



**COURT ADMINISTRATION  
UPDATE**  
Renee Lipson, Esq.

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**UNIQUE NUMBERING FOR CHARGING  
DOCUMENTS**

- o 16 digit number that is comprised of the Year + 2 digit type warrant + Court Agency + Sequence Number
- o Went into effect July 1<sup>st</sup>, 2012



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**SAMPLE WARRANT NUMBER**

- o Example: 2012AW4021601234
  - Year: 2012
  - Type of Warrant:
    - o AW: arrest warrant
    - o BW: bench warrant
    - o CS: courtesy summons



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### SAMPLE WARRANT NUMBER

- Example: 2012AW4021601234
  - Court Agency: 40216
    - Comprised of the county code (2 digits) followed by court identifier (3 digits)
      - 000 series is the Circuit Court
        - GS is 001
        - CP is 002
      - 100 series is the Magistrate courts
      - 200 series is the Municipal courts
    - Example above is Richland County, Columbia Municipal Court



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### SAMPLE WARRANT NUMBER

- Example: 2012AW4021601234
  - Sequence Number: Five digit sequence number that enables each court agency to issue 99,999 warrants a year
  - Sequence number is reset to 00001 every year



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### PROPERTY ENHANCEMENTS

- §16-1-57: A person convicted of an offense for which the term of imprisonment is contingent upon the value of the property involved must, upon conviction for a third or subsequent offense, be punished as prescribed for a Class E felony.



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PROPERTY ENHANCEMENTS

- §16-1-57 is an enhancement when sentencing a defendant who has committed 3 or more property crimes where the term of imprisonment is based on the value of the property.
- It is not a substantive offense or crime in and of itself.
  - Retired CDR Code 2367



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PROPERTY ENHANCEMENTS

- When charging someone under §16-1-57, charge the defendant with the underlying offense.
- New enhancement CDR codes – search for the underlying offense
  - Shoplifting, larcenies, breach of trust, false pretenses, MIPP, MIRP, receiving stolen goods, forgery, PSMV, fraudulent checks, FTC fraud, etc.



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BOND SETTINGS – BURGLARY 1<sup>ST</sup>

- §17-15-10(B): Any person charged with the offense of burglary in the first degree pursuant to §16-11-311 may have his bond hearing for that charge in summary court unless the solicitor objects.
- Summary courts previously had no jurisdiction to set bond. (§22-5-510)
- Act 286



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BOND SETTINGS

- §17-15-30(B): In determining bond, a judge shall consider, IF AVAILABLE, an accused's criminal record, any charges pending against an accused at the time the release is requested, all incident reports generated as a result of an offense charged, and whether the accused is an alien unlawfully present in the U.S. and poses a substantial flight risk due to this status.



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BOND SETTINGS

- §17-15-30(C)(1)
  - The arresting law enforcement agency shall provide the court with, if available, the accused's criminal record, any charges pending against the accused at the time release is requested, all incident reports generated as a result of the offense charged, and any other information that will assist the court in determining the conditions of the release.



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BOND SETTINGS

- §17-15-30(C)(2)
  - The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available.
  - Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing.



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APPEARANCE BONDS – ACT 115

- §17-15-20(B)
  - Unless a BW has been issued, an appearance bond is discharged and the surety is no longer liable on the bond upon adjudication, a finding of guilty, deferred disposition or as otherwise provided by law.
    - Diversionary program or deferred disposition must be successfully completed. If the defendant is still in the program, the appearance bond continues to apply.



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APPEARANCE BONDS – ACT 115

- §17-15-20(B) – An appearance bond is valid for 18 months in the summary courts.
- If that time period elapses prior to final disposition of the case, the surety may be released from the bond by providing 60 days written notice with the solicitor or representative of the state AND the clerk of court or municipal court judge with jurisdiction over the case.



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APPEARANCE BONDS – ACT 115

- If the court determines the defendant has substantially complied with his court obligations and the solicitor or representative of the State does not object within the required 60 days by demanding a hearing, the court shall order the appearance bond converted to a PR bond and relieve the surety of its liability.



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APPEARANCE BONDS – ACT 115

- If the solicitor files notice in your court, you should hold a hearing and provide notice to the defendant, victims if applicable, the representative of the State, and the surety on the bond.
- If the bond is converted from a surety bond to a PR bond, Bond Form 1 should be completed by the court and signed by the defendant.



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APPEARANCE BONDS – ACT 115

- If a hearing is demanded and the court does not feel the defendant has substantially complied with his court obligations, the court may order the surety stay in place.
- This Act is retroactive and applies to all existing and future bonds.
- Bondsmen may be using a form titled “Notice and Motion to be Relieved from Bond Pursuant to §17-15-20”



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TRANSFER COURT – ACT 169

- §22-3-545
  - Charges originally made against a defendant that are within the transfer court jurisdiction (fine of up to \$5500 or one year imprisonment) or charges that were originally outside the jurisdictional limit but fall into the limit as a result of a plea agreement are appropriate for transfer court.



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TRANSFER COURT – ACT 169

- Before impaneling the jury or accepting the defendant's guilty plea, the trial judge must receive an affirmative waiver by the defendant, if present, of his right to have the case tried in GS court.
- The defendant must be advised that if he was tried in GS there would be 12 jurors who must reach a unanimous verdict and if tried in the summary courts, the jury would be made up of 6 jurors who must reach a unanimous verdict.
- The defendant may waive any and all of the rights provided in this subsection in writing prior to the impaneling of the jury or the acceptance of the defendant's guilty plea.




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TRANSFER COURT – ACT 169

- A case transferred to the summary courts that is not disposed of in 180 days from the date of transfer automatically reverts to the GS docket.
- All cases transferred to the summary courts must be prosecuted by the solicitor's office. The chief municipal judge, upon petition of the solicitor, shall set the terms of court and order the municipal judges to hold terms of court on specific dates and times for the disposition of these cases.
- All fines and assessments imposed by a municipal judge presiding pursuant to this section must be distributed as if the fine and assessment were imposed by a circuit court.




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CSC WITH A MINOR – 3<sup>RD</sup> DEGREE

- §16-3-655(C) A person is guilty of criminal sexual conduct with a minor in the third degree if the actor is over fourteen years of age and the actor wilfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child. However, a person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age.
- Lewd Act with a Minor is repealed. (6/18/12)




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### MUNICIPAL COURT TRIALS

- §5-7-90: The municipal judge or judges of a municipality shall speedily try all persons arrested and incarcerated with violations of the ordinances of the municipality or the laws of the State within their jurisdiction in a summary manner without a jury unless jury trial is demanded by the accused. Trial must be held within ten days after the arrest or at a time scheduled by the court, in which event the trial is deferred.
- Amended from: “persons charged” and “seven days”



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### MUNICIPAL COURT TRIALS

- §5-7-90 appears to be in direct conflict with §56-5-6220 when the case is a violation of traffic law.
  - Provided, however, that in any such case where bail is posted by the defendant, no forfeiture of such bail shall become effective until ten days following the date of arrest nor shall the defendant be required to plead prior to the elapse of such ten-day period.
- Provided, further that the provisions of this section shall not be construed to prohibit a defendant from voluntarily entering a plea or forfeiting bail within the ten-day period.



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### MUNICIPAL COURT TRIALS

- Attorney General Opinion has been requested:
  - How should the municipal courts resolve the conflict between the two aforementioned statutes? Should cases written on a UTT be scheduled for trial w/in 10 days of the arrest or no sooner than ten days after the arrest?
  - Who does §5-7-90 apply to – all persons charged or all persons unable to make bail and remaining incarcerated?



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ATTORNEY GENERAL OPINION

- §56-5-6220 operates on §5-7-90 to prohibit a municipal judge from requiring a defendant to plead in all traffic cases until the elapse of a ten-day period following the date of arrest.
- Because §56-5-6220 starts with the language “notwithstanding any other provision of the law”, Legislature intended this statute to be exclusive of other provisions of law, including §5-7-90.



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ATTORNEY GENERAL OPINION

- However, §56-5-6220 provides that a defendant may voluntarily enter a plea or forfeit bail within such period.
  - Take care to assure the defendant’s action is voluntary and that he intelligently enters a plea or forfeits bail.
  - AG further advises that the defendant’s voluntary action be clearly apparent on the record of any proceeding.



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ATTORNEY GENERAL OPINION

- “Arrested and incarcerated” was not addressed in the official opinion.
- For crimes in the municipal jurisdiction, not written on a UTT, §5-7-90 applies.
  - “arrested and incarcerated” – unable to make bond
  - Trial within 10 days



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TOWN OF MT. PLEASANT V. ROBERTS

- § 56-5-2953 commands the arresting officer in a DUI/DUAC case to videotape during the arrest.
  - Subsection B provides exceptions that excuse compliance with the statute.
  - Subsection G states the videotaping requirement take effect once the law enforcement vehicle is equipped with a video recording device.
- Mt. Pleasant's protracted failure to equip its patrol vehicles with cameras, despite its priority ranking, defeats legislative intent and violates the statutorily-created obligation to videotape DUI arrests.
- Town does not have to pay for cameras out of pocket – request them from DPS.




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MIRANDA RIGHTS – STATE V. HOYLE

- Miranda has four prongs:
  - that the suspect in custody must be warned prior to questioning that he has the right to remain silent
  - that anything he says can be used against him in a court of law
  - that he has the right to the presence of an attorney
  - that if he cannot afford an attorney one will be appointed to him prior to any questioning.
- The Court of Appeals does not interpret Miranda to require an oral or written warning on the right to terminate an interrogation at any time and to not answer any further questions.
- Stemmed from a magistrate level DUI case




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STATE V. JENKINS

- The Court of Appeals explains what is required in a search warrant allowing the government to obtain evidence from a suspect's body.
- To secure a warrant for the acquisition of such evidence, the State must establish the following elements:
  - (1) probable cause to believe the suspect committed the crime;
  - (2) a clear indication that relevant evidence will be found; and
  - (3) the method used to secure it is safe and reliable.
- The magistrate must also consider the seriousness of the crime and the importance of the evidence to the investigation, weighing "the necessity for acquiring involuntary nontestimonial identification evidence against constitutional safeguards prohibiting unreasonable bodily intrusions, searches, and seizures."




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STATE V. RAMSEY

- Three categories of offenses for which the State may use a UTT instead of an arrest warrant to commence proceedings in the summary courts:
  - Traffic offenses
  - Offenses specifically listed in §56-7-10
    - Examples: disorderly conduct, open container, littering, trespassing
  - Offenses within the subject matter jurisdiction of the magistrate or municipal court that are committed in the presence of a law enforcement officer.



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STATE V. RAMSEY

- Does not apply to uniform ordinance summonses or forestry summonses
- Defendants must be booked on the warrant
  - SLED: booking = fingerprinting
  - If a person is not booked/printed, the charge cannot be expunged
- Recommended procedures: e-mail dated 6/12/12



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QUESTIONS?



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