CHAPTER 25

Municipal Courts

Editor’s Note

1980 Act No. 480 amended this chapter to provide for a uniform municipal court system and do away with distinctions between municipalities based on population. The former provisions under this chapter are superseded by the provisions that follow and are no longer law.

ARTICLE 1

General Provisions

**SECTION 14‑25‑5.** Establishment of municipal courts by ordinance; facilities for courts; use of magistrates court by municipality.

 (a) The council of each municipality in this State may, by ordinance, establish a municipal court, which shall be a part of the unified judicial system of this State, for the trial and determination of all cases within its jurisdiction. The ordinance shall provide for the appointment of one or more full‑time or part‑time judges and the appointment of a clerk.

 (b) Any municipality establishing a municipal court pursuant to the provisions of this chapter shall provide facilities for the use of judicial officers in conducting trials and hearings and shall provide sufficient clerical and nonjudicial support personnel to assist the municipal judge.

 (c) Any municipality may prosecute any of its cases in any magistrate court in the county in which such municipality is situate upon approval by the governing body of the county.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑910.

CROSS REFERENCES

Magistrates’ courts, generally, see Section 22‑1‑10 et seq.

Municipalities, generally, see Section 5‑1‑10 et seq.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 19, Structure of the Judicial System.

S.C. Jur. Magistrates and Municipal Judges Section 2, Jurisdictional Background.

Attorney General’s Opinions

If not reappointed Municipal Court Judge would hold over until successor is appointed by Town Council and qualified. S.C. Op.Atty.Gen. (July 2, 2012) 2012 WL 2867808.

Sections 14‑25‑5(c) and 14‑25‑25 permit the handling of municipal cases by the magistrate’s courts if such arrangement is agreed to by contract and is made in accord with the express terms of these statutory provisions. S.C. Op.Atty.Gen. (July 2, 2012) 2012 WL 2867808.

Municipal police officers who have no municipal court in which to prosecute their cases can bring such cases before any magistrate within their county upon approval of the governing body of the county even if the magistrate’s office does not lie within their municipal limits. S.C. Op.Atty.Gen. (July 22, 2009) 2009 WL 2406420.

Discussion of the personnel of the municipal court and responsibilities of the city council for trials on the docket. S.C. Op.Atty.Gen. (August 27, 1996) 1996 WL 549582.

Discussion of the authority of the city council concerning the municipal court. S.C. Op.Atty.Gen. (August 13, 1996) 1996 WL 549537.

Sections 14‑25‑25 and 14‑25‑5(c) would permit the handling of municipal cases by the magistrate’s courts if such arrangement is agreed to by contract and is made in accord with the express terms of these two referenced statutory provisions. S.C. Op.Atty.Gen. (August 14, 1995) 1995 WL 803703.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

In light of the clear statement of legislative intent in Section 14‑25‑5(a), which provides that municipal courts are included within the unified judicial system, municipal courts comply with the constitutional mandate that they be part of a unified judicial system. City of Pickens v. Schmitz (S.C. 1989) 297 S.C. 253, 376 S.E.2d 271. Courts 187

**SECTION 14‑25‑15.** Appointment of municipal judge; training program, certification examination and continuing education requirements.

 (A) Each municipal judge must be appointed by the council to serve for a term set by the council of not less than two years but not more than four years and until his successor is appointed and qualified. His compensation must be fixed by the council.

 (B) The council shall notify South Carolina Court Administration of any persons appointed or reappointed as municipal judges.

 (C) Before entering upon the discharge of the duties of his office, each judge shall take and subscribe the oath of office prescribed by Article VI, Section 5 of the South Carolina Constitution.

 (D) Notwithstanding any other provision of law relating to the terms and qualifications of municipal judges:

 (1) All municipal judges shall complete a training program or pass certification or recertification examinations, or both, pursuant to standards established by the Supreme Court of South Carolina. The examination must be offered at least three times each year. The Chief Justice of the Supreme Court shall establish guidelines for exempting municipal judges from taking an examination based upon experience or education factors.

 (a) Municipal judges appointed for the first time on or after the effective date of this act shall complete the training program and pass the certification examination within one year after taking office, or before April 30, 2001, whichever is later.

 (b) Municipal judges serving in the counties of Abbeville, Allendale, Bamberg, Beaufort, Calhoun, Cherokee, Chesterfield, Clarendon, Colleton, Dillon, Edgefield, Florence, Greenville, Hampton, Jasper, Lancaster, Lee, Marion, McCormick, Oconee, Pickens, Saluda, Sumter, and Williamsburg, as of the effective date of this section, shall pass a certification examination before April 30, 2001.

 (c) Municipal judges serving in the counties of Aiken, Anderson, Barnwell, Berkeley, Charleston, Chester, Darlington, Dorchester, Fairfield, Georgetown, Greenwood, Horry, Kershaw, Laurens, Lexington, Marlboro, Newberry, Orangeburg, Richland, Spartanburg, Union, and York, as of the effective date of this section, shall pass a certification examination before April 30, 2002.

 (d) Every municipal judge shall pass a recertification examination within eight years after passing the initial certification examination and at least once every eight years thereafter.

 (2) If any municipal judge does not comply with these training or examination requirements, his office is declared vacant on the date the time expires or when he is notified, as provided in subsection (E), whichever is earlier.

 (E) Upon written notification of the Supreme Court or its designee to the affected municipal judge and the council of the failure of the municipal judge to complete the training program or pass the certification examination required pursuant to subsection (D), the municipal judge’s office is declared vacant, the municipal judge does not hold over, and the council shall appoint a successor, as provided in Section 14‑25‑25; however, the council shall not reappoint the current municipal judge who failed to complete the training program or pass the certification examination required pursuant to subsection (D) to a new term or to fill the vacancy in the existing term.

 (F) No municipal judge who is admitted to practice in the courts of this State shall practice law in the municipal court for which he is appointed.

 (G) All municipal judges shall attend annually the number of approved continuing education hours in criminal law and subject areas related to municipal judges’ duties which are required by the Supreme Court of South Carolina. The Chief Justice of the Supreme Court shall establish guidelines for exempting municipal judges from the continuing education hours required by this section based upon experience or education factors.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 2000 Act No. 394, Section 2, eff August 4, 2000; 2004 Act No. 238, Section 2, eff May 24, 2004.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑920.

2004 Act No. 238, Section 3, provides as follows:

“This act takes effect upon approval by the Governor and applies to municipal judges appointed on or after this act’s effective date.”

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 5, Municipal Judges‑ Generally.

S.C. Jur. Magistrates and Municipal Judges Section 6, Municipal Judges‑ Terms and Authority.

S.C. Jur. Magistrates and Municipal Judges Section 15, Municipal Judges’ Courts.

Attorney General’s Opinions

A city council cannot enforce an ordinance providing a mandatory retirement age for a municipal judge since the General Assembly has declined to establish a mandatory retirement age. S.C. Op.Atty.Gen. (August 29, 2016) 2016 WL 4698869.

Discussion of the authority for a city administrator to suspend a municipal judge without pay, where a private citizen files a complaint with the Commission on Judicial Standards against the judge. S.C. Op.Atty.Gen. (November 17, 2005) 2005 WL 3352840.

There would be a conflict of interest for a town employee to serve as Municipal Judge as well. S.C. Op.Atty.Gen. (September 11, 2003) 2003 WL 22172234.

Simultaneously serving as member of Georgetown County Election Commission and part‑time municipal judge for City of Georgetown would probably contravene dual office holding provisions of State Constitution. 1984 Op.Atty.Gen. No. 84‑11, p. 40 (February 1, 1984) 1984 WL 159819.

**SECTION 14‑25‑25.** Eligibility for judgeship; vacancy in office and temporary absence.

 A municipal judge shall not be required to be a resident of the municipality by whom he is employed. A municipality may contract with any other municipality in the county or with the county governing body to employ the municipal judge of the other municipality or a magistrate to preside over its court.

 In case of a vacancy in the office of municipal judge, a successor shall be appointed in the manner of original appointment for the unexpired term. In case of the temporary absence, sickness, or disability of a municipal judge, the court shall be held by a judge of another municipality or by a practicing attorney or some other person who has received training or experience in municipal court procedure, who shall be designated by the mayor and take the prescribed oath of office before entering upon his duties.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑930 and 14‑25‑940.

CROSS REFERENCES

Disposition of fines and penalties imposed and collected by magistrates in criminal cases, see Section 22‑1‑70.

Emergency interim succession for judges, see Section 1‑9‑70.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 2, Jurisdictional Background.

S.C. Jur. Magistrates and Municipal Judges Section 5, Municipal Judges‑ Generally.

S.C. Jur. Magistrates and Municipal Judges Section 9, Municipal Judges.

S.C. Jur. Magistrates and Municipal Judges Section 10, Disqualification.

Attorney General’s Opinions

If not reappointed Municipal Court Judge would hold over until successor is appointed by Town Council and qualified. S.C. Op.Atty.Gen. (July 2, 2012) 2012 WL 2867808.

Sections 14‑25‑5(c) and 14‑25‑25 permit the handling of municipal cases by the magistrate’s courts if such arrangement is agreed to by contract and is made in accord with the express terms of these statutory provisions. S.C. Op.Atty.Gen. (July 2, 2012) 2012 WL 2867808.

Simultaneously serving as member of Georgetown County Election Commission and part‑time municipal judge for City of Georgetown would probably contravene dual office holding provisions of State Constitution. 1984 Op.Atty.Gen. No. 84‑11, p. 40 (February 1, 1984) 1984 WL 159819.

**SECTION 14‑25‑35.** Appointment and duties of clerk of court.

 The municipal clerk or other municipal employee may be appointed to serve as clerk of the court. The clerk of the court shall keep such records and make such reports as may be determined by the State Court Administrator.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑45.** Powers, duties, and jurisdiction of municipal courts.

 Each municipal court shall have jurisdiction to try all cases arising under the ordinances of the municipality for which established. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts. The court shall have no jurisdiction in civil matters.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑970.

CROSS REFERENCES

Judicial power vested in certain courts, generally, see SC Const. Art. V, Section 1.

Jurisdiction of municipal courts over violations of the Uniform Act Regulating Traffic on Highways, see Section 56‑5‑6150.

Jurisdiction of municipal courts to try persons entering premises after a warning or refusing to leave on request, see Section 16‑11‑620.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

ALR Library

102 ALR 5th 525 , Criminal Jurisdiction of Municipal or Other Local Court.

Encyclopedias

S.C. Jur. Gaming Section 20, Under Municipal Law.

S.C. Jur. Magistrates and Municipal Judges Section 6, Municipal Judges‑ Terms and Authority.

S.C. Jur. Magistrates and Municipal Judges Section 19, Exclusive Versus Concurrent Jurisdiction.

S.C. Jur. Magistrates and Municipal Judges Section 22, Jurisdiction.

Attorney General’s Opinions

Discussion of the contempt powers of magistrates’ and municipal courts. S.C. Op.Atty.Gen. (March 1, 2013) 2013 WL 1695519.

Discussion of the issuance of restraining orders by municipal courts. S.C. Op.Atty.Gen. (July 1, 2002) 2002 WL 1925748.

As a violation of Section 12‑37‑2615 is a violation of State law, the municipality in which it occurs could exercise jurisdiction over the matter through its municipal court. S.C. Op.Atty.Gen. (October 31, 2001) 2001 WL 1397513.

Discussion of the power of the municipal court to confine a defendant until a fine is paid, and the process for when a defendant not in custody fails to pay a fine. S.C. Op.Atty.Gen. (June 5, 2001) 2001 WL 790269.

This sections should not be considered as granting municipal courts the same authority possessed by magistrates pursuant to Sections 22‑5‑140 and 22‑5‑150. S.C. Op.Atty.Gen. (September 29, 1999) 1999 WL 986751.

The municipal court would have jurisdiction under Section 47‑3‑760(C) to order the destruction of a dangerous animal where the court possesses jurisdiction to try the criminal case. S.C. Op.Atty.Gen. (April 2, 1997) 1997 WL 255949.

The municipal court would generally have jurisdiction over offenses involving the telephone even if the caller were not within the corporate limits of the municipality where the receiver of the completed call is within the territory of the city limits. S.C. Op.Atty.Gen. (May 14, 1996) 1996 WL 452777.

Sections 14‑25‑25 and 14‑25‑5(c) would permit the handling of municipal cases by the magistrate’s courts if such arrangement is agreed to by contract and is made in accord with the express terms of these two referenced statutory provisions. S.C. Op.Atty.Gen. (August 14, 1995) 1995 WL 803703.

The authority to order restitution pursuant to Section 22‑3‑550 applies to municipal courts. S.C. Op.Atty.Gen. (April 21, 1995) 1995 WL 803377.

Section 22‑3‑550 constrains municipal judges in the same way as it does magistrates. S.C. Op.Atty.Gen. (March 27, 1995) 1995 WL 233149.

The Town of Hilton Head may pursuant to a contractual agreement require the Beaufort County Sheriff’s Department to prosecute all of its criminal cases which occur within the corporate limits of the Town in the newly established municipal court. 1992 Op.Atty.Gen. No 92‑70 (November 17, 1992) 1992 WL 575676.

Municipal judge is authorized to impose work detail or public service work as part of suspended sentence of fine imposed on juvenile subject to minimum sentence requirements set forth by statute. Juvenile could, however, pay original fine and thereby avoid conditions of suspended sentence. There appears to be no separate authority for municipal judges or magistrates to impose work details or public service work on juvenile. 1990 Op.Atty.Gen. No. 90‑24 (February 27, 1990) 1990 WL 482412.

An accused may deposit with the court a sum not to exceed the maximum fine for any offense in lieu of entering into a formal bail bond; however, requiring this procedure only of those who request jury trials might impose an unconstitutional “chilling effect” on the right to jury trial. 1989 Op.Atty.Gen. No. 89‑56, p 142 (May 8, 1989) 1989 WL 406146.

A circuit court judge could sentence a defendant to a term of probation and as a condition of such sentence, require the defendant to make a contribution to “Crime Stoppers” or to reimburse “Crime Stoppers” for funds expended by such organization in association with a defendant’s case. Further, while a municipal court judge would not be authorized to impose a sentence of a term of probation, a municipal court judge could suspend a sentence upon the payment of a contribution or reimbursement to “Crime Stoppers.” 1986 Op.Atty.Gen. No. 86‑81, p. 253 (July 21, 1986) 1986 WL 192039.

Simultaneously serving as member of Georgetown County Election Commission and part‑time municipal judge for City of Georgetown would probably contravene dual office holding provisions of State Constitution. 1984 Op.Atty.Gen. No. 84‑11, p. 40 (February 1, 1984) 1984 WL 159819.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

Any error by municipal court in granting driver’s motion for new trial filed more than five days after conviction for traffic offense was an error of the court’s exercise of jurisdiction and did not implicate its general grant of subject matter jurisdiction, and, thus, Department of Motor Vehicles appeal from the Department of Motor Vehicle Hearings decision was an improper collateral attack on the municipal court decision; decision was merely voidable, rather than void. South Carolina Dept. of Motor Vehicles v. Holtzclaw (S.C.App. 2009) 382 S.C. 344, 675 S.E.2d 756, rehearing denied, certiorari denied. Automobiles 144.2(2.1)

State lacked extraterritorial jurisdiction to prosecute nonresident defendant for trafficking cocaine and conspiracy to traffic cocaine based on defendant’s alleged conduct that did not occur within territorial borders of state; while defendant did not need to be physically present in the state in order to commit criminal offense in the state, the state’s extraterritorial jurisdiction extended only to those who had performed acts intended to produce and producing detrimental effects within state’s boundaries, and there was no evidence that defendant intended a detrimental effect in South Carolina when she sold cocaine in Atlanta. State v. Dudley (S.C. 2005) 364 S.C. 578, 614 S.E.2d 623. Criminal Law 97(1)

Because crime of trafficking in cocaine was punishable by a minimum sentence of three years and a $25,000 fine, it exceeded the inferior courts’ exclusive jurisdictional limits, and therefore, Circuit Court had subject matter jurisdiction over the general class of trafficking charges. State v. Dudley (S.C. 2005) 364 S.C. 578, 614 S.E.2d 623. Criminal Law 94

2. Constitutional issues

Municipal courts in South Carolina possess uniform jurisdiction as mandated by the Constitution. City of Pickens v. Schmitz (S.C. 1989) 297 S.C. 253, 376 S.E.2d 271. Courts 180

**SECTION 14‑25‑55.** Powers and duties of chief of police and police officers.

 The chief of police of the municipality for which a court is established, or someone designated by him, shall attend upon the sessions of the court. The chief of police and the police officers of such municipality shall be subject to the orders of the court and shall execute the orders, writs, and mandates thereof and perform such other duties in connection therewith as may be prescribed by the ordinances of the municipality. The chief of police and police officers shall also be invested with the same powers and duties as are provided for magistrates’ constables.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑950.

Library References

Courts 186.

Westlaw Topic No. 106.

NOTES OF DECISIONS

In general 1

1. In general

For purposes of the “constable” exception to constitutional proscription that an individual may not hold two offices of honor or profit at the same time office, the office of “constable” does not subsume the office of “municipal police officer,” given wide variance of duties and jurisdiction of constables from those of municipal police officers, and statutes distinguishing between the two offices; a constable is a person who holds a state commission, is employed in such capacity by a magistrate, or otherwise meets one of the statutory definitions, whereas a municipal police officer may exercise power and duties of a state constable without obtaining a commission from the governor, and is employed by a municipality. Richardson v. Town of Mount Pleasant (S.C. 2002) 350 S.C. 291, 566 S.E.2d 523. Public Employment 120

**SECTION 14‑25‑65.** Maximum penalties that court may impose; restitution; contempt.

 (A) If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an amount not to exceed the civil jurisdictional amount of magistrates court provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

 (B) A municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay. In addition, a municipal judge may convert any unpaid restitution, fines, costs, fees, surcharges, and assessments to a civil judgment as provided in Section 17‑25‑323(C).

HISTORY: 1980 Act No. 480, eff January 1, 1981; 1993 Act No. 171, Section 2, eff July 1, 1993, and applicable to all offenses occurring after this date; 1999 Act No. 78, Section 1, eff June 11, 1999; 2010 Act No. 273, Section 23, eff June 2, 2010; 2013 Act No. 82, Section 5, eff June 13, 2013.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑50.

CROSS REFERENCES

Appeals, generally, to county circuit courts from inferior courts, see Section 18‑7‑10 et seq.

Breach of trust with fraudulent intent, see Section 16‑13‑230.

Continuing jurisdiction over court‑ordered payments, default, hearing to show cause, enforcement, entry in records, satisfaction of judgment, see Section 17‑25‑323.

Criminally receiving goods and services fraudulently obtained, see Section 16‑14‑80.

Defrauding keeper of hotel, motel, inn, boarding house, rooming house, campground, cafe or restaurant, see Section 45‑1‑50.

Destruction or desecration of human remains or repositories thereof, liability of crematory operators, see Section 16‑17‑600.

Factors or commission merchants failing to account for produce, see Section 46‑1‑70.

Failure to return rented objects, fraudulent appropriation of such, see Section 16‑13‑420.

Forgery, see Section 16‑13‑10.

Fraudulent acquisition or use of food stamps, see Section 16‑13‑430.

Jurisdiction of municipal courts over violation of certain State liquor laws, see Section 61‑6‑4500.

Larceny of bicycles, see Section 16‑13‑80.

Making away with produce before paying, see Section 46‑1‑60.

Malicious injury to animals and other personal property, see Section 16‑11‑510.

Malicious injury to tree, house, outside fence, or fixture, trespass upon real property, see Section 16‑11‑520.

Obtaining nonferrous metals unlawfully, see Section 16‑11‑523.

Obtaining property under false tokens or letters, see Section 16‑13‑260.

Obtaining signature or property by false pretenses, see Section 16‑13‑240.

Penalties for driving while license cancelled, suspended or revoked, see Section 56‑1‑460.

Penalties for violating Section 16‑13‑65, see Section 16‑13‑66.

Penalties for violation of Financial Transaction Card Crime Act, see Section 16‑14‑100.

Petit larceny, grand larceny, see Section 16‑13‑30.

Presenting false claims for payment, see Section 38‑55‑170.

Receiving, possessing, concealing, selling, or disposing of stolen vehicle, see Section 16‑21‑80.

Receiving stolen goods, see Section 16‑13‑180.

Sale or purchase of drifted lumber or timber, see Section 49‑1‑50.

Securing property by fraudulent impersonation of officer, see Section 16‑13‑290.

Shoplifting, see Section 16‑13‑110.

Stealing crops from the field, see Section 46‑1‑20.

Stealing livestock, confiscation of motor vehicle or other chattel, see Section 16‑13‑50.

Stealing of bonds and the like, see Section 16‑13‑40.

Stealing of vessels and equipment pertaining thereto, payment of damages, see Section 16‑13‑70.

Stealing tobacco plants from beds, see Section 46‑1‑40.

Unauthorized removal or concealment of library property prohibited, see Section 16‑13‑331.

Unlawful sale or disposal of personal property subject to security interest, see Section 36‑9‑410.

Violations committed by person on premises or property of lodging establishment, see Section 45‑2‑40.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 2, Jurisdictional Background.

Attorney General’s Opinions

A municipal ordinance cannot specify a particular fine so as to limit the discretionary authority of a judge in sentencing within his statutorily authorized limits. S.C. Op.Atty.Gen. (October 15, 2003) 2003 WL 22682945.

This section is inapplicable to the fine provided by Section 56‑5‑6540 (safety belts). S.C. Op.Atty.Gen. (March 25, 1997) 1997 WL 208034.

Magistrates do not have jurisdiction over juveniles charged with the criminal offense of minor in possession of beer, or violation of the open container law. Only the Family Court would possess jurisdiction over those two charges. 1994 Op.Atty.Gen. No. 94‑60, p. 135 (October 18, 1994) 1994 WL 649302.

Municipal judge is authorized to impose work detail or public service work as part of suspended sentence of fine imposed on juvenile subject to minimum sentence requirements set forth by statute. Juvenile could, however, pay original fine and thereby avoid conditions of suspended sentence. There appears to be no separate authority for municipal judges or magistrates to impose work details or public service work on juvenile. 1990 Op.Atty.Gen. No. 90‑24 (February 27, 1990) 1990 WL 482412.

Pursuant to the provisions of Section 14‑25‑65, a municipal judge may impose a fine in any amount as long as it does not exceed the two hundred dollar ($200.00) maximum. 1989 Op.Atty.Gen. No. 89‑49, p 127 (April 20, 1989) 1989 WL 406139.

**SECTION 14‑25‑75.** Judge may suspend sentences.

 Any municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper including, without limitation, restitution or public service employment.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑810, 14‑25‑980 and 14‑25‑990.

CROSS REFERENCES

Time suspended sentence shall run, see Section 17‑25‑110.

Library References

Courts 186.

Westlaw Topic No. 106.

Attorney General’s Opinions

Generally, a municipal court judge’s authority to impose conditions on suspended sentences is not subject to a maximum time limitation. S.C. Op.Atty.Gen. No. 92‑29 (October 28, 2002) 2002 WL 31728847.

The Municipal Court may order that a sentence be suspended upon completion of a counseling program in accordance with the broad discretion given the Court pursuant to this section. S.C. Op.Atty.Gen. No. 92‑29 (April 21, 1995) 1995 WL 803377.

The authority of a municipal judge to order community service. S.C. Op.Atty.Gen. No. 92‑29 (August 30, 1993) 1993 WL 379446.

Magistrates and municipal court judges are not empowered to place on probation defendants convicted of offenses transferred from general sessions court. 1992 Op.Atty.Gen. No. 92‑29 (June 9, 1992) 1992 WL 575635.

**SECTION 14‑25‑85.** Disposition of fines and penalties.

 All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of the municipality for which such court is held.

HISTORY: 1980 Act No. 480, eff January 1, 1980.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑70.

Library References

Courts 186.

Westlaw Topic No. 106.

Attorney General’s Opinions

The Town of Hilton Head may pursuant to a contractual agreement require the Beaufort County Sheriff’s Department to prosecute all of its criminal cases which occur within the corporate limits of the Town in the newly established municipal court. 1992 Op.Atty.Gen. No 92‑70 (November 17, 1992) 1992 WL 575676.

**SECTION 14‑25‑95.** Appeals to Court of Common Pleas; procedures and time limits.

 Any party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of the county in which the trial is held. Notice of intention to appeal, setting forth the grounds for appeal, must be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal is considered waived. The party appealing shall enter into a bond, payable to the municipality, to appear and defend the appeal at the next term of the Court of Common Pleas or shall pay the fine assessed.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 1994 Act No. 520, Section 2, eff September 23, 1994.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑150 and 14‑25‑1000.

CROSS REFERENCES

Appeals from inferior courts to county circuit courts, generally, see Section 18‑7‑10 et seq.

Appeals from magistrates’ courts, see Sections 18‑3‑10, 18‑3‑20.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Appeal and Error Section 13, Appellate Jurisdiction of Circuit Courts.

S.C. Jur. Automobiles and Other Motor Vehicles Section 129, Use of Safety Belts; Exceptions‑Penalties; Enforcement.

Attorney General’s Opinions

A municipal or magistrate court must allow a party to an appeal, as a member of the public, the right to inspect or copy tape recordings of any proceedings which are not otherwise subject to some applicable restriction. Copies should be made at a reasonable expense to the requesting party based on the actual costs of producing such copies. S.C. Op.Atty.Gen. (Feb. 28, 2012) 2012 WL 756271.

The 1999 amendment to Section 22‑3‑1000 does not repeal by implication Sections 18‑3‑30 and this section. S.C. Op.Atty.Gen. (May 21, 2001) 2001 WL 790249.

NOTES OF DECISIONS

In general 1

1. In general

Provisions of the statute governing appeals from a conviction in municipal court to a circuit court that require an appellant to obtain a bond or pay the assessed fine do not implicate the circuit court’s appellate jurisdiction; there is no temporal restriction in those provisions, which serve the purpose of ensuring that an appellant will appear for the hearing before the circuit court. Town of Mt. Pleasant v. Roberts (S.C. 2011) 393 S.C. 332, 713 S.E.2d 278. Municipal Corporations 642(1)

Circuit court was vested with appellate jurisdiction to determine an appeal from a conviction in municipal court, even though defendant did not obtain a bond or pay her court‑ordered fine before filing her notice of appeal with municipal court, where defendant timely filed her notice of appeal with municipal court. Town of Mt. Pleasant v. Roberts (S.C. 2011) 393 S.C. 332, 713 S.E.2d 278. Municipal Corporations 642(1)

**SECTION 14‑25‑105.** Municipal judge to make return to Court of Common Pleas in event of appeal; no appeal de novo.

 In the event of an appeal, the municipal judge shall make a return to the Court of Common Pleas, and the appeal must be heard by the presiding judge upon the return. The return of the municipal judge shall consist of a written report of the charges preferred, the testimony, the proceedings, and the sentence or judgment. When the testimony has been taken by a reporter as provided herein, the return shall include the reporter’s transcript of the testimony. The return must be filed with the Clerk of the Court of Common Pleas of the county in which the trial was held and the cause must be placed on the motion calendar for the Court of Common Pleas. There shall be no trial de novo on any appeal from a municipal court.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 1994 Act No. 520, Section 3, eff September 23, 1994.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑1010.

CROSS REFERENCES

Appeals, generally, to county circuit courts from inferior courts, see Section 18‑7‑10 et seq.

Library References

Courts 186.

Westlaw Topic No. 106.

Attorney General’s Opinions

A municipal or magistrate court must allow a party to an appeal, as a member of the public, the right to inspect or copy tape recordings of any proceedings which are not otherwise subject to some applicable restriction. Copies should be made at a reasonable expense to the requesting party based on the actual costs of producing such copies. S.C. Op.Atty.Gen. (Feb. 28, 2012) 2012 WL 756271.

NOTES OF DECISIONS

Standard of review 1

1. Standard of review

In criminal appeals from a municipal court, the circuit court does not conduct a de novo review; rather, it reviews the case for preserved errors raised to it by an appropriate exception, and thus, the appellate court’s scope of review is limited to correcting the circuit court’s order for errors of law. City of Cayce v. Norfolk Southern Ry. Co. (S.C. 2011) 391 S.C. 395, 706 S.E.2d 6. Criminal Law 260.4; Criminal Law 260.11(1); Criminal Law 260.13

In criminal appeals from municipal court, the circuit court does not conduct a de novo review. City of Rock Hill v. Suchenski (S.C. 2007) 374 S.C. 12, 646 S.E.2d 879, rehearing denied. Criminal Law 260.13

In criminal appeals from municipal court, the circuit court does not conduct a de novo review, but instead reviews for preserved error raised to it by appropriate exception. City of Aiken v. David Michael Koontz (S.C.App. 2006) 368 S.C. 542, 629 S.E.2d 686, rehearing denied. Criminal Law 260.4; Criminal Law 260.13

**SECTION 14‑25‑115.** Appointment of ministerial recorder; powers and duties.

 The council of a municipality may establish the office of ministerial recorder and appoint one or more full‑time or part‑time ministerial recorders, who shall hold office at the pleasure of the council. Before entering upon the discharge of the duties of the office of ministerial recorder, the person appointed shall take and subscribe the prescribed oath of office and shall be certified by the municipal judge as having been instructed in the proper method of issuing warrants and setting and accepting bonds and recognizances. Ministerial recorders shall have the power to set and accept bonds and recognizances and to issue summonses, subpoenas, arrest warrants, and search warrants in all cases arising under the ordinances of the municipality, and in criminal cases as are now conferred by law upon magistrates. Ministerial recorders shall have no other judicial authority.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 2000 Act No. 394, Section 3, eff August 4, 2000.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑310 and 14‑25‑320.

Library References

Courts 186.

Westlaw Topic No. 106.

Attorney General’s Opinions

Discussion of the enforcement of municipal ordinances. S.C. Op.Atty.Gen. (December 15, 2006) 2006 WL 3877512.

Ministerial recorder who is not Notary Public, minister of gospel, or accepted Jewish Rabbi, is not authorized to perform marriage ceremony in this State. 1984 Op.Atty.Gen. No. 84‑60, p. 149 (May 24, 1984) 1984 WL 159867.

Ministerial magistrates are not authorized to hear civil proceedings pursuant to Sections 20‑4‑10, et seq. nor issue orders of protection pursuant to such provisions. 1984 Op.Atty.Gen. No. 84‑120, p. 273 (October 10, 1984) 1984 WL 159927.

**SECTION 14‑25‑125.** Demand for jury trial; composition of jury.

 A person to be tried in a municipal court, prior to trial, may demand a jury trial, and the jury, when demanded, must be composed of six persons drawn from the jury list prepared by the jury commissioners from the latest official list furnished to the municipality by the State Election Commission each year in the manner prescribed in Section 14‑25‑130. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 2008 Act No. 270, Section 2, eff June 4, 2008.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑410.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 23, Trial.

Attorney General’s Opinions

Whether a defendant who has demanded a jury trial in summary court can waive such a demand by conduct. S.C. Op.Atty.Gen. (February 2, 2015) 2015 WL 602639.

When the jury trial request must be made. S.C. Op.Atty.Gen. No. 92‑29 (April 21, 1995) 1995 WL 803377.

Magistrates and municipal judges should utilize the procedures set forth in Section 14‑25‑125 et seq. and 22‑2‑50 et seq. in selecting the juries for trials in cases transferred to their courts from a general sessions court docket. 1992 Op.Atty.Gen. No. 92‑29 (June 9, 1992) 1992 WL 575635.

An individual charged with an offense within the jurisdiction of a municipal court is entitled to a jury trial on demand and where no such demand is made before trial and the defendant fails to appear at the scheduled time, he may be tried in his absence by the judge. 1989 Op.Atty.Gen. No. 89‑60, p 149 (May 16, 1989) 1989 WL 406150.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

Equal protection is not violated by the different methods used to compile municipal court juries and circuit court juries, since municipal court juries must be city residents while county residency is all that is required for service on the jury in circuit or probate court; thus, there is a rational basis for the distinction made between the jury lists. State v. Black (S.C.App. 1995) 319 S.C. 515, 462 S.E.2d 311, rehearing denied.

**SECTION 14‑25‑130.** Preparation of jury list from electronic file of persons holding valid South Carolina driver’s license or identification card.

 In September of each year, the Department of Motor Vehicles shall furnish the State Election Commission an electronic file of the name, address, date of birth, social security number, sex, and race of persons who are over the age of eighteen years and citizens of the United States residing in each municipality who hold a valid South Carolina driver’s license or an identification card issued pursuant to state law. The electronic file also must include persons who have obtained a valid South Carolina driver’s license or identification card during the previous year and exclude persons whose driver’s license or identification card has not been renewed or has been invalidated by judicial or administrative action. In October of each year, the State Election Commission shall furnish a jury list to municipal jury commissioners consisting of a file or list derived by merging the list of registered voters in the municipality with municipal residents appearing on the file furnished by the department, but only those licensed drivers and identification cardholders who are eligible to register to vote may be included in the list. Before furnishing the list, the commission must make every effort to eliminate duplicate names and names of persons disqualified from registering to vote or voting pursuant to the laws and Constitution of this State. As furnished to the jury commissioners by the State Election Commission, the list or file constitutes the roll of eligible jurors in the municipality. Expenses of the Department of Motor Vehicles and the State Election Commission in implementing this section must be borne by these agencies.

HISTORY: 2008 Act No. 270, Section 1, eff June 4, 2008.

Editor’s Note

Former Section 14‑25‑130, entitled “Procedure on trial of appeal”, was repealed by 1980 Act No. 480, Section 1.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑135.** Jury commissioners.

 The council shall appoint not less than three nor more than five persons to serve as jury commissioners for the municipal court; provided, however, that the council may act as jury commissioners in lieu of appointing such commissioners.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑510 and 14‑25‑620.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑145.** Commissioners to prepare jury box.

 The jury commissioners shall, within the first thirty days of each year, prepare a box to be known as the jury box. Such box shall contain two compartments, designated as “A” and “B”, respectively.

HISTORY: 1980 Act No. 480, eff January 1, 1980.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑510 and 14‑25‑630.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑155.** Composition of jury list.

 (A) The jury list of the municipality must be composed of all names on the jury list prepared by the jury commissioners from the latest official list furnished to the municipality by the State Election Commission each year in the manner prescribed in Section 14‑25‑130.

 (B) Compartment “A” of the jury box shall contain a separate ballot or number for each name on the jury list.

HISTORY: 1980 Act No. 480, eff January 1, 1980; 2008 Act No. 270, Section 3, eff June 4, 2008.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑165.** Drawing and composing juries; single trials; trial terms; peremptory challenges.

 (a)(1) The drawing and composing of juries for single trials or terms of court must be conducted, with necessary changes, according to the statutes relating to the drawing and composing of juries in magistrates courts, except as otherwise specifically provided by this chapter.

 (2) A person appointed by the municipal judge who is not connected with the trial of the case for either party must draw out of Compartment “A” of the jury box at least thirty but not more than one hundred names, and the list of names drawn must be delivered to each party or to the attorney for each party.

 (3) If a court has experienced difficulty in drawing a sufficient number of jurors from the qualified electors of the area, and, before implementing a process pursuant to this item, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding municipal judge may draw at least one hundred names but not more than a number determined sufficient by court administration for the jury list, and must deliver this list to each party or the attorney for each party.

 (b)(1) In addition to the procedure for drawing a jury list as provided for in subsection (a), in those courts which schedule terms for jury trials, the judge may select a jury list in the manner provided by this subsection.

 (2) At least ten but not more than forty‑five days before a scheduled term of jury trials, a person selected by the presiding judge must draw at least forty but not more than one hundred jurors to serve one week only.

 (3) If a court has experienced difficulty in drawing a sufficient number of jurors from the qualified electors of the area, and, before implementing a process pursuant to this item, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding municipal judge may draw at least one hundred names but not more than a number determined sufficient by court administration to serve one week only.

 (4) Immediately after the jurors are drawn, the judge must issue a writ of venire facias for the jurors requiring their attendance on the first day of the week for which they have been drawn. This writ must be delivered to the chief of police or may be served by regular mail by the clerk of court.

 (c) The names drawn pursuant to either subsection (a) or (b) must be placed in a box or hat and individual names randomly drawn out one at a time until six jurors and four alternates are selected. Each party has a maximum of six peremptory challenges as to primary jurors and four peremptory challenges as to alternate jurors and any other challenges for cause the court permits. If for any reason it is impossible to select sufficient jurors and alternates from the names drawn, names must be drawn randomly from Compartment “A” until sufficient jurors and alternates are selected.

HISTORY: 1980 Act No. 480, eff January 1, 1981; 2000 Act No. 257, Section 4, eff May 1, 2000; 2004 Act No. 304, Section 1, eff September 8, 2004.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑520 and 14‑25‑660.

Library References

Courts 186.

Westlaw Topic No. 106.

United States Supreme Court Annotations

Due process, fair trial, jury selection, good faith error in denial of peremptory challenge, see Rivera v. Illinois, U.S.Ill.2009, 129 S.Ct. 1446, 556 U.S. 148, 173 L.Ed.2d 320.

Jury selection, peremptory challenges, race discrimination, pretext, prospective juror’s student teaching status, see Snyder v. Louisiana, U.S.La.2008, 128 S.Ct. 1203, 552 U.S. 472, 170 L.Ed.2d 175, on remand 982 So.2d 763, 1998‑1078 (La. 4/30/08).

**SECTION 14‑25‑170.** Drawing and summoning jurors by computer.

 In lieu of the manner required by this chapter, jurors for municipal courts, at the discretion of the governing body of the municipality, may be drawn and summoned by computer in the manner the Supreme Court by order directs.

HISTORY: 1990 Act No. 495, Section 1, eff May 29, 1990.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑175.** Disposition of names drawn.

 Upon the adjournment of the court, the clerk having the custody of the names drawn under any method in this chapter shall take the names or numbers of the jurors who appeared and shall return these ballots or numbers to Compartment “B” of the jury box, and the ballots or numbers corresponding to the names of the jurors who were unable to appear or who were excused by the municipal judge shall be returned to Compartment “A” of the jury box. When all names or numbers in Compartment “A” have been exhausted, the names or numbers from Compartment “B” shall be returned to Compartment “A” and thereafter juries shall continue to be drawn therefrom in the manner provided herein.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑540 and 14‑25‑670.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑180.** Essential service to business excuse.

 Upon furnishing an affidavit to the clerk of court requesting to be excused from jury duty, a person either may be excused or transferred to another term of court by the municipal judge if the person performs services for a business, commercial, or agricultural enterprise, and the person’s services are so essential to the operations of the business, commercial, or agricultural enterprise that the enterprise must close or cease to function if the person is required to perform jury duty.

HISTORY: 2000 Act No. 394, Section 4, eff August 4, 2000.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑185.** Failure of juror to appear.

 Any juror who, being duly summoned, shall neglect or refuse to appear in obedience to any summons issued by any municipal court, and shall not within forty‑eight hours render to the municipal judge a sufficient reason for his delinquency, may be punished for contempt.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Section 14‑25‑430.

Library References

Courts 186.

Westlaw Topic No. 106.

**SECTION 14‑25‑195.** Right to record proceedings.

 Any party shall have the right to have the testimony given at a jury trial in any municipal court taken stenographically or mechanically by a reporter; provided, that nothing herein shall operate to prevent any such party from mechanically recording the proceedings himself. The requesting party shall pay the charges of such reporter for taking and transcribing if such testimony is recorded by a municipal court reporter.

HISTORY: 1980 Act No. 480, eff January 1, 1981.

Editor’s Note

This section contains provisions dealing with matters formerly dealt with by Sections 14‑25‑40 and 14‑25‑960.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 23, Trial.

Attorney General’s Opinions

A municipal or magistrate court must allow a party to an appeal, as a member of the public, the right to inspect or copy tape recordings of any proceedings which are not otherwise subject to some applicable restriction. Copies should be made at a reasonable expense to the requesting party based on the actual costs of producing such copies. S.C. Op.Atty.Gen. (Feb. 28, 2012) 2012 WL 756271.

**SECTION 14‑25‑205.** Consolidated political subdivisions.

 In the event a consolidated political subdivision is created under the Constitution and laws of this State, the provisions of this chapter shall apply to the creation and operation of courts for such consolidated political subdivision mutatis mutandi.

HISTORY: 1980 Act No. 480, eff January 1, 1980.

Library References

Courts 186.

Westlaw Topic No. 106.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 19, Structure of the Judicial System.

ARTICLE 11

Courts in Cities Over 60,000

**SECTION 14‑25‑810.** Authority of recorders to suspend sentences.

 The recorders of the cities in this State having a population in excess of sixty thousand may in their discretion suspend sentences imposed by them in such cases as come within their jurisdiction upon such terms as in their discretion may seem fit and proper.

HISTORY: 1962 Code Section 15‑991; 1952 Code Section 15‑991; 1942 Code Section 1039‑3; 1932 (37) 1353.

Library References

Courts 186.

Westlaw Topic No. 106.

Attorney General’s Opinions

A circuit court judge could sentence a defendant to a term of probation and as a condition of such sentence, require the defendant to make a contribution to “Crime Stoppers” or to reimburse “Crime Stoppers” for funds expended by such organization in association with a defendant’s case. Further, while a municipal court judge would not be authorized to impose a sentence of a term of probation, a municipal court judge could suspend a sentence upon the payment of a contribution or reimbursement to “Crime Stoppers.” 1986 Op.Atty.Gen. No. 86‑81, p. 253 (July 21, 1986) 1986 WL 192039.