

1981 WL 157993 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 30, 1981

*1 Walter B. Todd, Jr.
Assistant City Attorney
City of Columbia
Office of City Attorney
City Hall
Post Office Box 1549
Columbia, South Carolina 29202

Dear Mr. Todd:

John McIntosh has referred to me your letter concerning the administration of [§ 24-23-210\(a\)](#), Code of Laws of South Carolina, 1976, which states that:

‘When any person is convicted, pleads guilty or nolo contendere, or forfeits bond . . . to any offense when the offense is within the jurisdiction of a municipal or magistrate's court, other than a nonmoving traffic violation, there is imposed an assessment, in addition to any other costs or fines imposed by law, in the sum of two dollars.’

You questioned whether the conclusion of a previous opinion by this office which stated that the assessment provided by [§ 24-23-210\(b\)](#) is applicable to all convictions, pleas, or bond forfeitures in General Sessions Court, regardless of the actual sentence imposed, whether fine or term of imprisonment, would also be applicable to the referenced assessment for municipal court cases. You further questioned whether a municipality would be responsible for an assessment imposed pursuant to such referenced provision but not collected.

In the opinion of this office, the assessment provided by [§ 24-23-210\(a\)](#) for cases within the jurisdiction of the municipal court is applicable to all convictions, pleas or bond forfeitures, except for such resulting from nonmoving traffic violations, regardless of the sentence imposed. It would apply equally to where a sentence of imprisonment is imposed as well as those situations where a fine is imposed. Such assessment would typically be imposed unless such assessment were suspended pursuant to the provisions of the section which states that:

‘. . . any judge of competent jurisdiction may suspend imposition of all or part of the assessments made under this section upon finding that such a requirement would place severe financial hardship upon the offender or his family.’

Presumably, the problem of attempting to collect on assessments imposed on individuals determined to be indigent should not be a major problem considering the referenced suspension provision. However, as to those situations where such assessments are not suspended, and a defendant refuses or is unable to pay such assessment, this office has in a previous letter dated September 17, 1981, determined that as to assessments imposed on General Sessions Court cases, ‘failure to pay any assessment properly imposed could, upon proper showing, constitute contempt of court.’ It would appear that such would be applicable to municipal court cases.

As to your further question concerning whether a municipality would be responsible for an assessment imposed but not collected, it would appear that a municipality would not be considered to be liable for such assessments. The assessment is imposed on a defendant and it is the responsibility of the defendant to pay such assessment. Again, however, such should not be that much of a problem considering the above provision allowing the suspension of such assessments as to indigents.

*2 If there any any questions concerning the above, please advise.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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