

1980 WL 121091 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 11, 1980

*1 Senator Herbert D. Morgan
S. C. State Senator
504—Gressette Building
Columbia, South Carolina 29211

Dear Senator Morgan:

In our recent telephone conversation you asked for clarification of several questions relating to magistrates. Your first question concerned whether there is a retirement age for magistrates. In response to such, enclosed please find copies of previous opinions of this Office which indicate that the retirement date of a magistrate is the end of the fiscal year in which he reaches his seventy-second birthday. The April 3, 1978 opinion states further that a magistrate who reaches his mandatory retirement age must remain in office until his successor is appointed and qualifies.

As to your question concerning the authority and duties of a ministerial magistrate, [Section 22-2-40\(B\), Code of Laws of South Carolina](#), 1976, as amended, specifically provides:

‘(i)n each county, a magistrate or magistrates may be designated by the Governor with the advice and consent of the Senate as ministerial magistrates for the purpose of carrying out the following responsibilities:

1. To issue criminal warrants;
2. To approve and accept written bonds in criminal matters, or in lieu of written bonds to approve and accept cash bonds;
3. To order the release of prisoners when proper and adequate bonds have been duly posted; and
4. To transfer any such warrant and written or cash bond to a magistrate having proper jurisdiction.

Ministerial magistrates shall be available at nighttime and on weekends during such hours as may be designated by the Chief Magistrate.’

As to your question concerning who authorizes the number and location of magistrates in each county, [Section 22-2-40\(A\)](#) supra, provides:

‘(t)he General Assembly shall provide for the number and location of magistrates in each county. The provisions of this chapter shall not be construed to prevent more than one magistrate from being assigned to the same jury area.’

As to your question concerning the geographical location of criminal trials within a magistrate's jurisdiction, in light of the fact that magistrates now have county-wide jurisdiction, [Section 22-2-170, Code of Laws of South Carolina](#), 1976, as amended, provides that ‘(c)riminal cases shall be tried in the Jury Area where the offense was committed, subject to a change of venue’

Hopefully the above is in full response to your inquiry. If there are any further questions, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

1980 WL 121091 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.