



South Carolina Court Administration

South Carolina Supreme Court

Columbia, South Carolina

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MEMORANDUM

To: Magistrates and Municipal Judges

From: Robert L. McCurdy, Deputy Director

Subject: Statutory provisions for the distribution of revenue generated by the magistrate courts and municipal courts

Date: June 30, 2021

This past legislative term there was no new legislation passed amending the collection, distribution and reporting of court generated revenues. There were several temporary provisos that have been repeated in previous General Appropriations Acts and are repeated again in the 2021-2022 General Appropriations Act. These provisos are enforcement in nature and have no effect on the amounts of actual surcharges and assessments.

Provided below is a review of the temporary provisos contained in previous budgets, which have been carried forward to 2021-2022. Also provided below is a summary of legislation passed in 2017 which created further oversight and enforcement provisions regarding the appropriate collection and use of victim's funds.

The entire fees and assessments memorandum for fiscal year 2021 - 2022 will be posted on the Judicial Department website at www.sccourts.org under "Court News."

1. **Section 59.15** of the General Appropriations Act provides that counties and municipalities may retain carry forward victims funds that were collected pursuant to specified sections of the S. C. Code, but not more than \$25,000 or ten percent of funds collected in the prior fiscal year, whichever is higher. Any unspent funds that are greater than the allowed carried forward funds, regardless of the year collected, must remit those funds to the State Victim Assistance Program (SVAP) with the Office of the Attorney General within 120 days after the end of the fiscal year. The Section further provides that SVAP shall offer training and technical assistance to each municipality and county on the use and the counting of victims funds. Section 59.15 is provided below.

59.15. (AG: State Crime Victim Compensation) A county or municipality may retain carry forward funds that were collected pursuant to Sections 14-1-206 (B) and (D), 14-1-207 (B) and (D), 14-1-208 (B) and (D), and 14-1-211 (B) of the 1976 Code, but no more than \$25,000 or ten percent of funds collected in the prior fiscal year, whichever is higher. If a county or municipality does not spend at least ninety percent of the funds collected pursuant to Sections 14-1-206 (B) and (D), 14-1-207 (B) and (D), 14-1-208 (B) and (D), and 14-1-211 (B) on Article 16, Chapter 3, Title 16 first priority and/or second priority programs during the fiscal year that the funds are received then the county or municipality shall remit any unspent funds that are greater than the allowed carried forward funds, regardless of the year collected, to the State Victim Assistance Program (SVAP) with the Office of the Attorney General within 120 days after the end of the fiscal year. All funds must be accounted for in the annual audit for each county or municipality.

The State Crime Victim Compensation Department shall offer training and technical assistance to each municipality and county annually on acceptable use of both priority one and priority two funds and funds available for competitive bid.

The State Crime Victim Compensation Department is authorized to transfer to the State Victim Assistance Program any state funds deemed available under Crime Victims Compensation authority to the State Victim Assistance Programs be placed in the competitive bid process.

The State Victim Assistance Program shall offer any funds remitted to it to non-profit organizations that provide direct victim services on a competitive bid process. These funds may be used by the non-profit for administrative costs and victim services.

A county or municipality may be exempt from the remittance requirements of this proviso upon submission of a plan to the State Crime Victim Compensation Department that meets the statutory requirements for the use of funds. A county or municipality must submit the report within 60 days after the end of the fiscal year. The State Crime Victim Compensation Department shall review the submitted plan and advise the county or municipality of plan compliance with statutory requirements.

2. **Section 98.9** of the Temporary Provisions of the General Appropriations Act provides that if a municipality fails to submit the audited financial requirements required under § 14-1-208 to the State Treasurer within 13 months of the end of their fiscal year, the State Treasurer must withhold all State payments to that municipality until the required audited financial statement is received. Section 98.9 is provided below.

98.9. (TREAS: Penalties for Non-reporting) If a municipality fails to submit the audited financial statements required under Section 14-1-208 of the 1976 Code to the State Treasurer within thirteen months of the end of their fiscal year, the State Treasurer must withhold all state payments to that municipality until the required audited financial statement is received.

If the State Treasurer receives an audit report from either a county or municipality that contains a significant finding related to court fine reports or remittances to the Office of State Treasurer, the requirements of Proviso 117.49 shall be followed if an amount due is specified, otherwise the

State Treasurer shall withhold twenty-five percent of all state payments to the county or municipality until the estimated deficiency has been satisfied.

If a county or municipality is more than ninety days delinquent in remitting a monthly court fines report, the State Treasurer shall withhold twenty-five percent of state funding for that county or municipality until all monthly reports are current.

After ninety days, any funds held by the Office of State Treasurer will be made available to the State Auditor to conduct an audit of the entity for the purpose of determining an amount due to the Office of State Treasurer, if any.

The penalty provisions in this proviso are suspended during Fiscal Year 2021-22 for municipalities. The State Treasurer is authorized and directed to release all funds withheld from municipalities in the prior two fiscal years due to a municipality not submitting the required audited financial statements or submitting financial information to the Revenue and Fiscal Affairs Office as required by Section 6-1-50 of the 1976 Code.

3. **Section 105.4** of the Temporary Provisions of the General Appropriations Act provides for the annual audits of court fees and fines by the State Auditor, and authorizes the State Auditor to consult with the State Treasurer to determine the jurisdictions to be audited. Section 105.4 is provided below.

105.4. (BCB/AUD: Annual Audit of Court Fees and Fines Reports) The State Auditor shall conduct a minimum of fifteen (15) audits annually of county treasurers, municipal treasurers, county clerks of court, magistrates and/or municipal courts as required by Section 14-1-210 of the 1976 Code and allowed by Proviso 118.4 of this act; however, the State Auditor shall not be required to spend more than the annual amount of \$250,000, received from the State Treasurer to conduct the said audits pursuant to Section 14-1-210 of the 1976 Code. The State Auditor may contract with one or more CPA/accounting firms to conduct the required audits. The State Auditor shall consult with the State Treasurer to determine the jurisdictions to be audited in the current fiscal year. Jurisdictions may be selected randomly or based on an instance in the current or previous fiscal year of failing to report, incorrectly reporting or under remitting amounts owed. The funds transferred to the State Auditor by the State Treasurer shall not be used for any purpose other than to conduct the described audits and report whether or not the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed and/or mandated are properly collected and remitted to the State. Any unexpended balance on June thirtieth of the prior fiscal year shall be carried forward and must be expended for the same purpose during the current fiscal year. The State Auditor shall annually report by October 1, its findings of the jurisdictions audited to the Senate Finance Committee and the House Ways and Means Committee.

4. **Section 117.49** of the Temporary Provisions of the General Appropriations Act authorizes the Office of Crime Victim Compensation to conduct an audit on any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court that the State Auditor has determined has not properly allocated revenue generated from court fines, fees, and assessments

to the crime victim funds or has not properly expended crime victim funds pursuant to State law. Section 117.49 is provided below.

117.49. (GP: Assessment Audit / Crime Victim Funds) If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B) and (D), 14-1-207(B) and (D), 14-1-208(B) and (D), and 14-1-211(B) of the 1976 Code, the State Auditor shall notify the State Department of Crime Victim Compensation. The State Department of Crime Victim Compensation is authorized to conduct an audit which shall include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding based on the referrals from the State Auditor or complaints of a specific nature received by the State Department of Crime Victim Compensation to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed by the Victim Services Coordinating Council. The Victim Services Coordinating Council shall develop these guidelines to ensure any expenditure which meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure. Any local entity or nonprofit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the State Department of Crime Victim Compensation within thirty days of the budget's approval by the governing body of the entity or nonprofit organization. Failure to comply with this provision shall cause the State Department of Crime Victim Compensation to initiate a programmatic review and a financial audit of the entity's or nonprofit organization's expenditures of victim assistance funds. Additionally, the Department of Crime Victim Compensation will place the name of the noncompliant entity or nonprofit organization on their website where it shall remain until such time as they are in compliance with the terms of this proviso. Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure/program data requested by the State-Department of Crime Victim Compensation. If the State-Department of Crime Victim Compensation finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the State-Department of Crime Victim Compensation. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the State-Department of Crime Victim Compensation shall assess and collect a penalty in the amount of the unauthorized expenditure plus \$1,500 against the entity or nonprofit organization for improper expenditures. This penalty plus \$1,500 must be paid within thirty days of the notification by the State-Department of Crime Victim Compensation to the entity or nonprofit organization that they are in noncompliance with the provisions of this proviso. All penalties received by the State-Department of Crime Victim Compensation shall be credited to the General Fund of the State. If the penalty is not received by the State-Department of Crime Victim Compensation within thirty days of the notification, the political subdivision will deduct the amount of the penalty from the entity or nonprofit organization's subsequent fiscal year appropriation.

5. **Section 117.102** of the Temporary Provisions of the General Appropriations Act authorizes the SC Criminal Justice Academy to cease providing services to all law enforcement officers of

law enforcement agencies encompassed within a political subdivision for failing to comply with proper remittance of court fee and fine money. Section 117.102 is provided below.

117.102 (GP: Remittance of Court Fee and Fine Money) County and city treasurers are required to remit to the State Treasurer set percentages of revenues generated by assessments imposed by 14-1-206(A), 14-1-207(A), 14-1-208(A). This remittance is required on a monthly basis by the 15th day of each month.

Should a county and/or city treasurer fail to make the required remittance, the SC Criminal Justice Academy shall cease providing services to all law enforcement officers of all law enforcement agencies encompassed within the political subdivision if they have failed to make remittance for two consecutive months in a fiscal year. The finance director shall certify by July first, under oath, that the county and/or city has remitted all funds or the SC Criminal Justice Academy shall withhold services until such time as remittance is made.

6. **Effective July 1, 2017**, Act No. 96 of 2017 created the South Carolina Crime Victims Services Division of the South Carolina Attorney General's office. The Act amended S. C. Code §§14-1-206 (E) and (I), 14-1-207 (E) and (I), and 14-1-208 (E) and (I), relating to fees and fines collected by circuit court, magistrate court, and municipal court, respectively, so as to require the South Carolina Crime Victim Services Division to create a Uniform Supplemental Schedule Form detailing all fines and assessments collected by those clerks of court, the amount remitted to the county or municipal treasurer, and the amount remitted to the State Treasurer. The form shall be included in the annual independent external audit required to be performed for each county pursuant to S. C. Code §4-9-150, and for each municipality pursuant to S. C. Code §5-7-240.

To the extent that records are made available, the Uniform Supplemental Schedule Form must be used by all counties and municipalities to report their crime victim services funds and must include the following elements:

- all fines collected by the clerk of court of the circuit, magistrate, or municipal court,
- all assessments collected by the clerk of court of the circuit, magistrate, or municipal court,
- the amount of fines retained by the county or municipal treasurer,
- the amount of assessments retained by the county or municipal treasurer,
- the amount of fines and assessments remitted to the State Treasurer pursuant to those sections, and
- the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

Within 30 days of issuance of the audited financial statement by counties pursuant to S. C. Code §4-9-150, and by municipalities pursuant to S. C. Code §5-7-240, the county or municipality must submit to the State Treasurer a copy of the audited financial statement and a statement of the actual costs associated with the preparation of the Uniform Supplemental Schedule Form. Upon submission to the State Treasurer, the county or municipality may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the Uniform Supplemental Schedule Form, not to exceed

\$1000. The Uniform Supplemental Schedule Form, an Excel spreadsheet, is included in the fees and assessments memorandum as "[Attachment S](#)."

7. **Effective July 1, 2017**, Act No. 96 of 2017 added S. C. Code §14-1-211.6 which provides that if the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, municipal court is not properly allocated revenue from court fines fees and assessments to crime victim funds, the State Auditor shall notify the office of the Attorney General, South Carolina Crime Victim Services Division, who is provided enforcement authority under that statute, which is provided in its entirety below.

SECTION 14-1-211. Crime victim funds; programmatic review and financial audit; cooperation with audit.

(A) If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B) and (D), 14-1-207(B) and (D), 14-1-208(B) and (D), and 14-1-211(B), the State Auditor shall notify the Office of the Attorney General, South Carolina Crime Victim Services Division. The division is authorized to conduct an audit, which must include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding, based on the referrals from the State Auditor or complaints of a specific nature received by the division to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed in collaboration with the Victim Services Coordinating Council. The Victim Services Coordinating Council, in collaboration with the director of the division, shall develop these guidelines to ensure any expenditure that meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure.

(B) Any local entity or nonprofit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the Office of the Attorney General, South Carolina Crime Victim Services Division within thirty days of the budget's approval by the governing body of the entity or nonprofit organization. Failure to comply with this provision shall cause the division to initiate a programmatic review and a financial audit of the entity's or nonprofit organization's expenditures of victim assistance funds. Additionally, the division will place the name of the noncompliant entity or nonprofit organization on its website, where it shall remain until such time as the noncompliant entity or nonprofit organization is in compliance with the terms of this section.

(C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This

penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation.

8. Effective July 1, 2017, Act No. 96 of 2017 amended S. C. Code §14-1-210 (A) regarding periodic audits of county treasurers, municipal treasurers, county clerks of court, magistrates and municipal courts, so as to make technical changes in compliance with the Act. That Section is provided below in its entirety.

Section 14-1-210. (A) Based upon a random selection process, the State Auditor shall periodically examine the books, accounts, receipts, disbursements, vouchers, and any records considered necessary of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report whether or not the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court are properly collected and remitted to the State. In addition, these audits shall determine if the proper amount of funds have been reported, retained, and allocated for victim services in accordance with the law. These audits must be performed in accordance with standard auditing practices to include the right to respond to findings before the publishing of the audit report. The State Auditor shall submit a copy of the completed audit report to the chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, and the Governor. If the State Auditor finds that a jurisdiction has over remitted the state's portion of the funds collected by the jurisdiction or over reported or over retained crime victim funds, the State Auditor shall notify the State Treasurer to make the appropriate adjustment to that jurisdiction. If the State Auditor finds that a jurisdiction has under remitted, incorrectly reported, incorrectly retained, or incorrectly allocated the State or victim services portion of the funds collected by the jurisdiction, the State Auditor shall determine where the error was made. If the error is determined to have been made by the county or municipal treasurer's office, the State Auditor shall notify the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation for the crime victim portion and the chief administrator of the county or municipality of the findings and, if full payment has not been made by the county or municipality within ninety days of the audit notification, the State Treasurer shall adjust the jurisdiction's State Aid to Subdivisions Act funding in an amount equal to the amount determined by the State Auditor to be the state's portion; or equal to the amount incorrectly reported, retained, or allocated pursuant to Sections 14-1-206, 14-1-207, 14-1-208, and 14-1-211.

If an error is determined to have been made at the magistrate, municipal, family, or circuit courts, the State Auditor shall notify the responsible office, their supervising authority, and the chief justice of the State. If full payment has not been made by the court within ninety days of the audit.

9. **Effective July 1, 2017**, Act No. 96 of 2017 added S. C. Code §14-1-211.5 to the Code and provides that the Department of Crime Victim Assistance Grant shall offer training in technical assistance to municipalities and counties of victim's funds. That statute is provided below.

SECTION 14-1-211. Training and technical assistance.

The Department of Crime Victim Assistance Grants shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid.

Copies of any of the legislation referenced above may be obtained by visiting the Legislative website at <http://www.scstatehouse.gov>.

The [enclosed memorandum](#) has been updated to reflect these amendments and discusses these changes in more detail. This memorandum supersedes prior memoranda from Court Administration on the collection and distribution of court generated revenue. It attempts to outline and explain the statutory procedures for collecting and distributing revenues in the circuit, family, magistrate, and municipal courts as well as the register of deeds. Examples of several of the distributions covered in the text of the memorandum appear in the attachments.

The actual distribution of revenue generated by the circuit, family, and magistrate courts is handled by the county treasurer in most cases. City treasurers disburse monies generated by the municipal courts. The treasurers are required to remit the funds to the State Treasurer monthly on such forms and in such manner as is required by him. The county treasurer can determine which funds should be transmitted to the State Treasurer by referring to the magistrates' South Carolina Revenue Report, which is generated by the South Carolina Judicial Department's Case Management System (CMS). The city treasurer can determine which funds should be transmitted to the State Treasurer by referring to the municipal courts' remittance form which is included as "[Attachment F](#)." For those cities that are on CMS, please refer to the Municipal Revenue Report, rather than "[Attachment F](#)." Also, see "[Attachment K](#)" for a schedule of civil filing fees collected in magistrate's court. "[Attachment L](#)" includes a list of approved expenditures for victims' funds. Also, examples of specific fines and applicable assessments/surcharges are included as "[Attachment M](#)." A list of State parking laws exempt from assessments can be found at "[Attachment N](#)" of the enclosed memorandum. The recommended roadside bond list, which contains numerous crimes and offenses and applicable assessments, is found at "[Attachment P](#)." "[Attachment O](#)" contains the judge's total calculator. Finally, the Uniform Supplemental Schedule for use in the annual external audit for identifying victim funds is included as "[Attachment S](#)."

In this discussion of the distribution of funds, the general rule for each court is stated and followed by an explanation of the statutory exceptions for distribution. The outline which precedes the memorandum summarizes its contents. **Please note in the memorandum specific time guidelines pertaining to the transmittal of these revenues. Strict, prompt adherence to the reporting guidelines is required.**

Please provide copies of this memorandum to all members of your staff whose duties relate to the collection or distribution of court revenues. If you or your staff has any questions concerning the collection or distribution of revenue, do not hesitate to contact this office.

Cc: Municipal Treasurers