

SOUTH CAROLINA'S JUDICIAL SYSTEM

The judicial system of South Carolina is composed of several different courts, each with specific authority over certain types of legal issues.

- **MAGISTRATE'S COURT**

Magistrate's Court, sometimes referred to as "small claims court," hears both civil and criminal cases. Magistrates are appointed by the Governor and have the authority to hear civil cases involving claims of up to \$7,500. A benefit of Magistrate's Court is that a case will come to trial more quickly than in Circuit Court. Magistrates also have the authority to hear criminal cases for offenses subject to fines of \$200 or less or imprisonment of 30 days or less. Magistrates commonly hear cases involving traffic violations and other minor offenses. They are responsible for setting bail; conducting preliminary hearings; and issuing arrest and search warrants. Appeals from Magistrate's Court are heard by Circuit Court.

- **MUNICIPAL COURT**

Not all cities have Municipal Court. Municipal Courts have criminal jurisdiction over all state offenses and municipal ordinances subject to a fine of \$200 or less or imprisonment of 30 days or less that occur within the municipality. Municipal judges are selected by the council of the municipality for no more than four years. Appeals from Municipal Court are heard by Circuit Court.

- **FAMILY COURT**

Family Court is the only court that can hear cases involving domestic disputes. The Family Court grants divorces; distributes property between the husband and wife; and sets alimony. It also determines who will have custody of children; orders child support; sets visitation schedules; terminates parental rights; and finalizes adoptions. The Family Court hears paternity disputes and holds emergency hearings in cases where abuse and neglect result in injuries to someone in the home. The Family Court has the power to hear most criminal cases involving juveniles under 17. However, most serious criminal charges may be transferred to Circuit Court where the juvenile will be "tried as an adult." There are no jury trials in the Family Court. Family Court judges are elected by the legislature. Appeals from the Family Court are heard by the Court of Appeals.

- **PROBATE COURT**

Probate Court has authority over the property of a person who dies with or without a will. The Probate Judge makes sure the proper procedures for distributing the property and paying any creditors are followed. This authority includes deciding who inherits the property if someone contests a will. Probate Court protects people under age 18 by approving certain law suit settlements. It also helps protect people who cannot protect themselves because of mental or serious physical illness. If someone is suffering from mental illness, Probate Court has the authority to commit them to a mental hospital. Probate Court also issues marriage licenses and approves settlements involved in wrongful death and survival actions. Only limited jury trials are available in Probate Court. Therefore, some cases involving at least \$5,000 can be sent to Circuit Court. Probate Judges are elected by voters to four year terms. Appeals from Probate Court are to Circuit Court.

- **MASTER-IN-EQUITY**

Masters, who are appointed by the Governor for terms of six years in counties with 100,000 residents, may be full-time or part-time and are compensated by the county's governing body. Masters have jurisdiction in equity matters referred by the Circuit Court. They have the power and authority of the Circuit Court, sitting without a jury, to regulate all proceedings in every hearing before them. Cases decided by Masters may be appealed to the Circuit Court or the Court of Appeals, depending on where the parties had agreed to appeal.

- **WORKERS' COMPENSATION COMMISSION**



The Commission has the power to hear disputes concerning coverage under the Workers' Compensation Act. The Act, covering most employees, covers medical bills from work-related injuries and provides compensation for time lost from work. Generally, no hearing is necessary. When a dispute arises, however, a commissioner hears the case. Either party may then appeal to the full commission. Thereafter, an appeal is to the Circuit Court.

- **ADMINISTRATIVE LAW JUDGE DIVISION**

The Administrative Law Judge Division was created to hear cases from various state departments and commissions, including cases from professional and occupational licensing boards or commissions within the Department of Labor, Licensing and Regulation. Appeals from this division are to Circuit Court.

- **CIRCUIT COURT**

The Circuit Court has the broadest powers of all South Carolina courts. Most lawsuits are heard by a Circuit Court judge. Civil lawsuits are heard in the common pleas division. Criminal lawsuits are heard in the general sessions division. The Circuit Court also hears appeals from Probate Court; Magistrate's Court; Municipal Court; the Workers' Compensation Commission; and the Administrative Law Judge Division. Some cases filed in the common pleas division, such as boundary disputes, may be sent to a Master-in-Equity if the parties agree to do so. Generally, no jury is available after the case is transferred. Circuit Court judges are elected by the legislature. Appeals from the Circuit Court are heard by the Court of Appeals.

- **COURT OF APPEALS**

The Court of Appeals hears appeals from the Administrative Law Division; Family Court; Circuit Court; and sometimes the Master-in-Equity. Instead of one judge, a case is argued to a panel of three judges. The Court of Appeals focuses on certain legal issues; a party does not get to try a case again. A person must write a brief discussing any problem with the lower court's decision. The judges then read the briefs and transcripts of earlier hearings and review any exhibits. Sometimes, the judges will ask for a short oral "argument" from the parties involved. After a decision is made, the judges send an "opinion" to the parties explaining the reasons for the decision. Generally, the Court of Appeals either affirms or reverses and remands the decision of the original court. If the decision is reversed and remanded, the parties must usually try the case again in the original court. The Court of Appeals consists of a Chief Judge and eight Associate Judges who are elected to staggered terms of six years each.

- **SUPREME COURT**

The Supreme Court is the highest court in South Carolina. It has the power to hear appeals from the Court of Appeals. The Court does not hear all of the cases it is requested to hear. If the Court decides to hear a case, the parties must follow the same procedure used by the Court of Appeals. The Court hears some appeals directly from Circuit Court, such as death penalty cases and cases involving the constitutionality of a state statute. If a case was originally filed in a federal court, that court may ask the Supreme Court to answer specific questions based on South Carolina law. In limited situations, an order from the Court will be reviewed by the United States Supreme Court. The Supreme Court is composed of a Chief Justice and four Associate Justices who are elected by the General Assembly for terms of 10 years. The terms are staggered and a justice may be re-elected to any number of terms. The Court also is the rule-making authority for the unified judicial system, and it controls the admission to practice law by and discipline of lawyers.



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*Provided as a public service of the South Carolina Bar, PO Box 608, Columbia, SC 29202-0608
(803) 799-6653 • Fax: (803) 799-4118*