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.

CROSS REFERENCES

Property and conveyances, generally, see Section 27‑1‑10 et seq.

**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.

CROSS REFERENCES

Property and conveyances, generally, see Section 27‑1‑10 et seq.

RESEARCH REFERENCES

Forms

South Carolina Legal and Business Forms Section 6:1 , Legal Principles.

South Carolina Legal and Business Forms Section 8:1 , Legal Principles.

**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.

CROSS REFERENCES

Property and conveyances, generally, see Section 27‑1‑10 et seq.

**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.

CROSS REFERENCES

Clerks of court, generally, see Section 14‑17‑10 et seq.

**SECTION 14‑1‑50.** Common law of England continues 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.

Library References

Common Law 12.

Westlaw Topic No. 85.

C.J.S. Common Law Sections 14 to 21.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Common Law Section 4, The Reception Statute.

S.C. Jur. Common Law Section 8, English Statutes.

S.C. Jur. Constitutional Law Section 20, Powers and Duties of the Judiciary.

S.C. Jur. Master and Servant Section 12, American Rule.

S.C. Jur. Mayhem Section 3, South Carolina Authorities.

S.C. Jur. Negligence Section 2, Common Law Antecedents.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Criminal Law: Misprision of a Felony. 33 S.C. L. Rev. 65, August 1981.

NOTES OF DECISIONS

In general 1

1. In general

Federal District Court concluded that South Carolina would regard law enforcement duty as public duty, from which no liability would flow to individual for failure to perform it, unless individual could show he was owed special duty by statute or circumstances, because under English common law, which continues in effect in South Carolina under Section 14‑1‑50, law enforcement officer’s duty to enforce law remains common law public duty unless that conclusion is inconsistent with state law; in South Carolina, office of sheriff is created by constitution but duties are prescribed by statute; those statutes, Sections 23‑13‑10 et seq., and 23‑15‑10 et seq., supplement rather than supersede common law. Patel by Patel v. McIntyre, 1987, 667 F.Supp. 1131, affirmed 848 F.2d 185.

Money damages for deprivation of normal life expectancy will be awarded minor as successful plaintiff in action under Federal Tort Claims Act (28 USC Section 1346(b)), since rule under English Common Law, preserved in South Carolina by Code 1976 Section 14‑1‑50, is that shortened life expectancy may be viewed as separate element of damages. McNeill v. U. S. (D.C.S.C. 1981) 519 F.Supp. 283.

Since Code 1976 Section 14‑1‑50 preserves common law of England in South Carolina, legislative immunity is fully applicable to actions brought in any federal or state court of South Carolina alleging causes of action arising out of constitutions or statutes of United States or South Carolina. Bruce v. Riddle (D.C.S.C. 1979) 464 F.Supp. 745, affirmed 631 F.2d 272. Courts 89

Decisions based on legislative immunity as it evolved from the common law of England are fully applicable to actions brought in any federal or state court of South Carolina alleging causes of action arising out of the constitutions or statutes of either the United States or the state of South Carolina. Bruce v. Riddle (D.C.S.C. 1979) 464 F.Supp. 745, affirmed 631 F.2d 272. Courts 89

Slander of title has long been considered the common law of England, and thus it is the common law of South Carolina as well. Pond Place Partners, Inc. v. Poole (S.C.App. 2002) 351 S.C. 1, 567 S.E.2d 881, rehearing denied, certiorari denied. Libel And Slander 130

Misprison of felony, cognizable at common law, exists in this State by virtue of this section and murder witness, who concealed information and denied he was present at the scene, was properly convicted. State v. Carson (S.C. 1980) 274 S.C. 316, 262 S.E.2d 918.

**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.

CROSS REFERENCES

Legislative enactments, generally, see Section 2‑7‑10 et seq.

Library References

Statutes 1206.

Westlaw Topic No. 361.

C.J.S. Common Law Sections 11, 14 to 21.

C.J.S. Statutes Sections 534 to 537.

**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.

Library References

Courts 153.

Westlaw Topic No. 106.

LAW REVIEW AND JOURNAL COMMENTARIES

1978 Survey: Constitutional Law; judicial reform. 29 S.C. L. Rev. 44.

Building the Pyramid: The Growth and Development of the State Court System in Antebellum South Carolina. 1800‑1860. 24 S.C. L. Rev. 357.

“Courts” in “Handbook of South Carolina Trial and Appellate Practice,” 11 SC L Q Supp, 10 (1959).

**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.

CROSS REFERENCES

Constitutional provisions regarding the Judicial Department, generally, see SC Const. Art. V, Section 1 et seq.

Enforcement by South Carolina courts of tax liabilities imposed by other states, see Section 12‑49‑90.

Separation of powers, see SC Const. Art. I, Section 8.

Library References

Courts 46.

Westlaw Topic No. 106.

C.J.S. Courts Sections 1, 6.

LAW REVIEW AND JOURNAL COMMENTARIES

Note: Federal supplemental enforcement jurisdiction. 42 S.C. L. Rev. 469 (Winter 1991).

United States Supreme Court Annotations

Civil rights, preemption, state law limiting state courts with jurisdiction over civil rights actions against corrections officers, see Haywood v. Drown, U.S.N.Y.2009, 129 S.Ct. 2108, 556 U.S. 729, 173 L.Ed.2d 920, on remand 13 N.Y.3d 760, 886 N.Y.S.2d 862, 915 N.E.2d 1158.

**SECTION 14‑1‑90.** Chief Justice of Supreme Court is administrative head; 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.

CROSS REFERENCES

Head of State Court Administration being ex officio voting member of Governor’s Committee on Criminal Justice, Crime and Delinquency, see Section 23‑4‑110.

Powers of chief justice, generally, see SC Const. Art. V, Section 4.

Library References

Courts 46.

Westlaw Topic No. 106.

C.J.S. Courts Sections 1, 6.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Reference Section 8, Master‑In‑Equity.

NOTES OF DECISIONS

In general 1

1. In general

South Carolina Judicial Department (SCJD) did not have a duty to supervise a Master‑In‑Equity’s bank accounts and his audit books in action by lenders who lost foreclosure proceeds due to embezzlement by Master’s employee; statute governing Chief Justice’s authority to examine administrative methods of employees nor statute governing authority of Judicial Council imposed such a duty, and duty was imposed by statute upon county. Bank of New York v. Sumter County (S.C. 2010) 387 S.C. 147, 691 S.E.2d 473. Equity 397

**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.

Library References

Courts 46.

Westlaw Topic No. 106.

C.J.S. Courts Sections 1, 6.

**SECTION 14‑1‑100.** Rights in court not 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.

Library References

Civil Rights 1056.

Westlaw Topic No. 78.

C.J.S. Civil Rights Section 55.

C.J.S. Right to Die Sections 26, 53.

**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.

Library References

Courts 77.

Westlaw Topic No. 106.

C.J.S. Courts Section 155.

**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.

Library References

Courts 76.

Westlaw Topic No. 106.

C.J.S. Courts Sections 164 to 165.

**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.

CROSS REFERENCES

Additional grounds for disqualification of judges on the Court of Appeals, see Section 14‑8‑70.

Power to impeach state judges, see SC Const. Art. XV, Section 1.

When objections to jurors must be made, see Section 14‑7‑1030.

Library References

Judges 45.

Westlaw Topic No. 227.

C.J.S. Judges Sections 289 to 290, 292, 297.

LAW REVIEW AND JOURNAL COMMENTARIES

Judges—Disqualification to Act Because of Stock Interest. 22 S.C. L. Rev. 261.

NOTES OF DECISIONS

In general 1

Construction with other laws 2

Waiver 3

1. In general

A judgment rendered by a judge disqualified under this section [Code 1962 Section 15‑10] is merely voidable. Ex parte Hilton, 64 SC 201, 41 SE 978 (1901). Jeffers v Jeffers, 89 SC 244, 71 SE 810 (1911).

If an order grants a new trial upon the sole ground that the trial judge was connected with the deceased within six degrees, but the judge under Code 1962 Section 19‑52 proves to be not within the sixth degree but within the seventh, then the order for new trial should be reversed. State v. Browning (S.C. 1921) 116 S.C. 252, 108 S.E. 105. Criminal Law 913(1)

Due diligence necessary for new trial. Where it does not sufficiently appear that the petitioner could not by due diligence have ascertained the fact of such disqualification under this section [Code 1962 Section 15‑10] before or during the trial, or before decision was rendered, a motion for a new trial will be overruled. Jeffers v. Jeffers (S.C. 1911) 89 S.C. 244, 71 S.E. 810.

The same diligence required in ascertaining before trial a juror’s disqualification because of relationship is required of a party in ascertaining a judge’s disqualification under this section [Code 1962 Section 15‑10]. Jeffers v. Jeffers (S.C. 1911) 89 S.C. 244, 71 S.E. 810.

But judge’s knowledge of own disqualification may be grounds for new trial. “If the appellant in addition to showing the disqualification of the probate judge, and that he (the appellant) did not have knowledge of such fact before the decree was rendered, had also shown that the probate judge knew at that time of his relationship to one of the parties to the action, then it might with good reason be contended that there should be a new trial.” Jeffers v. Jeffers (S.C. 1911) 89 S.C. 244, 71 S.E. 810.

Under the common law a judge was not disqualified by reason of his relationship to the party interested, but might refuse to sit, and a judgment rendered by him in such a case was not void but only voidable. Under the common law a party might also waive objection to the disqualification of a judge. Jeffers v. Jeffers (S.C. 1911) 89 S.C. 244, 71 S.E. 810.

Second cousins are within the sixth degree. State v. Byrd (S.C. 1905) 72 S.C. 104, 51 S.E. 542.

Instance when judge not disqualified. Under the provisions of this section [Code 1962 Section 15‑10] where it appeared that one once removed from the common ancestor was the father of a daughter who intermarried, and was the mother of one who thereafter became a party to the action, the judge, who was four times removed from the common ancestor, was not disqualified because of the relationship. Ex parte Kreps (S.C. 1901) 61 S.C. 29, 39 S.E. 181.

Disqualification at time of trial must be alleged. Under this section [Code 1962 Section 15‑10] a magistrate is not shown to be disqualified by an affidavit making out his marriage to defendant’s niece seven years before the trial, where no proof was offered that such relationship still existed. Ehrhardt v. Breeland (S.C. 1900) 57 S.C. 142, 35 S.E. 537. Judges 45

2. Construction with other laws

This section [Code 1962 Section 15‑10] is not affected by SC Const, Art 5, Section 6, which provides that “no judge shall preside at the trial of any cause in the event of which he may be interested, or when either of the parties shall be connected with him, by affinity or consanguinity, within such degree as may be prescribed by law,” in view of SC Const, Art 17, Section 10. Ex parte Kreps (S.C. 1901) 61 S.C. 29, 39 S.E. 181.

3. Waiver

Objection may be waived. A right existing under this section [Code 1962 Section 15‑10], where the court otherwise has jurisdiction of the subject matter, is in the nature of a plea to the jurisdiction of the person, and may be waived. Ex parte Hilton, 64 SC 201, 41 SE 978 (1901). Jeffers v Jeffers, 89 SC 244, 71 SE 810 (1911).

And if disqualification is known to exist it is waived unless made before judge’s oral decision. Where the facts are known to the party, an attempt under this section [Code 1962 Section 15‑10] to recuse a judge must be made before issue joined and before the trial is commenced, and will not be allowed where the judge has delivered an oral opinion and has but to formulate his decision in writing. Such neglect of a party to raise objection where he is aware of the relationship, will be construed as a waiver. Ex parte Hilton (S.C. 1902) 64 S.C. 201, 41 S.E. 978, 92 Am.St.Rep. 800.

**SECTION 14‑1‑140.** Persons attending court 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.

Library References

Arrest 9.

Westlaw Topic No. 35.

C.J.S. Arrest Sections 77 to 81.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Costs Section 33, Witness Expenses.

Attorney General’s Opinions

Discussion of the arrest of persons while they are actually appearing in criminal and civil court. S.C. Op.Atty.Gen. (July 19, 2002) 2002 WL 1925755.

Discussion of the areas of handling traffic law violations committed by persons engaged in, going to, attending, or returning from court as a juror, witness or by order of the court. S.C. Op.Atty.Gen. (October 18, 1996) 1996 WL 679483.

NOTES OF DECISIONS

In general 1

1. In general

Exemption from arrest is the privilege of the court, and not of the party; and indulgence will not be extended to him further than necessary and expedient. Hunter v. Cleveland (S.C. 1802).

The privilege is limited to exemption of the person from arrest, and does not invalidate service of process at same time. Sadler & Love v. Ray (S.C. 1852) 5 Rich. 523.

And one court will not allow arrest by its process of a witness of another court. Vincent v. Watson (S.C. 1845) 1 Rich. 194.

**SECTION 14‑1‑150.** Contempt of court; offenders to 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.

Library References

Contempt 1, 61.

Westlaw Topic No. 93.

C.J.S. Contempt Sections 1 to 8, 10 to 16, 149 to 158.

Attorney General’s Opinions

A person convicted of contempt of court due to jury tampering would have been convicted of a crime of moral turpitude. 1982 Op.Atty.Gen. No 82‑8, p 11 (March 2, 1982) 1982 WL 154978.

NOTES OF DECISIONS

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Direct contempt 4

Discretion of court 3

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Jurisdiction 7

Presence of the court 2

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1. In general

Contempt results from the willful disobedience of a court order. Haselden v. Haselden (S.C.App. 2001) 347 S.C. 48, 552 S.E.2d 329, rehearing denied. Contempt 20

The record before the court must clearly and specifically exhibit the contemptuous conduct to sustain a finding of contempt. Haselden v. Haselden (S.C.App. 2001) 347 S.C. 48, 552 S.E.2d 329, rehearing denied. Contempt 60(3)

Delay in instituting contempt proceedings is no defense unless such delay is unreasonable or defendant is prejudiced thereby. State v. Bowers (S.C. 1978) 270 S.C. 124, 241 S.E.2d 409. Contempt 46

Where certain acts are made an offense by statute, with a prescribed penalty, a party charged with the offense cannot be punished by rule to show cause, as for a contempt, but only by indictment. State v. Blackwell (S.C. 1878) 10 S.C. 35, 1878 WL 5349, Unreported.

The provision of the Act of 1811, that no one shall be imprisoned without a hearing, renders the proceeding by rule proper in all cases of contempt of court. State v. Hunt, 1850, 1850 WL 2817, Unreported.

Every court has the power to fine for contempt, but notwithstanding this undeniable power, still whenever it is exercised, every citizen has the right to appeal. State v. Hunt, 1850, 1850 WL 2817, Unreported.

2. Presence of the court

For purposes of a direct contempt conviction, the “presence of the court” extends beyond the mere physical presence of the judge or the courtroom to encompass all elements of the system. State v. Kennerly (S.C. 1999) 337 S.C. 617, 524 S.E.2d 837. Contempt 2

Juror’s failure to disclose her relationship with capital murder defendant and defense witness, and juror’s repeated initiation of discussions about case with other jurors during guilt phase of trial, despite warnings by judge to contrary, occurred “in the presence of the court,” thus warranting direct contempt conviction, even if such conduct occurred outside judge’s sight and hearing. State v. Kennerly (S.C. 1999) 337 S.C. 617, 524 S.E.2d 837. Contempt 14

For the purpose of defining “presence of court”, as used with reference to contempt, the court consists not of the judge, courtroom, jury, or jury‑room individually, but of all such factors combined, and the court is present wherever any of its constituent parts is engaged in prosecution of the business of court according to law. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 6

3. Discretion of court

A trial judge abused his discretion in finding an attorney in contempt of court where she neither willfully disobeyed a court order nor acted disrespectfully towards the court but merely underestimated the amount of time she would need to try her case. Spartanburg County Dept. of Social Services v. Padgett (S.C. 1988) 296 S.C. 79, 370 S.E.2d 872. Contempt 10; Contempt 20

A judge did not abuse her discretion in holding an attorney in contempt for her exhibition of disrespect for the court after several retorts by the attorney challenging the judge’s authority, including a disparaging comment on the judge’s “professionalism.” Stone v. Reddix‑Smalls (S.C. 1988) 295 S.C. 514, 369 S.E.2d 840. Contempt 10

4. Direct contempt

Direct contempt that occurs in the court’s presence may be immediately adjudged and sanctioned summarily. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 52

A person may be found guilty of direct contempt if the conduct interferes with judicial proceedings, exhibits disrespect for the court, or hampers the parties or witnesses. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 2

“Direct contempt” involves contemptuous conduct in the presence of the court. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 2

The jury pool constitutes an integral, constituent part of the court, and contemptuous acts within their sight or hearing will constitute “direct contempt”; overruling State v. Johnson, 249 S.C. 1, 152 S.E.2d 669, and State v. Weinberg, 229 S.C. 286, 92 S.E.2d 842. State v. Kennerly (S.C. 1999) 337 S.C. 617, 524 S.E.2d 837. Contempt 14

A person may be found guilty of direct contempt if his conduct interferes with judicial proceedings, exhibits disrespect for the court, or hampers parties or witnesses. Except when a person’s appearance is so lacking in decorum and dignity as to require immediate sanctions, the trial judge should advise a person whose dress is unacceptable of that fact and ask him to leave the courtroom until he can dress in a suitable manner. The failure to comply with such a directive would justify a finding of contempt. State v. Havelka (S.C. 1985) 285 S.C. 388, 330 S.E.2d 288.

Threats of physical violence made by a defendant in civil action during term of court, and the recess thereof, to a witness for plaintiff, who was under subpoena, involved “direct contempt”, though threats were not made in actual presence of court and witness had already testified and arguments of counsel had been concluded, but court had not charged jury or dismissed witness. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 6

On appeal from judgment and sentence for direct contempt, findings of fact and conclusions of law, considered along with the pleadings and other writings making up the record in cause, established that trial court did find as a fact that language and conduct of alleged contemnor were intended to and did intimidate and threaten specified witness concerning his testimony given before the court in civil action against contemnor. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 66(6)

5. Indirect contempt

Contempt power of court as to indirect contempt such as jury tampering does not end when case in connection with which contempt occurred has ended. State v. Bowers (S.C. 1978) 270 S.C. 124, 241 S.E.2d 409.

6. Punishment

The punishment referred to in this section [Code 1962, Section 15‑12] deals only with contempts committed in the presence of the court and is not applicable to punishment for failure to obey a restraining order. Greenwood County v. Shay (S.C. 1943) 202 S.C. 16, 23 S.E.2d 825.

Sentence of 90 days to county jail of juror for contempt in violating court’s instruction by discussing case with others during court recess held justified. State v. Babb (S.C. 1931) 161 S.C. 305, 159 S.E. 633.

7. Jurisdiction

Presiding judge of court of General Sessions at time contempt proceedings were brought and heard clearly had jurisdiction, where contempts involved were not against individual judge who happened to be presiding at time of their occurrence, but against General Sessions Court. State v. Bowers (S.C. 1978) 270 S.C. 124, 241 S.E.2d 409.

8. Sufficiency of evidence

Divorced husband was properly found to be in willful contempt of order requiring him to pay two‑thirds of child’s tuition for therapeutic boarding school; divorced husband contended that he did not have the financial ability to comply with order, yet he obtained and spent $37,311.90 during the period in which he was ordered to contribute to his child’s tuition. Haselden v. Haselden (S.C.App. 2001) 347 S.C. 48, 552 S.E.2d 329, rehearing denied. Child Support 444

Evidence held sufficient for conviction upon contempt where juror had testified that after being summoned for jury duty she received telephone call from defendant inquiring about her feelings toward county official charged with embezzlement, mentioning knowledge that juror had been selected to serve on jury panel, and stating that official had done good job in office and that there was attempt being made to get such people out of office. State v. Burgess (S.C. 1978) 270 S.C. 134, 241 S.E.2d 413.

Testimony by two jurors that defendant had contacted them, stating he had seen their names on jury list, and asking them to keep open mind about particular case held sufficient to support conviction for criminal contempt. State v. Bowers (S.C. 1978) 270 S.C. 124, 241 S.E.2d 409.

Appellant’s phone calls to individuals he knew had been summoned for jury duty constituted contempt, even though there was no court of general sessions sitting in county at time of actions, since attempts to influence members of general panel constitute contempt the same as attempts to influence jurors sitting on particular case. State v. Bowers (S.C. 1978) 270 S.C. 124, 241 S.E.2d 409.

Finding that clerk of court’s conversation with acquaintance on grand jury created appearance of impropriety was insufficient to support judgment for contempt, where act was specifically found to be without intent to hinder or obstruct justice. State v. Scott (S.C. 1977) 269 S.C. 542, 238 S.E.2d 217. Contempt 14

In proceeding to punish defendant in civil action for contempt, evidence supported findings that while a witness who had testified for plaintiff under subpoena in civil action against defendant was sitting on back steps of courthouse during recess and prior to charge to jury, alleged contemnor had accused witness of lying and had threatened him with physical violence. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 60(3)

9. Attorney fees

Circuit court did not abuse its discretion in awarding attorney and law firm costs and attorney fees in legal malpractice action brought by former client as an award for client’s civil contempt, where client’s introduction of a fraudulent document unnecessarily prolonged the case. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 68

An award of attorney fees and costs for civil contempt is appropriate when a party has caused unnecessary litigious activity as a result of the contemptuous behavior. Brandt v. Gooding (S.C. 2006) 368 S.C. 618, 630 S.E.2d 259, rehearing denied, habeas corpus granted 664 F.Supp.2d 626, affirmed 636 F.3d 124. Contempt 68

10. Review

Evidence was insufficient to support finding that mother was in contempt of joint custody order requiring the parties to make good faith effort to mutually make all major decisions concerning the child’s life, including choice of schools and non‑emergency medical or dental “treatment,” and requiring the parties to keep each other informed of current address as well as to provide contact information when they traveled out of town; although mother changed child’s daycare without father’s approval, applied to enroll child in kindergarten without consulting father, failed to give father address where she and child were staying during summer trip, and failed to inform him of child’s annual doctor’s appointment and his first dental appointment, mother sent father a letter about changing daycare, to which father failed to respond, father had mother’s cellular telephone number, order was unclear as to inclusion of medical or dental “check‑ups,” and evidence established mother notified father of her new address the day after she moved. Burnell v. Burnell (S.C.App. 2004) 359 S.C. 361, 597 S.E.2d 24. Child Custody 852

Court of Appeals will reverse a trial judge’s determination regarding contempt only if it is without evidentiary support or is an abuse of discretion. Haselden v. Haselden (S.C.App. 2001) 347 S.C. 48, 552 S.E.2d 329, rehearing denied. Contempt 66(7)

Any insufficiency of findings of fact to support conviction for direct contempt was not reversible error, in absence of showing that contemnor had suffered prejudice thereby as to merits of his case. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 66(7)

Where all the facts in proceeding to punish for direct contempt were in dispute, but there was sufficient evidence worthy of belief to support factual findings of circuit judge, such findings would not be disturbed by reviewing court. State v. Goff (S.C. 1955) 228 S.C. 17, 88 S.E.2d 788, 52 A.L.R.2d 1292. Contempt 66(7)

**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.

Library References

Contempt 7.

Westlaw Topic No. 93.

C.J.S. Contempt Sections 19 to 20.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

Trial judge has authority to take such measures as appear reasonably necessary to secure orderly proceedings and to preserve security of those participating in trial and lawfully attending proceedings. State v. Shelton (S.C. 1978) 270 S.C. 577, 243 S.E.2d 455.

2. Constitutional issues

Fourth Amendment protection against unreasonable searches and seizures is inapplicable to courtroom in exercise of trial judge’s authority and duty to preserve security and order. State v. Shelton (S.C. 1978) 270 S.C. 577, 243 S.E.2d 455.

Search of defendant was reasonable and violated none of his constitutional rights where search was conducted in courtroom, at direction and in presence of trial judge just prior to civil hearing in which defendant was litigant, the judge acting to preserve safety of those participating in court proceedings and pursuant to reliable information that defendant carried weapon and had previously made threats against an attorney and a neighbor. State v. Shelton (S.C. 1978) 270 S.C. 577, 243 S.E.2d 455.

**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.

Library References

Contempt 54.

Westlaw Topic No. 93.

C.J.S. Contempt Sections 123 to 128, 133 to 134.

**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.

CROSS REFERENCES

Check of qualifications of jurors by judge, see Section 14‑7‑1010.

Preparation of jury lists, see Section 14‑7‑140.

Library References

Jury 60.

Westlaw Topic No. 230.

C.J.S. Juries Sections 272, 306 to 307, 309, 335 to 336.

**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.

CROSS REFERENCES

Compensation and mileage for service on coroner’s or magistrates’ jury, see Section 22‑2‑160.

Compensation of circuit court juries, see Section 14‑7‑1370.

Compensation of county court juries, see Section 14‑9‑250.

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

 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.”

Library References

District and Prosecuting Attorneys 4.

Judges 22.

Westlaw Topic Nos. 131, 227.

C.J.S. District and Prosecuting Attorneys Sections 64 to 80.

C.J.S. Judges Sections 189 to 214, 347.

**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.

Library References

Automobiles 361.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 1530.

**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.

Library References

Costs 273.

Westlaw Topic No. 102.

Attorney General’s Opinions

This section does not provide authority for a company to collect on unpaid tickets. S.C. Op.Atty.Gen. (July 28, 2004) 2004 WL 1879679.

**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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund; and

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

HISTORY: 2002 Act No. 329, Section 3B, eff July 1, 2002; 2017 Act No. 96 (S.289), Pt. II, Section 4.A, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.A, in (3), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund”.

Library References

Child Support 425.

Westlaw Topic No. 76E.

**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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.B, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.B, in (A), in (3) substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund”, and made a nonsubstantive change.

Library References

Costs 151.

Westlaw Topic No. 102.

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

 Except as provided in Sections 17‑15‑260, 34‑11‑90, 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 one‑hundred‑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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim 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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.C, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.C, in the first undesignated paragraph, deleted “50‑1‑150, 50‑1‑170,” following “34‑11‑90”, substituted “one‑hundred‑dollar‑filing” for “seventy dollar filing” and “county treasurer” for “County Treasurer”; in (3), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance under the South Carolina Victim’s Compensation Fund”; and in the second undesignated paragraph, substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “Victim’s Compensation Fund”.

CROSS REFERENCES

Criminal penalties collected pursuant to Section 48‑1‑320 must be collected and distributed pursuant to this section, see Section 48‑1‑350.

State Auditor to examine books, etc. to determine whether fines and assessments imposed pursuant to this section are properly collected and remitted, see Section 11‑7‑25.

Transfer of certain criminal cases from general sessions court, see Section 22‑3‑545.

Treasurer to report, to departments or agencies receiving monies from fines and assessments, as to amounts received from city and county treasurers therefor, see Section 11‑5‑175.

Treatment of monies paid as fines and assessments, when paid in installments, see Section 14‑1‑209.

Upon forfeiture in general sessions court, fine portion of bail must be distributed as provided in this section, see Section 44‑53‑370.

Library References

Criminal Law 1220.

Westlaw Topic No. 110.

C.J.S. Criminal Law Sections 2462 to 2510.

**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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;

 (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, Chapter 3, 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, Chapter 3, Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15, Chapter 3, 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division, must be used by all counties and municipalities and 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 Uniform Supplemental Schedule Form must be included in the external auditor’s report 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.D, eff July 1, 2017; 2017 Act No. 96 (S.289), Pt. III, Section 12.A, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.D, in (C)(5), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance”; and in (D), substituted “Article 15, Chapter 3, Title 16” for “Article 15 of Title 16” in three places.

2017 Act No. 96, Pt. III, Section 12.A, in (E), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”; in (E)(1), substituted “Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division,” for “supplementary schedule”, and inserted “be used by all counties and municipalities and must”; in (E)(2), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”, and deleted “by an ‘in relation to’ paragraph” following “report”; and , in (E)(3), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule” twice.

CROSS REFERENCES

Amount of bail related to amount of fine and assessment imposed under this section, distribution of assessment portion of bail, see Section 44‑53‑370.

Crime victim funds, programmatic review and financial audit, cooperation with audit, see Section 14‑1‑211.6.

State Auditor to examine books, etc. to determine whether fines and assessments imposed pursuant to this section are properly collected and remitted, see Section 11‑7‑25.

Transfer of certain criminal cases from general sessions court, see Section 22‑3‑545.

Treasurer to report, to departments or agencies receiving monies from fines and assessments, as to amounts received from city and county treasurers therefor, see Section 11‑5‑175.

Treatment of monies paid as fines and assessments, when paid in installments, see Section 14‑1‑209.

Library References

Costs 304.

Westlaw Topic No. 102.

C.J.S. Criminal Law Section 2427.

LAW REVIEW AND JOURNAL COMMENTARIES

Note, At least treat us like criminals!: South Carolina responds to victims’ pleas for equal rights, 49 S.C. L. Rev. 575, Spring 1998.

Attorney General’s Opinions

Discussion of whether a county council may divert victims’ services funds from an entity which possesses specific statutory duties and obligations to provide victims’ services. S.C. Op.Atty.Gen. (July 30, 2003) 2003 WL 21998997.

A county or municipality may not create a central victims’ assistance office in lieu of appropriating funds directly to law enforcement, solicitors, courts, and jails. S.C. Op.Atty.Gen. (January 4, 2000) 2000 WL 773738.

Discussion of the use of revenue generated by Sections 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑211. S.C. Op.Atty.Gen. (November 15, 1999) 1999 WL 1425993.

Discussion of the practical implementation of 1997 Act No. 141. S.C. Op.Atty.Gen. (July 15, 1997) 1997 WL 568903.

**SECTION 14‑1‑207.** Additional assessment, magistrates 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, 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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;

 (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, Chapter 3, 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, Chapter 3, Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15, Chapter 3, 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division, must be used by all counties and municipalities to report victim services funds and 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 Uniform Supplemental Schedule Form must be included in the external auditor’s report 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.E, eff July 1, 2017; 2017 Act No. 96 (S.289), Pt. III, Section 12.B, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.E, in (C)(1), substituted “Chapter 13, Title 24” for “Chapter 13 of Title 24”, and in (C)(4), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance”; and in (D), substituted “Article 15, Chapter 3, Title 16” for “Article 15 of Title 16” in three places.

2017 Act No. 96, Pt. III, Section 12.B, in (E), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”; in (E)(1), substituted “Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division,” for “supplementary schedule”, and inserted “be used by all counties and municipalities to report victim services funds and must”; in (E)(2), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”, and deleted “by an ‘in relation to’ paragraph” following “report”; and , in (E)(3), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule” twice.

CROSS REFERENCES

Amount of bail related to amount of fine and assessment imposed under this section, distribution of assessment portion of bail, see Section 44‑53‑370.

Crime victim funds, programmatic review and financial audit, cooperation with audit, see Section 14‑1‑211.6.

State Auditor to examine books, etc. to determine whether fines and assessments imposed pursuant to this section are properly collected and remitted, see Section 11‑7‑25.

Treasurer to report, to departments or agencies receiving monies from fines and assessments, as to amounts received from city and county treasurers therefor, see Section 11‑5‑175.

Treatment of monies paid as fines and assessments, when paid in installments, see Section 14‑1‑209.

Library References

Costs 304.

Westlaw Topic No. 102.

C.J.S. Criminal Law Section 2427.

Attorney General’s Opinions

Discussion of whether a county council may divert victims’ services funds from an entity which possesses specific statutory duties and obligations to provide victims’ services. S.C. Op.Atty.Gen. (July 30, 2003) 2003 WL 21998997.

A satellite monitoring program for defendants charged with drug‑related offenses could not be funded with monies collected from victim assessments pursuant to this section. S.C. Op.Atty.Gen. (October 1, 2001) 2001 WL 1215450.

A county or municipality may not create a central victims’ assistance office in lieu of appropriating funds directly to law enforcement, solicitors, courts, and jails. S.C. Op.Atty.Gen. (January 4, 2000) 2000 WL 773738.

Discussion of the use of revenue generated by Sections 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑211. S.C. Op.Atty.Gen. (November 15, 1999) 1999 WL 1425993.

Discussion of the practical implementation of 1997 Act No. 141. S.C. Op.Atty.Gen. (July 15, 1997) 1997 WL 568903.

**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, 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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;

 (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, 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, Chapter 3, 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, Chapter 3, Title 16 and second priority must be given to programs which expand victims’ services beyond those required by Article 15, Chapter 3, 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division, must be used by all counties and municipalities to report their crime victim services funds and 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 Uniform Supplemental Schedule Form must be included in the external auditor’s report 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 Uniform Supplemental Schedule Form 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 Uniform Supplemental Schedule Form 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.F, eff July 1, 2017; 2017 Act No. 96 (S.289), Pt. III, Section 12.C, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.F, in (C)(1), substituted “Chapter 13, Title 24” for “Chapter 13 of Title 24”, in (C)(4), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund” for “State Office of Victim Assistance”, and in (C)(10), substituted “Chapter 35, Title 11” for “Chapter 35 of Title 11”; and in (D), substituted “Article 15, Chapter 3, Title 16” for “Article 15 of Title 16” in three places.

2017 Act No. 96, Pt. III, Section 12.C, in (E), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”; in (E)(1), substituted “Uniform Supplemental Schedule Form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division,” for “supplementary schedule”, and inserted “be used by all counties and municipalities to report their crime victim services funds and must”; in (E)(2), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule”, and deleted “by an ‘in relation to’ paragraph” following “report”; and , in (E)(3), substituted “Uniform Supplemental Schedule Form” for “supplementary schedule” twice.

CROSS REFERENCES

Amount of bail related to amount of fine and assessment imposed under this section, distribution of assessment portion of bail, see Section 44‑53‑370.

Crime victim funds, programmatic review and financial audit, cooperation with audit, see Section 14‑1‑211.6.

State Auditor to examine books, etc. to determine whether fines and assessments imposed pursuant to this section are properly collected and remitted, see Section 11‑7‑25.

Treasurer to report, to departments or agencies receiving monies from fines and assessments, as to amounts received from city and county treasurers therefor, see Section 11‑5‑175.

Treatment of monies paid as fines and assessments, when paid in installments, see Section 14‑1‑209.

Library References

Costs 304.

Westlaw Topic No. 102.

C.J.S. Criminal Law Section 2427.

Attorney General’s Opinions

The three year statute of limitations would be inapplicable to any action brought to force the payment of monies collected pursuant to this section. S.C. Op.Atty.Gen. (January 16, 2008) 2008 WL 317739.

Discussion of whether a county council may divert victims’ services funds from an entity which possesses specific statutory duties and obligations to provide victims’ services. S.C. Op.Atty.Gen. (July 30, 2003) 2003 WL 21998997.

A county or municipality may not create a central victims’ assistance office in lieu of appropriating funds directly to law enforcement, solicitors, courts, and jails. S.C. Op.Atty.Gen. (January 4, 2000) 2000 WL 773738.

Discussion of the use of revenue generated by Sections 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑211. S.C. Op.Atty.Gen. (November 15, 1999) 1999 WL 1425993.

Discussion of the practical implementation of 1997 Act No. 141. S.C. Op.Atty.Gen. (July 15, 1997) 1997 WL 568903.

**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.

Library References

Costs 318.

Westlaw Topic No. 102.

C.J.S. Criminal Law Sections 2430 to 2431.

Attorney General’s Opinions

This section should be applied consistently with Sections 14‑1‑206, 14‑1‑207, and 14‑1‑208 with the latter statutes being controlling as to the percentages. S.C. Op.Atty.Gen. (December 3, 1999) 1999 WL 1390360.

**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, 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 Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation 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; 2017 Act No. 96 (S.289), Pt. II, Section 4.G, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 4.G, in (A), substituted “Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation” for “State Office of Victim Assistance”, and made a nonsubstantive change.

Library References

Courts 43.

Westlaw Topic No. 106.

C.J.S. Courts Sections 123 to 125, 128 to 129.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Clerks of Court Section 11, Fees and Costs.

**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.”

CROSS REFERENCES

Crime victim funds, programmatic review and financial audit, cooperation with audit, see Section 14‑1‑211.6.

Library References

Criminal Law 1220.

Westlaw Topic No. 110.

C.J.S. Criminal Law Sections 2462 to 2510.

LAW REVIEW AND JOURNAL COMMENTARIES

Note, At least treat us like criminals!: South Carolina responds to victims’ pleas for equal rights, 49 S.C. L. Rev. 575, Spring 1998.

Attorney General’s Opinions

The Victims’ Advocate Fund of the City of Myrtle Beach, which exists under the authority of this section, may be used only for the purpose of funding municipal entities which provide services exclusively to the victims of crime. S.C. Op.Atty.Gen. (July 10, 2003) 2003 WL 21691880.

Discussion of whether a county council may divert victims’ services funds from an entity which possesses specific statutory duties and obligations to provide victims’ services. S.C. Op.Atty.Gen. (July 30, 2003) 2003 WL 21998997.

Deductions for computer upgrades related to tracking the DUI surcharge for spinal cord research should be made only from the subsection (A)(2) revenue. S.C. Op.Atty.Gen. (October 11, 2001) 2001 WL 1397515.

A county or municipality may not create a central victims’ assistance office in lieu of appropriating funds directly to law enforcement, solicitors, courts, and jails. S.C. Op.Atty.Gen. (January 4, 2000) 2000 WL 773738.

Discussion of the use of revenue generated by Sections 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑211. S.C. Op.Atty.Gen. (November 15, 1999) 1999 WL 1425993.

Discussion of the practical implementation of 1997 Act No. 141. S.C. Op.Atty.Gen. (July 15, 1997) 1997 WL 568903.

**SECTION 14‑1‑211.**5. Training and technical assistance.

 The Department of Crime Victim Assistance Grants shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid.

HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.A, eff July 1, 2017.

**SECTION 14‑1‑211.**6. Crime victim funds; programmatic review and financial audit; cooperation with audit.

 (A) If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14‑1‑206(B) and (D), 14‑1‑207(B) and (D), 14‑1‑208(B) and (D), and 14‑1‑211(B), the State Auditor shall notify the Office of the Attorney General, South Carolina Crime Victim Services Division. The division is authorized to conduct an audit, which must include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding, based on the referrals from the State Auditor or complaints of a specific nature received by the division to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed in collaboration with the Victim Services Coordinating Council. The Victim Services Coordinating Council, in collaboration with the director of the division, shall develop these guidelines to ensure any expenditure that meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure.

 (B) Any local entity or nonprofit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the Office of the Attorney General, South Carolina Crime Victim Services Division within thirty days of the budget’s approval by the governing body of the entity or nonprofit organization. Failure to comply with this provision shall cause the division to initiate a programmatic review and a financial audit of the entity’s or nonprofit organization’s expenditures of victim assistance funds. Additionally, the division will place the name of the noncompliant entity or nonprofit organization on its website, where it shall remain until such time as the noncompliant entity or nonprofit organization is in compliance with the terms of this section.

 (C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity’s or nonprofit organization’s subsequent fiscal year appropriation.

HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.B, eff July 1, 2017.

**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.

Library References

Costs 304.

Westlaw Topic No. 102.

C.J.S. Criminal Law Section 2427.

**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.

Library References

Costs 304.

Westlaw Topic No. 102.

C.J.S. Criminal Law Section 2427.

**SECTION 14‑1‑214.** Payment of fines, fees, court costs 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.”

Library References

Costs 318.

Westlaw Topic No. 102.

C.J.S. Criminal Law Sections 2430 to 2431.

Attorney General’s Opinions

Approval by the Office of the Attorney General for the inclusion on the back of the uniform traffic ticket language providing that payment of a fine may be made online by credit card for citations where a court appearance is not necessary. S.C. Op.Atty.Gen. (June 3, 2010) 2010 WL 2678693.

**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.

CROSS REFERENCES

Return of retired judge to service of State, see Section 9‑8‑120.

Library References

Judges 7.

Westlaw Topic No. 227.

C.J.S. Judges Sections 50 to 59, 63 to 66, 85.

**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.

Library References

Judges 16.

Westlaw Topic No. 227.

C.J.S. Judges Sections 345 to 346, 349 to 350, 354 to 363.

**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.

Library References

Costs 151.

Westlaw Topic No. 102.

**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.

Library References

Costs 319.

Westlaw Topic No. 102.

**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.

CROSS REFERENCES

Deposit of a portion of the salaries earned by offenders placed in a restitution center, in the same account as funds collected under Sections 14‑1‑210 through 14‑1‑230, see Section 24‑21‑480.

Placement of offenders in restitution centers, see Section 24‑21‑480.

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

Library References

Costs 319.

Westlaw Topic No. 102.

**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.

CROSS REFERENCES

Deposit of a portion of the salaries earned by offenders placed in a restitution center, in the same account as funds collected under Sections 14‑1‑210 through 14‑1‑230, see Section 24‑21‑480.

Library References

Costs 319.

Westlaw Topic No. 102.

Attorney General’s Opinions

The cost of court fees previously collected pursuant to Section 14‑1‑210 et seq. for the construction or renovation of local correctional facilities has been redirected for other purposes by the General Assembly. 1986 Op.Atty.Gen. No. 86‑74, p 234 (July 2, 1986) 1986 WL 192032.

**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).

Library References

Trial 21.

Westlaw Topic No. 388.

C.J.S. Trial Section 110.

**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.”

Library References

Automobiles 361.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 1530.