DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2010 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 3.

 SUPREME COURT

ARTICLE 1.

 COMPOSITION, ORGANIZATION AND EMPLOYEES

**SECTION 14‑3‑10.** Composition of court and election of justices; term.

The Supreme Court shall consist of a Chief Justice and four associate justices, who shall be elected by a joint viva voce vote of the General Assembly for a term of ten years and shall continue in office until their successors are elected and qualified. They shall be so classified that one of them shall go out of office every two years. The successors of the Chief Justice and associate justices shall each be elected at the session of the General Assembly next preceding the expiration of their respective terms. The time for the commencement of their terms of office shall be the first day of August after their election.

**SECTION 14‑3‑20.** Qualification; administration of oath of office.

The justices of the Supreme Court shall qualify within twelve months after the date of their election by taking the constitutional oath or the office shall be declared vacant by the Governor. The oath shall be administered by a justice of said court or by a circuit judge.

**SECTION 14‑3‑30.** Salaries.

The Chief Justice shall receive such annual salary as may be provided by the General Assembly and the associate justices shall receive such annual salary as may be provided by the General Assembly. They shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under the State, the United States, or any other power.

**SECTION 14‑3‑40.** Vacancies; term of incumbent.

All vacancies in the Supreme Court shall be filled by elections as herein prescribed; provided, that if the unexpired term does not exceed one year such vacancy may be filled by executive appointment. When a vacancy is so filled by either appointment or election, the incumbent shall hold only for the unexpired term of his predecessor.

**SECTION 14‑3‑50.** Disqualification of justice by reason of interest or prior participation in case.

In addition to the cases mentioned in Section 14‑1‑130, no justice shall preside in any case or at the hearing thereof in which he may be interested or in which he may have been counsel or has presided in any inferior court.

**SECTION 14‑3‑60.** Procedure when justice cannot preside in cause; special justices.

In case all or any of the justices of the Supreme Court shall be disqualified or be otherwise prevented from presiding in any cause, the court, or the justices thereof, shall certify the same to the Governor of the State, and he shall immediately commission specially the requisite number of men learned in the law for the trial and determination thereof.

**SECTION 14‑3‑70.** Compensation and allowances for special justices.

When such appointments are made by the Governor, such person shall receive as compensation for his services while so acting as associate justice of the Supreme Court for the time actually engaged in performing such services the same salary allowance and expenses and stenographic hire as an associate justice of the Supreme Court would receive for the same period. Such salary and expense allowance shall be figured in the ratio that the number of days such acting associate justice is actually engaged in sitting with the court bears to the number of days that the court is actually in session during the year, except that in the event such acting associate justice shall sit and hear only one cause he shall receive only fifty per cent of the salary and allowances herein fixed.

**SECTION 14‑3‑80.** Presiding officer.

The Chief Justice shall preside. In the absence of the Chief Justice, the justice oldest in service and present shall preside.

**SECTION 14‑3‑90.** Attendance; quorum.

It shall be the duty of all the justices to be present. Any three of the justices shall constitute a quorum.

**SECTION 14‑3‑100.** Effect of lack of quorum.

If at any stated term of the court a quorum thereof shall not attend on the first day of the term, the justice or justices attending may adjourn the court from day to day for ten days after the time appointed for the commencement of the term, unless a quorum shall sooner attend or unless a sufficient number of men learned in the law, commissioned by the Governor as provided in Section 14‑3‑60, to make a quorum, shall sooner attend, and the business of the court shall not in such case be continued over to the next stated term thereof until the expiration of such ten days.

**SECTION 14‑3‑110.** Messenger and attendant.

The Supreme Court shall appoint a messenger of the court and an attendant to hold for the term of four years, subject to removal by the court, and shall prescribe the duties of the officers so appointed.

**SECTION 14‑3‑120.** Reporter.

The Supreme Court shall appoint a reporter for a term of four years, who shall take the constitutional oath before any one of the justices or the clerk of the Supreme Court.

**SECTION 14‑3‑130.** Clerk.

The Supreme Court shall also appoint a clerk, who shall hold his office for four years and who shall have the custody and keeping of its records and shall furnish certified copies thereof to persons desiring the same upon the payment of the fees prescribed by law. He shall receive a fee of fifty cents for each certificate.

**SECTION 14‑3‑140.** Expenses of court; payment upon approval and order.

The amounts specified for expenses connected with the Supreme Court shall be paid upon the approval and order of the Chief Justice.

**SECTION 14‑3‑150.** Duties of county sheriffs and clerks; enforcement of service and execution.

The Supreme Court may require the sheriff of each and every county to whom any order or process issuing from said court may be directed to serve and execute the same and shall have the same power to enforce such service and execution and to punish default thereon as is vested in circuit courts on processes issuing therefrom. The sheriff and clerk of each and every county, whenever required, shall attend any hearing in any case by any of the justices at the courthouse in any of the counties.

ARTICLE 3.

 JURISDICTION, DUTIES AND PROCEDURE

**SECTION 14‑3‑310.** Original jurisdiction of Supreme Court.

The Supreme Court shall have power to issue writs or orders of injunction, mandamus, quo warranto, prohibition, certiorari, habeas corpus and other remedial and original writs.

**SECTION 14‑3‑320.** Appellate jurisdiction in chancery; review of findings of fact of Family Court.

The Supreme Court shall have appellate jurisdiction only in cases of chancery, and in such appeals they shall review the findings of fact as well as the law, except in chancery cases when the facts are settled by a jury and the verdict not set aside; provided, that in cases which arise out of the Family Court, except those cases dealing with juvenile misconduct, review by the Supreme Court of the findings of fact of the Family Court shall be limited to a determination of whether or not there is substantial evidence to sustain such facts.

**SECTION 14‑3‑330.** Appellate jurisdiction in law cases.

The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and

(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

**SECTION 14‑3‑340.** Reference of issues of fact to jury or referee; appointment of referees.

Whenever in the course of any action or proceeding in the Supreme Court arising in the exercise of the original jurisdiction conferred upon the court by the Constitution and laws of the State an issue of fact shall arise upon the pleadings or when an issue of fact shall arise upon a traverse to return in mandamus, prohibition or certiorari, or whenever the determination of any question of fact shall be necessary to the exercise of the jurisdiction conferred upon the Supreme Court, the court may frame an issue therein and certify the same to the circuit court for the county wherein the cause shall have originated or in case of original jurisdiction to the circuit court of the county in which the cause of action shall have arisen. The Supreme Court shall also have the same powers as are now possessed by the circuit courts of the State for the appointment of referees to take testimony and report thereon, under such instructions as may be prescribed by the court, in any cases arising in the Supreme Court wherein issues of fact shall arise.

**SECTION 14‑3‑350.** Power of individual justices at chambers; appeal.

Each of the justices of the Supreme Court shall have the same power at chambers to administer oaths, issue writs of habeas corpus, mandamus, quo warranto, certiorari and prohibition and interlocutory writs or orders of injunction as when in open court. But an appeal shall be allowed from the decision of any such justice to the Supreme Court.

**SECTION 14‑3‑360.** Three justices must concur to reverse a judgment.

In all cases decided by the Supreme Court the concurrence of three of the justices shall be necessary for a reversal of the judgment below, subject to the provisions of Sections 14‑3‑370 and 14‑3‑380.

**SECTION 14‑3‑370.** Times when circuit judges shall sit with Supreme Court.

Whenever, upon the hearing of any cause or question before the Supreme Court in the exercise of its original or appellate jurisdiction, (a) it shall appear to the justices thereof or any three of them that there is involved a question of constitutional law or of conflict between the Constitution and laws of this State and of the United States or between the duties and obligations of her citizens under the same, upon the determination of which the entire court is not agreed or (b) the justices of said court, or any two of them, desire it, the Chief Justice, or in his absence the presiding associate justice, shall call to the assistance of the Supreme Court all the judges of the circuit courts, except that when the matter to be submitted is involved in an appeal from a circuit court the circuit judge who tried the case shall not sit.

**SECTION 14‑3‑380.** Proceedings when Supreme Court justices and circuit judges sit together; expenses.

A majority of the justices of the Supreme Court and circuit judges shall constitute a quorum. The decision of the court so constituted, or a majority of the justices and judges sitting, shall be final and conclusive. In such case the Chief Justice or in his absence the presiding associate justice shall preside. Whenever the justices of the Supreme Court and the judges of the circuit court meet together for the purposes aforesaid, if the number thereof qualified to sit constitute an even number one of the circuit judges must retire, and the circuit judges present shall determine by lot which of their number shall retire. Whenever the circuit judges are called to sit with the justices of the Supreme Court for the determination of any cause or causes the actual travelling and other expenses of each judge so attending shall be paid by the Governor out of his civil contingent fund upon an itemized statement made out and certified to by each judge.

**SECTION 14‑3‑390.** Assignment of circuit judges by roster; interchange of circuits among judges.

Between the first and fifteenth days of December in each year the Chief Justice or, in his absence or inability to attend, the senior associate justice shall form a roster of the circuit judges of the several circuits in order to arrange a regular and continuous assignment and interchange of circuits among such judges and make an order assigning the several circuit judges to hold the several circuit courts in all of the circuits of the State for the whole of the succeeding year in such order as will effect a continuous interchange of circuits according to such numerical series.

**SECTION 14‑3‑400.** Notice to circuit judges of assignments.

Immediately thereupon the Chief Justice or, in his absence or inability to act, the senior associate justice shall direct the clerk of the Supreme Court to furnish each of the circuit judges, as well as the Chief Justice and senior associate justice, with a certified copy of such order which shall be sufficient notice to the circuit judges of their assignments aforesaid, and they shall proceed to hold the courts in the circuits to which they are respectively assigned at the time appointed by law for the several circuit courts to be held. The clerk of the Supreme Court shall also forthwith transmit a certified copy of said order to the clerk of every circuit court of the State.

**SECTION 14‑3‑410.** Court of record; public inspection of records.

The Supreme Court shall be a court of record, and the records thereof shall at all times be subject to the inspection of the citizens of the State or other persons interested. The records shall be kept in a manner prescribed by the justices of the court.

**SECTION 14‑3‑420.** Costs and disbursements in actions and proceedings brought in original jurisdiction.

In all actions and proceedings brought in the Supreme Court in its original jurisdiction the court may provide, by rule, order or otherwise, for the payment of reasonable costs and disbursements of the case by the losing party or otherwise as in the judgment of the court may be just and proper, such costs and disbursements to be taxed and adjusted by the clerk of said court under direction of the court. When the clerk has taxed such costs and disbursements under the direction of the court he shall certify the taxation to the clerk of the court of common pleas for the county in which the party resides against whom such costs and disbursements have been taxed. Such clerk of the court of common pleas shall enter judgment therefor, as other judgments are entered, and shall issue execution for the enforcement of such judgment. The judgment so entered shall have the same force and effect in all respects as judgments rendered by the court of common pleas.

**SECTION 14‑3‑430.** Review of intermediate orders.

Upon an appeal under item (3) of Section 14‑3‑330 the court may review any intermediate order involving the merits and necessarily affecting the order appealed from.

**SECTION 14‑3‑440.** Judgment on appeal from order granting new trial; proceedings below.

Upon any appeal from an order granting a new trial on a case made, or on exceptions taken, if the Supreme Court shall determine that no error was committed in granting the new trial, it shall render judgment absolute upon the right of the appellant; and after the proceedings are remitted to the court from which the appeal was taken, an assessment of damages, or other proceedings to render the judgment effectual, may be then and there had in cases where such subsequent proceedings are requisite.

**SECTION 14‑3‑450.** Effect on proceedings below of appeals regarding injunctions or receivers.

In case of an appeal under item (4) of Section 14‑3‑330 the proceedings in other respects in the court below shall not be stayed during the pendency of such appeal unless otherwise ordered by the court below.

ARTICLE 5.

 TERMS; ORDER AND PLACE OF HEARINGS

**SECTION 14‑3‑610.** Terms; notice of time and place of additional terms.

The Supreme Court shall hold at least nine terms in each year at the seat of government, commencing on the second Monday in each month except the months of July, August and September. Each of such terms shall be continued for so long a period as the public interest may require. The court may also hold such additional terms or sessions as the public interest may require, the time and place therefor to be appointed and fixed by the court. Ten days’ notice of such time and place shall be given to the attorneys or counsel appearing in the cases docketed in such manner as the court by its rules or orders may provide.

**SECTION 14‑3‑620.** Order and priority of hearing cases.

The court may by general rules prescribe and provide the order in which cases shall be docketed and the priority thereof on the calendar except:

(1) On a second and each subsequent appeal to the Supreme Court, or when an appeal has once been dismissed for a defect or irregularity, the cause shall be placed upon the calendar as of the time of filing the first appeal and may be noticed and put on the calendar for any succeeding term;

(2) Whenever, in any action or proceeding in which the State or any State officer or any board of State officers is or are sole plaintiff or defendant, an appeal has been brought up from any judgment or order for or against him or them in any court such appeal shall have preference in the Supreme Court and may be moved by either party out of the order on the calendar; and

(3) An appeal from any order granting, refusing, sustaining, dissolving, modifying or discharging an injunction, or appointing or refusing to appoint a receiver, shall take precedence over other matters.

**SECTION 14‑3‑630.** Disposition of appeals not heard.

If the cases on the calendar and set for hearing cannot be heard in the period allotted the court shall continue the same to be heard after the regular call of the cases for that session or may call an extra term for the hearing of the same or continue them to the next stated term thereafter.

**SECTION 14‑3‑640.** Promulgation of rules and regulations.

The court may establish and promulgate such rules and regulations as may be necessary to carry into effect the provisions of this article and to facilitate the work of the court.

**SECTION 14‑3‑650.** Repealed by 1991 Act No. 115, Section 4, eff June 5, 1991.

**SECTION 14‑3‑660.** Sheriff shall provide place of hearing; expenses.

If at any term of the Supreme Court proper and convenient room both for the consultation of the judges and the holding of the court, with furniture, attendants, fuel, lights and stationery suitable and sufficient for the transaction of its business, be not provided for in the place where by law the court may be held, the court may order the sheriff of the county to make such provision, and the expenses incurred by him in carrying the order into effect shall be paid from the State Treasury.

**SECTION 14‑3‑670.** Places to hold court; adjournment.

The Supreme Court may be held in other buildings than those designated by law as places for holding courts and at a different place, at the same city or town, from that at which it is appointed to be held. Any one or more of the judges may adjourn the court with the like effect as if all were present.

ARTICLE 7.

 REPORTS

**SECTION 14‑3‑810.** Duties of clerk with respect to opinions; fees when published in other than official reports.

The clerk of the Supreme Court shall, upon the rendition of an opinion by the Supreme Court, deliver forthwith to the reporter of said court a certified copy of such decision made by the court, together with a copy of the printed arguments and the briefs of counsel, for use in publishing the South Carolina Reports. Should any copies furnished by the clerk be used in the publication of any other reports than the official series of South Carolina Reports the publisher shall pay the clerk the fees provided by law for copies of opinions.

**SECTION 14‑3‑820.** Appointment of committee to contract for publishing of reports.

The Speaker of the House of Representatives, the President of the Senate and the Chief Justice of the Supreme Court shall appoint a committee of four, composed of two members of the House of Representatives to be appointed by the Speaker, one member of the Senate to be appointed by the President of the Senate and one member of the Supreme Court to be appointed by the Chief Justice, which shall contract for five years at a time for the prompt editing, publishing and distribution of the opinions of the Supreme Court and bound volumes thereof.

**SECTION 14‑3‑830.** Contents of reports.

The reports of the decisions shall contain at least such matter as is now found in the South Carolina Reports including:

(1) A syllabus of the decision, citations, statements of the testimony and pleadings sufficient to give an understanding of the case and the decision of the court;

(2) An alphabetical list at the end of the volume of all cases mentioned in any way in the decision; and

(3) A full and complete digest and index to the contents of the volume.

Each volume shall contain not more than one thousand pages, exclusive of index.

**SECTION 14‑3‑840.** Distribution of reports.

The Legislative Council shall distribute the copies of the reports of the decisions of the Supreme Court purchased by the State as follows:

(1) To the offices of the Governor, of the Attorney General of the State and of the Attorney General of the United States, to each circuit judge of the State, to the library of the Supreme Court of the United States, to the clerk of the circuit court of appeals of the United States for the fourth circuit, to the library of the University of South Carolina, to the Charleston Library Society and to the clerks of the district courts of the United States for the districts of South Carolina, one copy each;

(2) To the library of the Supreme Court of this State, eight copies; and

(3) To every state and territory of the United States from which the State receives two or more copies of each volume of its law reports, two copies each and to every other state and territory of the United States, one copy each.

All copies of South Carolina Reports not otherwise disposed of and not distributed under the provisions of this section shall be retained in the office of the Legislative Council for the use of this State.

ARTICLE 9.

 COURT REGISTER

**SECTIONS 14‑3‑910 to 14‑3‑930.** Repealed by 1979 Act No. 4, Section 3, eff January 26, 1979.

**SECTIONS 14‑3‑910 to 14‑3‑930.** Repealed by 1979 Act No. 4, Section 3, eff January 26, 1979.

**SECTION 14‑3‑940.** Establishment of Court Register; manner in which Supreme Court rules become effective.

There shall be established a “Court Register” which shall be published and maintained in current status with all proposed and final form rules promulgated by the Supreme Court. The Register shall be the responsibility of the Court Administrator. The Court Administrator shall transmit to the clerk of court of each county and to the Legislative Council a copy of the Court Register and all additions thereto when published. All rules promulgated by the Supreme Court shall become effective in the following manner:

(a) All rules governing the administration of all courts of the State shall become effective upon publication of such rules in the Court Register.

(b) Rules governing the practice and procedure of all courts of the State shall become effective upon publication in the Court Register and review by the General Assembly pursuant to the provisions of Section 14‑3‑950.

**SECTION 14‑3‑950.** Submission of rules governing practice and procedure to General Assembly; approval thereof.

All rules and amendments to rules governing practice and procedure in all courts of this State promulgated by the Supreme Court shall be submitted by the Supreme Court to the Judiciary Committee of each House of the General Assembly during a regular session, but not later than the first day of February during each session. Such rules or amendments shall become effective ninety calendar days after submission unless disapproved by concurrent resolution of the General Assembly, with the concurrence of three‑fifths of the members of each House present and voting.