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**SOUTH CAROLINA
JUDICIAL BRANCH**


Legal Updates & More

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Legal Updates

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Domestic Violence & Firearm Restrictions



Legislation



South Carolina Hands-Free and Distracted Driving Act

- September 1, 2025—took effect
- +180 Days—issue citations. However, for the first 180 days, only warnings for violations of this new law could be issued.
- The Hands-Free Act, among other things, prohibits holding cell phones or other mobile devices while driving, and preempts local ordinances regarding mobile device use while driving.
- CDR Codes: 4159 (1st offense) & 4160 (2nd offense)

This bill may be reviewed at:
https://www.scstatehouse.gov/sess126_2025-2026/bills/3276.htm,
 and the act is codified at SC Code Ann. § 56-5-3890.



Military Chaplains & Privilege

- March 9, 2026—took effect
- Extends the clergy-penitent privilege to military chaplains
- [SC Code Ann. § 25-1-180](#)



Law Enforcement Personal Privacy Protection and Judicial Personal Privacy Protection Act

- Active or former federal, state, or local judges or local certified law enforcement officers may request that their **home address, personal cell phone number, and tax map number** be removed from publicly available websites operated by or on behalf of the state of South Carolina and local government entities.

Forms and additional guidance available:
<https://www.sccourts.org/resources/judicial-community/judicial-and-law-enforcement-personal-privacy-protection-act/>




Court Rule Changes



Deadline to Appeal & Amend Extension

- Proposed changes to Rules 50(e), 52(b), 53(d), 54(d), and 59(b), (d)-(e), SCRPC, were submitted to the General Assembly on January 30, 2026. The rule changes will become effective after 90 days if there is no other action by the General Assembly.

For more information, see <https://sccourts.org/about/court-news/2026-01-30/rule-changes-submitted-to-the-general-assembly/>.




Military Members

- Rule 410, SCACR: Military members may engage in the practice of law in South Carolina outside of their duties in the Armed Forces of the United States.

Rule 410(b)(1)(E), SCACR, is amended to provide:

(E) Military Member. Any member who is serving on active duty with the Armed Forces of the United States for six months or more, including members of the National Guard and other reserve components, and elects to become a military member.




**SC Supreme Court &
Court of Appeals Cases**




Search Warrants & Digging & Bitemarks

- [State v. Cauthen](#), 447 S.C. 45, 923 S.E.2d 655 (Ct. App. 2025)
- Officers did not exceed the scope of a search warrant when they dug a hole in the backyard of the premises to be searched—execution of the warrant was reasonable, the curtilage includes the yard, and the sought evidence could reasonably be found in the searched location.
- Officers could present lay opinions that a bruise on the defendant’s arm “appeared to be a bite mark” (emphasis original)—no specialized knowledge or training and based on personal observations.



Mistrial & Jeopardy

- [State v. Erb](#), 447 S.C. 84, 924 S.E.2d 100 (2025)
- The South Carolina Supreme Court held that declaration of a mistrial “was not manifestly necessary” and that jeopardy attached when a circuit court judge sua sponte “improvidently granted a mistrial” after
 - 1) failing to instruct the jury to continue deliberations after polling the jury on one charge revealed that one juror did not agree with the verdict and
 - 2) summoning the one juror to the courtroom for individual questioning to determine if continued deliberations were futile.



Judicial Discipline

Two recent judicial discipline cases—Public Reprimand & 30-Day Suspension

- Implicated Canons: Canon (1), (1)(A), (2), (2)(A), (3), (3)(B)(7), 3(E)(1), (3)(F)
- Uphold judiciary integrity, “personally observe high standards of conduct,” promote public confidence
- Avoid impropriety, avoid bias or prejudice, avoid ex parte communication, disqualify due to impartiality and/or follow the remittal procedure

Advance Sheet for March 18:

<https://www.sccourts.org/media/opinions/advSheets/no112026.pdf>



Judicial Advisory Opinions



Judicial Advisory Opinions

- Op. No. 11-2025: A summary court judge may type and generate an arrest warrant, but the judge should not correct any defects in the probable cause affidavit. Canon (2)(A)
 - Can perform the “ministerial task,” but must avoid “coaching” the officer
- Op. No. 10-2025: A part-time municipal judge may attend a charitable fundraiser for the county GAL program, even though GALs appear before the Court but not if the event is sponsored by a political organization. Canon (5)(A)(1), Canon (4)(A)



Canon 4: Extra-judicial Activities

- Op. No. 12-2025: A part-time summary court judge may serve on the board of the Eastern Carolina Community Foundation, provided that the judge does not engage in fund-raising. Canon (4)(C)(3)
- Op. No. 16-2025: A full-time magistrate may provide general feedback to a pro bono director regarding the judge's observations of pro se litigants in court, as well as what topics a pro bono program should focus on in order to better prepare pro se litigants for court. Canon (4)(B)
 - Code encourages efforts to improve law and the administration of justice



Canon 4 (cont.)—Other Employment

- Op. No. 13-2025: A part-time summary court judge may accept employment with the South Carolina Emergency Management Division, provided such employment does not interfere with the administration of the judge's judicial duties. Canon (4)(C)(2)
- Op. No. 17-2025: A part-time magistrate judge may establish and operate a private security company. Canon (4)(D)(3)
- Op. No. 18-2025: A part-time magistrate judge may also be employed as general counsel for the sheriff's department of a different county. Canon (4)(C)(2), (4)(D)(1)(b), Dual Office Holding?
- Op. No. 4-2026: A full-time magistrate judge may use personal time off to engage in employment as a hospitality driver. Canon (4)(D)(3)




The Takeaways

- Avoid impropriety or the appearance of
- Remain impartial and avoid the appearance of partiality
- Judge's duties come first




**Attorney General
Opinions**



Administrative Search Warrants

- AG’s office opines that SC Code Ann. § 31-15-380(3) does not authorize magistrates to sign “administrative search warrants.”
- A limited search warrant for code inspection if the code inspector is denied entry may be needed under traditional Fourth Amendment reasoning; however, this code section does not grant specific statutory authority for magistrates to issue administrative search warrants.
- SC Code Ann. § 31-15-380(3): A public officer may exercise authority as necessary and convenient to carry out and effectuate the purposes and provisions of a county ordinance, including entering upon premises to make examinations


[Letter to Jordan Thayer, Anderson County Attorney, November 19, 2025](#)



Code Enforcement Officer As Prosecutor

- AG’s office opines that a code enforcement officer may prosecute cases in magistrate court.
- Whether prosecution by code enforcement officer is the unauthorized practice of law must be decided by Supreme Court
- Code enforcement officers exercise a traditional sovereign power: “police power,” including authority to issue a court summons, like constables. Unlike a private citizen, they are charged with upholding the law and act in the interest of the community. No statute expressly prohibits this.

[Letter to Jordan Thayer, Anderson County Attorney, November 19, 2025](#) & [Letter to the Hon. Lawrence K. Grooms, Senate, July 22, 2025](#)



Dog As Extension/Agent of Hunter

- DNR believes it would be appropriate to charge a hunter of violation of SC Code Ann. § 50-1-90 when the hunter release hunting dogs onto private property, though the hunter does not personally cross the property line.
- The AG's office notes that AG opinions from the 1960s may be outdated; however, the office chooses not to opine on how the Court would decide and advises DNR to try a test case.
- SC Code Ann. § 50-1-90: misdemeanor to hunt, fish, or trap on private property without permission of the owner/property manager

[Letter to Thomas S. Millikin, DNR, December 30, 2025](#)

SCCA Forms Remediation

SCCA Forms Remediation

- April 2024—DOJ published regs requiring state and local government websites to be accessible to people with disabilities.
- April 2026—Compliance Deadline
- Forms used by parties—SCCA is currently adapting these forms for improved accessibility.
- Forms used by judges and court staff—SCCA is developing a portal that will be accessible to courts.

Questions?



Topics of Interest




Domestic Violence & Firearm Restrictions

SC Code Ann. § 16-25-30: "unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if..."

- convicted of:
 - Life – Domestic Violence of a High and Aggravated Nature (DVHAN) **
 - 10 years* – DV, 1st,** AND court made specific findings and concluded moderate bodily injury
 - 3 years* – DV, 2nd and 3rd,** AND the judge, at time of sentencing, ordered a firearms prohibition

*from date of conviction or release date from confinement for the conviction, whichever is later

**or out-of-state equivalent



DV & Firearm Restrictions

SC Code Ann. § 16-25-30: “unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if...”

- violated Order of Protection
 - Duration of order of protection – Subject to family court Order of Protection AND family court judge made specific findings of harm or threat/attempt to harm household member AND family court judge ordered firearms prohibition (16-25-30(E)(4))
 - Includes orders of protection from other states, tribes, or territories— Uniform Interstate Enforcement of Domestic Violence Protection Orders Act—if the issuing judge made the same specific findings regarding physical harm and ordered firearm prohibition



DV & Firearm Restrictions

18 U.S.C. § 922(g)(8)-(9): It shall be unlawful for any person to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

- Subject to a court order that:
 - is issued after hearing with actual notice and opportunity to participate
 - restrains person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that causes reasonable fear of bodily injury to the partner or child
 - includes a finding of a credible threat to the physical safety of such intimate partner or child or expressly prohibits physical force that would reasonably be expected to cause bodily injury
- Convicted in any court of a misdemeanor crime of domestic violence



DV & Firearm Rights Restored

SC Code Ann. § 16-25-30:

- Following time restriction, regains firearm rights:
 - No DV conviction,
 - No pending DV charge
 - Not prohibited by other State law
- Process to Restore:
 - Person requests in writing to SLED
 - SLED notifies and requests immediate removal of person’s name the National Instant Criminal Background Check System (NICS)



Bench Warrant—Purpose

- Bring a **defendant** back before a **particular court** on a **particular charge** for a **specific purpose**
- Before the bench warrant may be issued
 - **Court has acquired jurisdiction**
 - over the defendant
 - on that particular charge
 - By virtue of a previously served proper **charging paper**.
 - does not initiate a criminal action



Bench Warrant—Situations

- Defendant, under recognizance, fails to appear
- Defendant, under recognizance, violates a bond condition
- Defendant, under sentence, fails to properly pay a fine or otherwise comply with the sentence
- Defendant, tried in absentia (TIA), must be brought before court to comply with sentence
- Witness, failed to respond to subpoena, must be brought before the court



Bench Warrant—Resources

Statutes


- 35-53-70 Issuance of Bench Warrant
- 17-15-35 Electronic Monitoring as Condition of Bond
- 17-15-37 Regulations & Electronic Monitoring Agency Requirements

Forms

- SCCA 523 Bench Warrant for Failure to Appear
- SCCA 522 Bench Warrant Following Trial in Absentia
- SCCA 524 Affidavit in Support of Electronic Monitoring Bench Warrant
- SCCA 525 Electronic Monitoring Bench Warrant



Questions?




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JUDICIAL BRANCH

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