CHAPTER 2

Selection of Magistrates and Magistrates’ Jury

**SECTION 22‑2‑5.** Eligibility examinations for magistrates.

 (A) The South Carolina Court Administration, in cooperation with the technical college system, shall select and administer an eligibility examination to test basic skills of persons seeking an initial appointment as magistrate on or after July 1, 2001. In determining the persons to be recommended to the Governor for initial appointments as magistrates on or after July 1, 2001, a senatorial delegation must use the results of these eligibility examinations to assist in its selection of nominees. No person is eligible to be appointed as a magistrate unless he receives a passing score on the eligibility examination. The results of these eligibility examinations are valid for six months before and six months after the time the appointment is to be made.

 (B) The court administration shall establish guidelines for exempting persons from taking the examination if certain prescribed educational equivalency requirements have been met.

 (C) The court administration, in cooperation with the technical college system, shall develop an optional examination preparatory course. The technical college system may assess a reasonable fee from each participant who takes the examination or the preparatory course in order to pay for administering the examination and course. The planning and development of the eligibility examination and optional examination preparatory course shall begin on or after July 1, 2000.

HISTORY: 2000 Act No. 226, Section 10.

Library References

Justices of the Peace 4.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Section 11.

**SECTION 22‑2‑10.** Screening committee to assist in selection of magistrates.

 A senatorial delegation in determining the persons to be recommended to the Governor for appointment as magistrates may appoint a screening committee to assist them in their selection of nominees.

HISTORY: 1979 Act No. 164, Part III, Section 2; 1988 Act No. 678, Part I, Section 6.

CROSS REFERENCES

Constitutional provisions for magistrates, see SC Const, Art V, Section 26.

Forfeiture of commission upon conviction for failure to perform duty to protect property threatened by mob, see Section 16‑5‑30.

General provision for appointment of magistrates, see Section 22‑1‑10.

Library References

Justices of the Peace 3.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 12 to 13, 60.

NOTES OF DECISIONS

In general 1

1. In general

Participation in advisory elections required of those seeking the nomination for the office of magistrate, whether by statute or by preferential primary elections of political parties, and the resulting almost universally coerced acceptance by the Governor and the Senate of the nominee of the election, so chills the discretionary power of the Governor and the Senate as to violate the constitutionally mandated method for the appointment of magistrates. State ex rel. Riley v. Pechilis (S.C. 1979) 273 S.C. 628, 258 S.E.2d 433. Justices Of The Peace 3

**SECTION 22‑2‑15.** Special election for nonpartisan preferential selection of magistrate.

 Notwithstanding the provisions of Section 22‑2‑10, in the event a senatorial delegation representing a particular county desires to fill a vacancy in the office of magistrate and conduct a nonpartisan preferential election relating to the filling of such vacancy more than six months prior to a scheduled general election, the delegation may direct the county election commission to conduct a special election. The majority of the senatorial delegation shall call for such election by notifying the county election commission in writing of its wishes at least sixty days prior to the date on which it desires to have the election. The election commission shall cause such election to be advertised in a newspaper of general circulation in the magisterial district in which the election is to be held at least twice in such sixty day period setting forth the date and subject of such election. Any qualified elector residing in the magisterial district may have his name placed on the preferential election ballot by filing a petition with the election commission at least forty‑five days prior to the date of the special election. Except as specifically provided in this section, the election shall be governed by the provisions of Section 22‑2‑10 as they relate to nonpartisan preferential elections.

HISTORY: 1979 Act No. 189, Section 1.

Library References

Justices of the Peace 3.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 12 to 13, 60.

NOTES OF DECISIONS

In general 1

1. In general

Participation in advisory elections required of those seeking the nomination for the office of magistrate, whether by statute or by preferential primary elections of political parties, and the resulting almost universally coerced acceptance by the Governor and the Senate of the nominee of the election, so chills the discretionary power of the Governor and the Senate as to violate the constitutionally mandated method for the appointment of magistrates. State ex rel. Riley v. Pechilis (S.C. 1979) 273 S.C. 628, 258 S.E.2d 433. Justices Of The Peace 3

**SECTION 22‑2‑20.** Establishment of jury areas for juries serving courts of magistrates.

 The General Assembly shall establish jury areas from which juries shall be drawn to serve in the courts of various magistrates within the counties of this State. Initially, the jury areas shall be determined in the following manner:

 The chief magistrate for administration of the county shall fix the area from which the jury shall be drawn to serve in the courts of the various magistrates within the county. The boundaries, as close as practical, shall conform to precinct lines; provided, however, that every effort should be made to conform such jury areas to existing magisterial districts or if no districts exist, then such boundaries shall include the area in the vicinity of each magistrate’s court within the county.

HISTORY: 1979 Act No. 164, Part III, Section 3.

CROSS REFERENCES

Center line of waterways defined for purposes of describing county boundaries when establishing jury area, see Section 4‑3‑5.

Library References

Jury 60 to 67.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 305 to 310, 312 to 322, 340.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 33, Jury Area.

**SECTION 22‑2‑30.** Assistance in establishing jury areas; legislative adoption of jury areas.

 In establishing the jury areas, the chief magistrate for administration of the county may call upon the service of the Office of Research and Statistics of the Revenue and Fiscal Affairs Office and the Senate Research staff for demographic information and the State Election Commission for precinct and voter registration information. Upon establishment of the jury areas in a county, but no later than January 1, 1980, the chief magistrates for administration of the counties shall submit to the Legislative Council the boundaries of the jury areas. The Legislative Council shall prepare the necessary legislation to establish the jury areas for introduction in the General Assembly by the respective Judiciary Committees of the Senate and House of Representatives. All acts adopting jury areas shall be printed in the Code of Laws of South Carolina.

HISTORY: 1979 Act No. 164, Part III, Section 4.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

CROSS REFERENCES

Responsibilities of the Office of Precinct Demographics of the Division of Research and Statistical Services, see Section 1‑11‑360.

Library References

Jury 60 to 67.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 305 to 310, 312 to 322, 340.

**SECTION 22‑2‑40.** Number and location of magistrates in county; ministerial magistrates.

 (A) The General Assembly shall provide for the number and location of magistrates in each county. The provisions of this chapter shall not be construed to prevent more than one magistrate from being assigned to the same jury area.

 (B) In each county, one or more magistrates may be designated by the Governor with the advice and consent of the Senate as ministerial magistrates for the purpose of carrying out the following responsibilities:

 (1) to issue criminal warrants;

 (2) to approve and accept written bonds in criminal matters, or in lieu of written bonds to approve and accept cash bonds;

 (3) to order the release of prisoners when proper and adequate bonds have been duly posted; and

 (4) to transfer any such warrant and written or cash bond to a magistrate having proper jurisdiction.

 Ministerial magistrates shall be available at nighttime and on weekends during such hours as may be designated by the chief magistrate.

 (C) Notwithstanding the provisions of subsection (A), Section 22‑1‑10(A), or Section 22‑8‑40(C) and (D), the number, location, and full‑time or part‑time status of magistrates in the county may be increased or decreased from the required and permissive provisions in Section 22‑8‑40(C) and (D) as provided in Section 22‑1‑30(B), or by filing with court administration a written agreement between the members of the Senate delegation for the county and the county governing body; however, a magistrate’s compensation must not be decreased during his term in office.

HISTORY: 1979 Act No. 164, Part III, Section 5; 2000 Act No. 226, Section 11; 2011 Act No. 70, Section 4, eff June 28, 2011.

Effect of Amendment

The 2011 amendment, in subsection (C), inserted “as provided in Section 22‑1‑30(B), or”.

CROSS REFERENCES

Appointment, term and territorial jurisdiction, training, certification or recertification requirement, see Section 22‑1‑10.

Library References

Justices of the Peace 2.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 8 to 10.

Attorney General’s Opinions

An agreement made pursuant to Section 22‑2‑40(C) may not be used to eliminate a particular magistrate. S.C. Op.Atty.Gen. (Sept. 17, 2013) 2013 WL 5403532.

An agreement under Section 22‑2‑40(C) to decrease the number of magistrates in a county takes effect after the expiration of the four‑year terms the current magistrates in the county were appointed to serve. S.C. Op.Atty.Gen. (Sept. 17, 2013) 2013 WL 5403532.

The General Assembly is authorized to create and abolish specific magisterial districts in each county; recent legislation, S.1, empowers the General Assembly to establish a ratio of magistrates based on population. The recent legislation providing for annual cost of living increases in the salaries of magistrates would most probably be upheld as constitutional. 1988 Op. Atty Gen, No. 88‑64, p 182.

County council cannot refuse to fund one of its magisterial positions which had been created by General Assembly; such refusal could be construed as changing number of magistrates in county, which is something which only General Assembly is empowered to do. 1985 Op. Atty Gen, No. 85‑15, p 59.

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.

**SECTION 22‑2‑50.** Preparation of jury lists.

 In October of each year, the State Election Commission must provide to the chief magistrate for administration of each county, at no cost, a jury list compiled in accordance with the provisions of Section 14‑7‑130. The chief magistrate for administration of the county must use these lists in preparing, for each jury area, a list of the qualified electors in these jury areas, and must forward these lists to the respective magistrates.

HISTORY: 1979 Act No. 164, Part III, Section 6; 2004 Act No. 304, Section 2.

Library References

Jury 60.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 305 to 308, 310, 340.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 55, Jury Selection.

Attorney General’s Opinions

The provisions of section 14‑7‑130, mandating the jury list compiled by the State Election Commission be composed of names of registered voters and licensed drivers and identification cardholders, is applicable to jurors for a magistrate’s court. Overruling 1989 Op. Atty Gen, No. 89‑139, p 377. S.C. Op.Atty.Gen. (September 4, 2012) 2012 WL 4009947.

The list of eligible jurors which the State Election Commission furnishes the chief magistrates should not include the names of persons holding state driver’s licenses or identification cards who are not also registered voters; to be eligible to serve as a juror in a magistrate’s court pursuant to Section 22‑2‑50 of the Code, an individual must be a registered voter. 1989 Op. Atty Gen, No. 89‑139, p 377.

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.

NOTES OF DECISIONS

Validity 1

1. Validity

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.

Selecting jurors solely from the list of registered voters does not systematically exclude an identifiable class of persons from the group out of which juries are drawn and thus does not violate equal protection. State v. Black (S.C.App. 1995) 319 S.C. 515, 462 S.E.2d 311, rehearing denied.

**SECTION 22‑2‑60.** Preparation and custody of jury box.

 A constable or other person appointed by a magistrate shall, during the first thirty days of each calendar year, prepare a jury box for use in the magistrate’s court which shall be provided by the governing body of the county. Each box shall contain two compartments designated as A and B respectively. The person charged with the preparation of the box shall, within the specified period, place in Compartment A of the box the individual names of all qualified electors in the Jury Area. After Compartment A has been filled with names, the box shall be locked and kept in the magistrate’s custody.

HISTORY: 1979 Act No. 164, Part III, Section 7.

Library References

Jury 65.

Westlaw Topic No. 230.

C.J.S. Juries Section 309.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 55, Jury Selection.

**SECTION 22‑2‑70.** Jury trials following improper preparation of jury box.

 If it is determined that the jury box has not been prepared as provided in this chapter, no jury trial shall be held until the box has been prepared as provided by law; provided, however, that no verdict shall be rendered invalid by reason of failure to comply with the provisions of this chapter if no challenge was raised prior to a jury being sworn.

HISTORY: 1979 Act No. 164, Part III, Section 8.

Library References

Jury 65.

Westlaw Topic No. 230.

C.J.S. Juries Section 309.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 34, Preparation of Venire.

**SECTION 22‑2‑80.** Selection of jury list.

 (A) In all cases except as provided in Section 22‑2‑90 in a magistrates court in which a jury is required, a jury list must be selected in the following manner:

 A person appointed by the magistrate 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 this list of names must be delivered to each party or to the attorney for each party.

 (B) 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 subsection, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding magistrate 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.

HISTORY: 1979 Act No. 164, Part III, Section 9; 2000 Act No. 257, Section 5; 2004 Act No. 304, Section 3.

Library References

Jury 60.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 305 to 308, 310, 340.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 34, Preparation of Venire.

S.C. Jur. Jury Section 36, Peremptory Challenges.

S.C. Jur. Magistrates and Municipal Judges Section 55, Jury Selection.

Attorney General’s Opinions

There is no statutory provision which expressly prohibits using the same jurors originally selected for a trial in a magistrate’s court when the trial is postponed. 1989 Op. Atty Gen, No. 89‑2, p 20.

Magistrates are not required to be present at the drawing of the jury in magistrate’s court; a 2 to 3 week time period to serve jury summons is not in conflict with any provisions of state law. 1983 Op. Atty Gen, No. 83‑54, p. 80.

NOTES OF DECISIONS

In general 1

1. In general

Court will grant new trial where magistrate appoints wife, who was serving illegally as clerk on magistrate’s court at time, to select potential jurors. State v. Cumbee (S.C. 1981) 276 S.C. 207, 277 S.E.2d 146.

**SECTION 22‑2‑85.** Optional postponement of jury service for students.

 If a student selected for jury service during the school term so requests, his service must be postponed to a date that does not conflict with the school term. For purposes of this section, a student is a person enrolled in high school or an institution of higher learning, including technical college.

HISTORY: 1990 Act No. 427, Section 2.

Library References

Jury 55.

Westlaw Topic No. 230.

C.J.S. Juries Sections 301 to 303.

**SECTION 22‑2‑90.** Additional procedure for selection of jury list in court which schedules terms for jury trials.

 (A) In addition to the procedure for drawing a jury list as provided for in Section 22‑2‑80, in a magistrates court which schedules terms for jury trials, the magistrate may select a jury list in the manner provided by this section.

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

 (C) 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 subsection, seeks and receives the approval of South Carolina Court Administration, the person selected by the presiding magistrate may draw at least one hundred names but not more than a number determined sufficient by court administration to serve one week only.

 (D) Immediately after the jurors are drawn, the magistrate 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 magistrate’s constable or the sheriff of the county concerned.

HISTORY: 1979 Act No. 164, Part III, Section 10; 2000 Act No. 257, Section 6; 2004 Act No. 304, Section 4.

Library References

Jury 60.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 305 to 308, 310, 340.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 34, Preparation of Venire.

S.C. Jur. Jury Section 35, Summoning of Jurors.

S.C. Jur. Magistrates and Municipal Judges Section 55, Jury Selection.

Notes of Decisions

Jury pool 1

1. Jury pool

Presence of 33 prospective jurors in prosecution for driving under the influence (DUI) was sufficient to select a qualified jury panel from the jury pool to serve for a one week term; while jury selection statute required that a person selected by the presiding magistrate draw a minimum of 40 jurors, it did not require that 40 jurors be present and available in the jury pool before jury selection could proceed for a trial, and considering maximum number of potential peremptory challenges to primary jurors and alternate jurors, even 30 jurors would have been sufficient to select jury panel. State v. Johnson (S.C.App. 2012) 396 S.C. 424, 721 S.E.2d 786, rehearing denied. Jury 81

**SECTION 22‑2‑100.** Selection of primary and alternate jurors; peremptory challenges.

 The names drawn pursuant to either Section 22‑2‑80 or Section 22‑2‑90 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: 1979 Act No. 164, Part III, Section 11; 2004 Act No. 304, Section 5.

Library References

Jury 78, 134.

Westlaw Topic No. 230.

C.J.S. Juries Sections 272, 340 to 344, 421 to 434, 436 to 442.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 36, Peremptory Challenges.

S.C. Jur. Magistrates and Municipal Judges Section 55, Jury Selection.

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).

Notes of Decisions

Jury pool 1

1. Jury pool

Presence of 33 prospective jurors in prosecution for driving under the influence (DUI) was sufficient to select a qualified jury panel from the jury pool to serve for a one week term; while jury selection statute required that a person selected by the presiding magistrate draw a minimum of 40 jurors, it did not require that 40 jurors be present and available in the jury pool before jury selection could proceed for a trial, and considering maximum number of potential peremptory challenges to primary jurors and alternate jurors, even 30 jurors would have been sufficient to select jury panel. State v. Johnson (S.C.App. 2012) 396 S.C. 424, 721 S.E.2d 786, rehearing denied. Jury 81

**SECTION 22‑2‑110.** Time for exercise of peremptory challenges.

 Parties shall exercise peremptory challenges in advance of the trial date, and only persons selected to serve and alternates shall be summoned for the trial.

HISTORY: 1979 Act No. 164, Part III, Section 12.

Library References

Jury 137.

Westlaw Topic No. 230.

C.J.S. Juries Sections 344, 421, 423 to 424, 436 to 439, 442.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 36, Peremptory Challenges.

**SECTION 22‑2‑120.** Selection of additional jurors at time of trial.

 If at the time set for the trial there are not sufficient jurors to proceed because one or more have failed to attend, have not been summoned, or have been excused or disqualified by the court, additional jurors must be selected from the remaining names or in the manner provided in Section 22‑2‑80 or Section 22‑2‑100.

HISTORY: 1979 Act No. 164, Part III, Section 13; 2004 Act No. 304, Section 6.

Library References

Jury 78.

Westlaw Topic No. 230.

C.J.S. Juries Sections 272, 340 to 344, 422.

Attorney General’s Opinions

A procedure of drawing more than the required number of jurors and alternates for a trial in anticipation of having an insufficient number of jurors at trial would probably withstand challenge especially where there is no objection prior to trial. 1989 Op. Atty Gen, No. 89‑124, p 337.

**SECTION 22‑2‑130.** Penalty for failure of duly summoned juror to appear; frequency of jury service.

 If a juror duly summoned neglects or refuses to appear in obedience to a venire issued by a magistrates court and does not render within forty‑eight hours to the summoning magistrate a sufficient reason for his delinquency, he must pay a civil penalty not exceeding one hundred dollars. A failure to pay the civil penalty assessed is a contempt of court and may be punished accordingly. A person shall not serve on a jury in a magistrates court more than once every calendar year.

HISTORY: 1979 Act No. 164, Part III, Section 14; 1997 Act No. 64, Section 2; 2000 Act No. 257, Section 7.

Library References

Jury 53, 74.

Westlaw Topic No. 230.

C.J.S. Juries Sections 298, 349.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 35, Summoning of Jurors.

**SECTION 22‑2‑135.** 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 magistrate 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 7.

Library References

Jury 55.

Westlaw Topic No. 230.

C.J.S. Juries Sections 301 to 303.

**SECTION 22‑2‑140.** Transfer of names between compartments of jury box.

 After a jury has been drawn from Compartment A, the names, whether accepted or rejected for jury service, shall as soon as practicable, be placed in compartment B, and they shall remain in Compartment B until all the names have been exhausted in drawing juries from Compartment A. At that time, all names in Compartment B shall be returned to Compartment A, and thereafter juries shall continue to be drawn therefrom in the manner provided in this act until a new jury box is prepared.

HISTORY: 1979 Act No. 164, Part III, Section 15.

Library References

Jury 65, 66.

Westlaw Topic No. 230.

C.J.S. Juries Sections 271, 309, 312 to 318.

**SECTION 22‑2‑150.** Persons entitled to trial by jury.

 Every person arrested and brought before a magistrate charged with an offense within his jurisdiction shall be entitled on demand to trial by jury which shall be selected as provided in this chapter.

HISTORY: 1979 Act No. 164, Part III, Section 16.

CROSS REFERENCES

Constitutional right to jury trial, see SC Const, Art I, Section 14.

Library References

Jury 20.

Westlaw Topic No. 230.

C.J.S. Juries Sections 7 to 14, 19 to 20, 138 to 148.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 5, South Carolina Statutes.

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.

NOTES OF DECISIONS

In general 1

1. In general

Assimilative Crimes Act (18 USCA Section 13) does not assimilate into federal law right to jury trial for driving under influence of intoxicating liquors on military reservation, first offense, provided by South Carolina Constitution, art. I, Section 14 and South Carolina Code Annotated Section 22‑2‑150, since jury trial right for such offense in South Carolina is merely procedural. U.S. v. Jenkins (C.A.4 (S.C.) 1986) 780 F.2d 472, certiorari denied 106 S.Ct. 2283, 476 U.S. 1161, 90 L.Ed.2d 724.

**SECTION 22‑2‑160.** Compensation and mileage for service on coroner’s and magistrate’s juries.

 Jurors serving in magistrate’s court, and on coroner’s juries shall receive a per diem of ten dollars, and mileage. Compensation and mileage shall be paid by the county in which the jury sits.

HISTORY: 1979 Act No. 164, Part III, Section 17.

CROSS REFERENCES

Provision allowing compensation and mileage for coroner’s jurors, see Section 17‑7‑340.

Provision that monies received by jurors shall constitute expense allowance, see Section 14‑1‑190.

Requirement that mileage be computed by shortest practicable route, see Section 8‑21‑20.

Library References

Jury 77.

Westlaw Topic No. 230.

C.J.S. Juries Section 353.

**SECTION 22‑2‑170.** Trial of criminal cases in jury area where offense was committed; waiver of right by defendant.

 Magistrates shall have jurisdiction throughout the county in which they are appointed. Criminal cases shall be tried in the Jury Area where the offense was committed, subject to a change of venue, pursuant to the provisions of Section 22‑3‑920 of the 1976 Code; provided, however, that the chief magistrate for administration of the county, upon approval of the county governing body, may provide for the selection of magistrates’ jurors countywide upon the affirmative waiver by the defendant of his right to be tried in the jury area where the offense was committed.

HISTORY: 1979 Act No. 164, Part III, Section 18; 1981 Act No. 110, Section 2.

CROSS REFERENCES

Provision regarding county‑wide criminal jurisdiction of magistrates, see Section 22‑3‑520.

Provision relating to trial of criminal cases in district where offense was committed, see Section 22‑3‑530.

Territorial jurisdiction of magistrates, generally, see Section 22‑1‑10.

Library References

Criminal Law 108.

Westlaw Topic No. 110.

C.J.S. Criminal Law Section 179.

Attorney General’s Opinions

A defendant has the right to have his case tried in the jury area where the offense was committed even though such is not the jury area of the magistrate who originally issued the arrest warrant. 1987 Op. Atty Gen, No. 87‑16, p 54.

**SECTION 22‑2‑190.** County jury areas.

 The following jury areas for magistrates courts in the various counties of the State are established:

 (1) Abbeville County

 (a)(1) Abbeville

 (2) Calhoun Falls

 (3) Lowndesville

 (4) Antreville

 (5) Due West

 (6) Donalds

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑01‑13, and on copies filed with the Abbeville County magistrates offices, and available on the Abbeville County website.

 (2) Aiken County

 (a)(1) North Augusta

 (2) Langley

 (3) Aiken

 (4) New Ellenton

 (5) Wagner/Monetta

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑03‑13, and on copies filed with the Aiken County magistrates offices, and available on the Aiken County website.

 (c) Each magistrate’s office must be maintained at a place designated by the Aiken County Legislative Delegation.

 (3) Allendale County

 One jury area countywide.

 (4) Anderson County

 One jury area countywide.

 (5) Bamberg County

 One jury area countywide.

 (6) Barnwell County

 (a) The boundaries for the magistrates jury areas in Barnwell are defined by the boundaries of the Barnwell school districts.

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑11‑13, and on copies filed with the Barnwell County magistrates offices, and available on the Barnwell County website.

 (7) Beaufort County

 (a)(1) Sheldon

 (2) Bluffton

 (3) Daufuskie

 (4) Hilton Head

 (5) Beaufort

 (6) St. Helena

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑13‑13, and on copies filed with the Beaufort County magistrates offices, and available on the Beaufort County website.

 (8) Berkeley County

 (a)(1) Goose Creek

 (2) Jamestown

 (3) St. Stephen

 (4) Moncks Corner

 (5) Summerville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑15‑13, and on copies filed with the Berkeley County magistrates offices, and available on the Berkeley County website.

 (9) Calhoun County

 One jury area countywide.

 (10) Charleston County

 (a)(1) Jury Area No. 1: St. Paul’s/Edisto

 (2) Jury Area No. 2: West Ashley

 (3) Jury Area No. 3: Charleston

 (4) Jury Area No. 4: North Charleston

 (5) Jury Area No. 5: Mount Pleasant

 (6) Jury Area No. 6: St. Andrews

 (7) Jury Area No. 7: McClellanville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑19‑13, and on copies filed with the Charleston County magistrates offices, and available on the Charleston County website.

 (c) Notwithstanding any other provision of law, magistrates in Charleston County shall reside in the following jury areas:

 (1) Three magistrates shall reside in Jury Area No. 1, one of whom shall reside on Edisto Island.

 (2) Three magistrates shall reside in Jury Area No. 2, one of whom shall reside on each of the following islands: Johns Island, James Island and Wadmalaw Island.

 (3) Two magistrates shall reside in Jury Area No. 3.

 (4) Three magistrates shall reside in Jury Area No. 4.

 (5) One magistrate shall reside in Jury Area No. 5.

 (6) One magistrate shall reside in Jury Area No. 6.

 (7) One magistrate shall reside in Jury Area No. 7.

 (d) The magistrate system in Charleston County must be so organized in order to provide for centralized magistrates courts for the purpose of facilitating and expediting civil and criminal matters as hereinafter provided:

 (1) The centralized magistrates courts have concurrent jurisdiction for civil and criminal matters with the existing magistrates of Charleston County. Plaintiffs in civil matters have the right to commence a case in either a central magistrates court or in a magistrates court within a defined jury area. The defendant in a magisterial civil matter may remove the case either from a central magistrates court to the defined jury area in which the defendant resides or the defendant may remove the case from the defined jury area in which he resides to a central magistrates court. This removal must be by notification to the court of origin and no cause for removal must be shown.

 (2) The centralized magistrates courts have jurisdiction over any type or form of civil or criminal matter, including any procedural or substantive matter or preliminary hearing or examination or bond or bail hearing or any other criminal proceeding.

 (3) The fees and charges for the central magistrates courts are the same as those prevailing in all magistrates courts whether central or in a defined jury area.

 (4) Upon the effective date of this paragraph a central magistrates court must be established in the City of Charleston.

 (5) Six months after the effective date of this paragraph a central magistrates court must be established in the City of North Charleston. However, if the central magistrates court in the City of North Charleston is not funded and established as required by this subsubitem, then the central magistrates court in the City of Charleston established pursuant to subsubitem (4) must cease to exist until the time the central magistrates court in the City of North Charleston is so funded and established.

 (6) A third central magistrates court must be established at the time and in the location which a majority of the members of the General Assembly residing in Charleston County determines. In addition to those magistrates assigned to the seven jury areas, there must be appointed one magistrate from the county at large without regard to residence in a particular jury area who must serve as the magistrate of the central magistrates court in the City of Charleston. Six months after the effective date of this paragraph a second magistrate must be appointed from the county at large without regard to residence in a particular jury area who must serve as the magistrate of the central magistrates court in the City of North Charleston. A third magistrate also must be appointed at the time as provided in this subsubitem from the county at large without regard to residence in a particular jury area who, when appointed, must serve as the magistrate of the central magistrates court established pursuant to this subsubitem.

 (11) Cherokee County

 One jury area countywide.

 (12) Chester County

 (a)(1) Baton Rouge

 (2) Chester

 (3) Fort Lawn

 (4) Great Falls

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑23‑13, and on copies filed with the Chester County magistrates offices, and available on the Chester County website.

 (13) Chesterfield County

 One jury area countywide.

 (14) Clarendon County

 One jury area countywide.

 (15) Colleton County

 One jury area countywide.

 (16) Darlington County

 (a)(1) Society Hill

 (2) Darlington

 (3) Lamar

 (4) Lydia

 (5) Hartsville.

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑31‑13, and on copies filed with the Darlington County magistrates offices, and available on the Darlington County website.

 (17) Dillon County

 (a)(1) Hamer

 (2) Dillon

 (3) Lake View

 (4) Latta

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑33‑13, and on copies filed with the Dillon County magistrates offices, and available on the Dillon County website.

 (18) Dorchester County

 (a)(1) St. George

 (2) Summerville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑35‑13, and on copies filed with the Dorchester County magistrates offices, and available on the Dorchester County website.

 (c) Criminal cases and traffic offenses shall be tried in the jury area where the offense was committed, notwithstanding the creation of any uniform court for the trial of certain offenses.

 (19) Edgefield County

 One jury area countywide.

 (20) Fairfield County

 One jury area countywide.

 (21) Florence County

 (a)(1) Florence

 (2) Timmonsville

 (3) Evergreen

 (4) Olanta

 (5) Coward

 (6) Pamplico

 (7) Lake City

 (8) Hannah

 (9) Johnsonville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑41‑13, and on copies filed with the Florence County magistrates offices, and available on the Florence County website.

 (22) Georgetown County

 (a)(1) Andrews

 (2) Georgetown

 (3) Pleasant Hill

 (4) Pawleys Island

 (5) Murrells Inlet

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑43‑13, and on copies filed with the Georgetown County magistrates offices, and available on the Georgetown County website.

 (23) Greenville County

 (a)(1) Tigerville

 (2) Greenville

 (3) Taylors

 (4) Simpsonville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑45‑13, and on copies filed with the Greenville County magistrates offices, and available on the Greenville County website.

 (24) Greenwood County

 One jury area countywide.

 (25) Hampton County

 (a)(1) North

 (2) South

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑49‑13, and on copies filed with the Hampton County magistrates offices, and available on the Hampton County website.

 (26) Horry County

 (a)(1) Aynor

 (2) Conway

 (3) Myrtle Beach

 (4) Little River

 (5) Simpson Creek

 (6) Bayboro

 (7) Green Sea

 (8) Floyd

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑51‑13, and on copies filed with the Horry County magistrates offices, and available on the Horry County website.

 (27) Jasper County

 One jury area countywide.

 (28) Kershaw County

 One jury area countywide.

 (29) Lancaster County

 One jury area countywide.

 (30) Laurens County

 One jury area countywide.

 (31) Lee County

 (a)(1) No. 1—Lucknow

 (2) No. 2—Stokes Bridge

 (3) No. 3—Cypress

 (4) No. 4—Bishopville

 (5) No. 5—Ionia

 (6) No. 6—Spring Hill

 (7) No. 7—Ashwood

 (8) No. 8—St. Charles

 (9) No. 9—Lynchburg

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑61‑13, and on copies filed with the Lee County magistrates offices, and available on the Lee County website.

 (32) Lexington County

 (a)(1) Irmo/Chapin

 (2) Lexington

 (3) Cayce/West Columbia

 (4) South Congaree

 (5) Bateburg/Leesville

 (6) Swansea

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑63‑13, and on copies filed with the Lexington County magistrates offices, and available on the Lexington County website.

 (33) Marion County

 (a)(1) Marion

 (2) Mullins

 (3) Nichols

 (4) Legette

 (5) Britton’s Neck

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑67‑13, and on copies filed with the Marion County magistrates offices, and available on the Marion County website.

 (34) Marlboro County

 (a)(1) Bennettsville

 (2) McColl

 (3) Clio

 (4) Brownsville

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑69‑13, and on copies filed with the Marlboro County magistrates offices, and available on the Marlboro County website.

 (35) McCormick County

 One jury area countywide.

 (36) Newberry County

 One jury area countywide.

 (37) Oconee County

 One jury area countywide.

 (38) Orangeburg County

 (a)(1) West

 (2) Central

 (3) East

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑75‑13, and on copies filed with the Orangeburg County magistrates offices, and available on the Orangeburg County website.

 (39) Pickens County

 One jury area countywide.

 (40) Richland County

 (a)(1) Blythewood

 (2) Columbia

 (3) Dentsville

 (4) Dutch Fork

 (5) Eastover

 (6) Hopkins

 (7) Lykesland

 (8) Olympia

 (9) Pontiac

 (10) Upper Township

 (11) Waverly

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the Revenue and Fiscal Affairs Office designated as document M‑79‑12, and on copies filed with the Richland County Department of Planning and Development Services, and available on the Richland County website.

 (c) Notwithstanding the provisions of subitem (a), for the Richland County Magistrates Centralized Court:

 One jury area countywide.

 (41) Saluda County

 One jury area countywide.

 (42) Spartanburg County

 One jury area countywide.

 (43) Sumter County

 One jury area countywide.

 (44) Union County

 (a)(1) Jonesville

 (2) Pinckney

 (3) Bogansville

 (4) Union

 (5) Santuc

 (6) Cross Keys

 (7) Goshen Hill

 (8) Fishdam

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑87‑13, and on copies filed with the Union County magistrates offices, and available on the Union County website.

 (45) Williamsburg County

 (a)(1) Kingstree

 (2) Hemingway

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M‑89‑13, and on copies filed with the Williamsburg County magistrates offices, and available on the Williamsburg County website.

 (46) York County

 (a)(1) Clover

 (2) Fort Mill

 (3) Rock Hill

 (4) Western York County

 (5) York

 (b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the Revenue and Fiscal Affairs Office designated as document M‑91‑12, and on copies filed with the York County Management Information Systems Department, and available on the York County website.

 (c) Notwithstanding the provisions of subitem (a), for the York County Centralized DUI Court:

 One jury area countywide.

HISTORY: 1981 Act No. 110, Section 1; 1981 Act No. 151, Section 1; 1982 Act No. 279, Section 1; 1982 Act No. 399, Section 1; 1985 Act No. 170, Section 4; 1985 Act No. 202, Section 1; 1986 Act No. 318, Section 1; 1987 Act No. 6, Section 1; 1988 Act No. 445, Section 1; 1989 Act No. 40, Section 1; 1989 Act No. 64, Section 1; 1991 Act No. 21, Section 1; 1992 Act No. 258, Section 1; 1992 Act No. 302, Sections 8‑13; 1992 Act No. 391, Section 1; 1995 Act No. 16, Section 1; 1997 Act No. 61, Section 1; 1998 Act No. 417, Section 1; 1999 Act No. 31, Section 1; 1999 Act No. 126, Section 1; 2010 Act No. 149, Section 1, eff April 26, 2010; 2010 Act No. 179, Section 1, eff May 19, 2010; 2011 Act No. 45, Section 1, eff June 7, 2011; 2012 Act No. 201, Sections 1, 2, eff July 1, 2012; 2014 Act No. 192 (S.657), Section 1, eff June 2, 2014.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment

The first 2010 amendment rewrote item (30) relating to Laurens County.

The second 2010 amendment rewrote item (28).

The 2011 amendment rewrote item (2).

The 2012 amendment rewrote items (40) and (46).

2014 Act No. 192, Section 1, rewrote the section, updating the territorial descriptions of the jury areas and providing references to public maps showing the jury areas.

CROSS REFERENCES

Center line of waterways defined for purposes of describing county boundaries when establishing jury area, see Section 4‑3‑5.

Juries and jurors in Circuit Courts, generally, see Sections 14‑7‑10 et seq.

Requirements regarding establishment of jury areas, see Sections 22‑2‑20, 22‑2‑30.

State Crop Pest Commission to consider geographic districts established by this section, when delineating geographic areas subject to quarantine, see Section 46‑9‑60.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Jury Section 33, Jury Area.

Attorney General’s Opinions

Magistrate’s Constable does not have general authority as peace officer and does not have power to arrest without warrant for misdemeanor committed in his presence. Magistrate’s Constable is authorized to carry pistol under certain conditions, provided they have received required training by SLED. Magistrate’s Constables are required by statute to receive training by SLED and to attend Criminal Justice Academy. 1984 Op. Atty Gen, No. 84‑87, p. 209.

**SECTION 22‑2‑195.** Authorization to draw magistrates’ jurors by computer.

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

HISTORY: 1989 Act No. 23, Section 1.

Library References

Jury 67.

Westlaw Topic No. 230.

C.J.S. Juries Sections 319 to 322.

**SECTION 22‑2‑200.** Effect of accommodations tax revenue on number of magistrates.

 The provisions of Sections 8‑21‑1010, 8‑21‑1060, 22‑1‑10, 22‑1‑15, 22‑1‑170, 22‑2‑10, 22‑2‑210, 22‑3‑30, and Chapter 8 of Title 22 may in no way be construed to mandate the reduction of the total number of magistrates in any county which generates four million dollars or more annually in accommodations tax revenue. A county which generates four million dollars or more annually in accommodations tax revenue may increase the number of its magistrates notwithstanding the provisions of this chapter or Chapter 8 of Title 22.

HISTORY: 1988 Act No. 678, Part I, Section 9; 2000 Act No. 226, Section 12.

Library References

Justices of the Peace 2.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 8 to 10.

**SECTION 22‑2‑210.** Increase in number of magistrates under certain conditions.

 The number of magistrates in the counties below fifteen thousand in population may be increased by one part‑time additional magistrate if the number allowed under Chapter 8 of Title 22 is less by .25 than the number presently serving in office.

HISTORY: 1988 Act No. 678, Part I, Section 10.

Library References

Justices of the Peace 2.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 8 to 10.