CHAPTER 7

Fees and Costs of Magistrates

**SECTION 22‑7‑40.** Receipt of certain compensation in criminal cases; penalty.

 It shall be unlawful for any salaried magistrate in this State to receive any compensation for his services in criminal cases other than his salary or to receive for his own use any portion of his constable’s fees or salary in any criminal cases whatsoever, whether such cases are actually tried, compromised or transferred for investigation to the court of general sessions. Any magistrate who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars and not more than two hundred dollars or imprisoned for not less than thirty days and not more than six months, or both so fined and imprisoned, at the discretion of the court.

HISTORY: 1962 Code Section 27‑429; 1952 Code Section 27‑429; 1942 Code Section 3718‑1; 1932 Code Section 1549; Cr. C. ‘22 Section 496; Cr. C. ‘12 Section 569; Cr. C. ‘02 Section 412; R. S. 327; 1887 (19) 800, 1142; 1927 (35) 371; 1928 (35) 1157, 1233; 1929 (36) 3, 34, 50, 105; 1930 (36) 1142; 1931 (37) 250; 1933 (38) 57; 1937 (40) 464; 1938 (40) 1547.

CROSS REFERENCES

Provision that magistrates will receive salaries in lieu of fees and costs in all actions and proceedings, see Section 8‑21‑1000.

Library References

Justices of the Peace 14.

Westlaw Topic No. 231.

C.J.S. Justices of the Peace Sections 28 to 31.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 14, Magistrates’ Courts.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Magistrates’ Courts; Pecuniary Interest of Magistrates in Litigation, 31 S.C. L. Rev. 36.

Attorney General’s Opinions

The Columbia City Magistrate, when a prosecution for uttering a bad check, has been discontinued by settlement or compromise, may not charge and collect from the defendant any fee in addition to his salary. 1974‑75 Op. Atty Gen, No. 4169, p 229.

NOTES OF DECISIONS

In general 1

1. In general

Magistrates may not accept fees derived from their performance as judicial officers in either civil or criminal matters. State ex rel. McLeod v. Crowe (S.C. 1978) 272 S.C. 41, 249 S.E.2d 772.