme Court or court of appeals. A retired judge from the family court of this State may be assigned by the Chief Justice of the Supreme Court to preside over any official proceeding in any family court of this State.

 In order to be eligible to be appointed by the Chief Justice to serve, any retired justice or judge of this State must have been reviewed in the manner provided in Section 2‑19‑10 et seq. and found by the commission to be qualified to serve in these situations within two years of the date of his appointment to serve, except that if a justice or judge retired before the expiration of his then current term, no further review of that justice or judge is required until that term would have expired.

HISTORY: 1990 Act No. 610, Part II Section 2; 1992 Act No. 355, Section 1; 1993 Act No. 22, Section 1, eff April 22, 1993; 1995 Act No. 89, Section 1, eff June 7, 1995; 1996 Act No. 391, Part IV, Section 4, eff June 4, 1996.

Effect of Amendment

The 1992 amendment designated the first paragraph as subsection (A), in the second paragraph added the “except” clause, and added subsection (B).

The 1993 amendment, in subsection (B), inserted “, or family court judge”.

The 1995 amendment revised this section.

The 1996 amendment deleted subsection (B), made former subsection (A) two undesignated paragraphs, and made other miscellaneous changes to this section.

**SECTION 14‑1‑216.** Prohibition against assignment of family court judge to circuit court; exceptions.

 No active family court judge may be assigned to preside over any official proceeding in the circuit court except that the Chief Justice may appoint an active family court judge as a special circuit court judge to accept grand jury presentments and to accept and impose sentences for pleas of guilty and nolo contendere.

HISTORY: 1990 Act No. 610, Part III, Section 4, eff July 1, 1991; 1992 Act No. 355, Section 2, eff May 4, 1992.

Effect of Amendment

The 1992 amendment added the “except” clause.

**SECTION 14‑1‑217.** Exemption from filing fees in actions brought pursuant to Sexually Violent Predator Act.

 The State, or a person or entity acting on behalf of the State, is not required to pay filing fees as provided in this chapter or as otherwise provided by law in proceedings brought pursuant to Chapter 48 of Title 44, the Sexually Violent Predator Act.

HISTORY: 2008 Act No. 353, Section 2, Pt 10D, eff July 1, 2009.

**SECTION 14‑1‑218.** Allocation of deposits pursuant to Sections 14‑1‑206(C)(6), 14‑1‑207(C)(5) and 14‑1‑208(C)(5).

 From the deposits made pursuant to Section 14‑1‑206(C)(6), Section 14‑1‑207(C)(5), and Section 14‑1‑208(C)(5), three million two hundred thousand dollars shall be allocated to the following agencies for support of the programs specified:

 (1) five hundred thousand dollars to the Department of Juvenile Justice for the Juvenile Arbitration Program;

 (2) four hundred fifty thousand dollars to the Department of Juvenile Justice for the Marine Institutes;

 (3) five hundred thousand dollars to the Department of Juvenile Justice for the regional status offender programs; and

 (4) one million seven hundred fifty thousand dollars to the Office of Indigent Defense.

HISTORY: 2008 Act No. 353, Section 2, Pt 23G, eff July 1, 2009.

**SECTION 14‑1‑220.** Transmittal of monies received from cost of court assessments; deposit of funds collected from offenders in restitution centers.

 Each city recorder, mayor, or municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of State Treasurer. Each county clerk of court, magistrate, or other person who receives monies from the cost of court assessments in general sessions or magistrates courts shall transmit all these monies to the county treasurer of the county. These transmittals must be made no less frequently than once each month, and must be completed on or before the fifteenth day of the month following the month being reported. The municipal clerk of court or county treasurer shall then forward the total sum collected to the State Treasurer on or before the twenty‑fifth day of the month. Any municipality in this State may enter into a mutual agreement with the county in which it is located to provide for joint collections and transmittals under those terms and conditions as the respective bodies may agree. In these cases, receipts and transmittals required by this section shall reflect, in the report of transmittal to the State Treasurer, the collection and forwarding of all monies from the named sources.

 The Department of Probation, Parole, and Pardon Services shall deposit with the State Treasurer funds collected from offenders in restitution centers for credit to the same account as funds collected under Section 14‑1‑210.

HISTORY: 1985 Act No. 201, Part II, Section 52B, eff July 1, 1985; 1986 Act No. 462, Section 40(A), eff July 1, 1985.

Effect of Amendment

The 1986 amendment added the provisions relative to deposit of funds collected from offenders in restitution centers.

**SECTION 14‑1‑230.** Recording of monthly submissions by State Treasurer; location and utilization of funds.

 The State Treasurer shall record, before the last day of that same month, the total monthly submissions of monies from the respective county treasurers and municipal clerks of courts, and the Department of Probation, Parole, and Pardon Services shall deposit these monies into a separate and restricted account. Funds deposited to this account shall remain in the account from fiscal year to fiscal year and shall be available to the General Assembly for appropriation to programs established pursuant to Chapter 21 of Title 24.

HISTORY: 1985 Act No. 201, Part II, Section 52C, eff July 1, 1985; 1986 Act No. 462, Section 40(A), eff July 1, 1985.

Effect of Amendment

The 1986 amendment added “and the Department of Parole and Community Corrections”, added provisions to the effect that deposited funds shall remain in the account from fiscal year to fiscal year and shall be available for certain purposes, and deleted provisions relative to use of funds by the State Budget and Control Board to finance local correctional facility projects.

**SECTION 14‑1‑235.** Appointment of attorney in civil action.

 A judge, court, or court official shall not appoint an attorney to represent a party in a civil action unless the authority to make the appointment is provided specifically by statute.

HISTORY: 2003 Act No. 19, Section 1, eff upon approval (became law without the Governor’s signature on April 23, 2003).

**SECTION 14‑1‑240.** Surcharge on certain misdemeanor traffic offenses or nontraffic violations to fund training at South Carolina Criminal Justice Academy.

Section terminates June 30, 2016.

 (A) In addition to all other assessments and surcharges required to be imposed by law, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of this surcharge may be waived, reduced, or suspended. The additional surcharge imposed by this section does not apply to parking citations.

 (B) The revenue collected pursuant to subsection (A) must be collected by the jurisdiction which heard or processed the case and transmitted pursuant to the guidelines in Section 14‑1‑220. The funds should be clearly designated as Criminal Justice Academy Surcharge Collections when transmitted to the municipal and county treasurer and then to the State Treasurer. The State Treasurer shall transfer the revenue quarterly to the South Carolina Criminal Justice Academy.

 (C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 2014 Act No. 247 (S.894), Section 1, eff June 6, 2014.

Editor’s Note

2014 Act No. 247, Section 2, provides as follows:

“SECTION 2. This act takes effect upon approval by the Governor and terminates on June 30, 2016. All funds collected by the date of termination shall be forwarded to the State Treasurer and then to the South Carolina Criminal Justice Academy.”