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 The former provisions under this chapter are superseded by the provisions that follow and are no longer law.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.

**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."

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

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.