

1980 WL 120994 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 5, 1980

*1 Mr. John Patrick
Assistant Director
S. C. Court Administration
P. O. Box 11788
Columbia, SC 29211

Dear John:

In a letter to this Office you referenced that due to changes in the number and location of magistrates in Sumter County, there is a need to revise the jury area plan for Sumter County from what has been previously submitted to the General Assembly for adoption pursuant to [Section 22-2-30, Code of Laws of South Carolina, 1976](#), as amended. As you indicated, the General Assembly has not as yet adopted the previously proposed jury areas as established by the various chief magistrates. Referencing such, you have asked whether the Chief Magistrate for Sumter County may submit a revised jury area scheme and secondly, would such a jury area scheme be effective prior to formal adoption by the General Assembly.

As to your question concerning whether a revised jury area scheme may be submitted, in the opinion of this Office, the Chief Magistrate should be permitted to submit such a plan. Admittedly, [Section 22-2-30, supra](#), does provide that any jury area plan was to have been submitted no later than January 1, 1980 to the General Assembly for adoption. However, inasmuch as the General Assembly has failed to adopt any jury area plan submitted to them, the submitting of a revised jury area plan appears to be proper. There does not appear to be any question that if the prior plan had been already approved by the General Assembly, the General Assembly could proceed to enact legislation revising such a plan. To permit the submitting of a revised plan prior to legislative enactment would appear to avoid repetitive legislative activity.

As to your second question concerning whether a revised jury area scheme would be effective prior to formal adoption by the General Assembly, in the opinion of this Office, such plan would be effective. As you are aware, the temporary procedure to be followed in selecting a magistrate's court jury, pending implementation of the permanent jury selection process, was effective only until July 1, 1980. Furthermore, it could be argued that while the General Assembly reserved authority to approve the jury areas proposed by chief magistrates, no specific timetable was provided. Therefore, there is presently the situation in this State where the temporary procedure, which was to be followed in selecting a magistrate's court jury, is clearly inapplicable and the General Assembly has not, as yet, acted to adopt any jury areas as proposed by the various chief magistrates. Referencing the above approval by this Office of the revision of a jury areas scheme, it appears that any revised jury area plan should be construed as being effective prior to legislative approval. Such a construction would not appear to be prejudicial to any defendants tried by a jury drawn pursuant to any such revised plan inasmuch as, presumably, an impartial jury could be drawn to determine any case.

*2 If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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