

STATE OF SOUTH CAROLINA     )  
   )  
COUNTY OF AIKEN                     )

IN THE COURT OF GENERAL SESSIONS

ADMINISTRATIVE ORDER

Pursuant to the authority vested in this Court by Order of Donald W. Beatty, Chief Justice of the Supreme Court of South Carolina, a copy of which is attached hereto, the following Administrative Order is hereby executed to establish the rules to be followed in the disposition of criminal cases in the Court of General Sessions in the County of Aiken effective the 1st day of July , 2020.

The Court directs that all cases within the jurisdiction of the Court of General Sessions arising before any Magistrate Court, Municipal Court, the Grand Jury for Aiken County and the State of South Carolina Grand Jury, shall be governed by the following procedure:

A. Arraignment and Bond Hearing

1. All Magistrates, Municipal Judges and any other officials authorized to issue warrants in cases within the jurisdiction of the Court of General Sessions shall transmit all documents pertaining to the case within fifteen (15) days from the date of arrest in the case of an arrest warrant and within fifteen (15) days of the issuance of any other document pertaining the case to the Aiken County Clerk of Court in accordance with Rule 3(a) of the South Carolina Rules of Criminal Procedure.
2. (a) All defendants shall be preliminarily screened by the judicial officer presiding at a defendant’s arraignment and/or bond hearing to determine whether the defendant may qualify for the appointment of counsel. The preliminarily screening will be conducted for all defendants, including those charged in other jurisdictions, whether within or outside the State of South Carolina.  
  
(b) In the case of a defendant charged by the Aiken County Grand Jury or the State Grand Jury by direct indictment, the defendant shall be brought before a Circuit Court Judge as soon as practicable after arrest. The Circuit Court Judge shall perform the same duties as directed herein to Magistrates and Municipal Judges.  
  
(c) Any defendant who may qualify for the appointment of counsel shall be given notice by the presiding judge of the need to complete an application in the Office of the Public Defender as soon as practicable in order to be qualified and, if so, to have counsel appointed and assigned to the defendant’s case. This requirement does not apply to defendants who elect to be self-represented after being warned of the dangers of self-representation.

(d) The Office of the Public Defender shall monitor the list of defendants who are incarcerated with pending charges and routinely screen such defendants for appointment of counsel. The list of such defendants shall be updated no less than once a week.

3. Any defendant charged with a bailable as well as a non-bailable offense, with the exception of defendants charged by direct indictment, shall be given notice, orally and in writing by the judicial officer presiding at the arraignment and/or bond hearing of the defendant's right to request a preliminary hearing in accordance with Rule 2(a) of the South Carolina Rules of Criminal Procedures.
4. All defendants shall be served with a Notice of Initial Appearance at arraignment or bond hearing. The dates for Initial Appearance shall be scheduled by the Chief Judge for Administrative purpose for the Second Circuit or designee. The schedule shall be such that the Initial Appearance date will be no less than 20 days of any defendant's arrest. The defendant's attendance at the Initial Appearance shall be made a condition of the defendant's release on bond by noting the requirement in Section III of Personal Recognizance Bond Form or in Section D of the Surety Bond Form.

#### B. Initial Appearance

1. The Initial Appearance shall be held at the Aiken County Judicial Center. Roll call shall be conducted, and a bench warrant may be issued for any defendant who fails to appear and has not been excused by the Chief Administrative Judge.
2. There will be no continuances of the initial appearance absent exigent circumstances.
3. Any preliminary hearing request must be made in writing on or before the initial appearance date.
4. The following issues shall be addressed at the initial appearance:
  - (a) If a defendant has retained private counsel, that attorney must file a notice of representation with the Clerk of Court and serve a copy on the Solicitor's Office on or before the date of the initial appearance.
  - (b) If a defendant has not retained private counsel and has not been appointed counsel, the defendant will be afforded the opportunity to apply for appointment of the Public Defender or other conflict appointed counsel. The Public Defender's Office shall have representatives present at the initial appearance to conduct a preliminary screening. If the defendant qualifies for appointment in the preliminary screening, the Public Defender's representative shall inform the defendant that the defendant should go to the Public Defender's Office as soon as possible to pay the \$40.00 screening fee, to complete application, and to be thoroughly screened.

- (c) Any defendant not represented at the initial appearance shall be required to appear at his or her Second Appearance.
5. Whenever the Public Defender is appointed to represent a defendant, the Public Defender's officer shall assess the case for possible conflicts of interest. Upon receipt of an affidavit of conflict, the Clerk of Court shall appoint the next attorney on the conflict list and shall notify both the defendant and the attorney of the appointment.
  6. It is the intent of this Administrative Order that the Solicitors and defense attorneys exchange discovery as early as possible. Additionally, plea negotiations should commence at or before the initial appearance whenever possible.
  7. Plea offers must be communicated to a defendant at least fourteen (14) days prior to defendant's Second Appearance. A decision not to negotiate or extend a plea offer shall also be communicated to the defendant at least fourteen (14) days prior to defendant's Second Appearance.
  8. Prior to or at the initial appearance the Solicitor shall provide discovery to defendants or attorneys, of record in all cases in which the appropriate motions have been filed with the Clerk of Court and served on the Solicitor's Office.
  9. All law enforcement agencies are required to provide all existing case reports, investigative reports, incident reports, written statements and any other discovery material to the Solicitor's Office within twenty (20) days of a warrant being issued.

If the discovery material is not provided within the prescribed time, the warrant(s) may be dismissed without prejudice by the Chief Administrative Judge or his designated judicial representative.

Upon filing of the dismissal(s) the Clerk of Court shall notify the defendant, the defendant's attorney and the defendant's bondsperson that the warrant(s) have been dismissed without prejudice and that the defendant will not be required to appear at the initial appearance. Issuance of another warrant after dismissal under this section shall be permitted only upon the showing of good cause for failure to comply with the twenty (20) day deadline by the law enforcement agency to the Chief Administrative Judge or other judicial representative to whom that authority has been delegated.

10. At the Initial Appearance the case will be assigned to a 180 day track with the exceptions listed below. Deviation from the 180 day track must be approved by Order of the Chief Administrative Judge unless otherwise provided herein. Cases in which a defendant is charged with Murder, Attempted Murder, Criminal Sexual Conduct, and Criminal Sexual Conduct with Minor shall be assigned to a 365 day track. Deviation from the 365 day track must be approved by Order of the Chief Administrative Judge unless otherwise provided herein.

### C. Second Appearance

1. The Second Appearance shall be attended by Solicitors and defense attorneys. A Solicitor attending shall have sufficient information about case status for all cases on the Second Appearance list, to discuss the case with the defense attorney and the court.
2. Defendant shall announce whether the case is for plea or trial or other disposition.
3. Cases announced for guilty plea will be assigned a date and time for a plea hearing. All sentencing sheets along with any other plea documents must be completed and delivered to the Clerk of Court prior to the plea hearing.
4. Any case not announced for guilty plea will be placed on the trial docket.
5. Nothing in this Administrative Order shall prevent a case from being disposed of prior to these specified guidelines.

### D. Preliminary Hearing

1. A preliminary hearing may be scheduled at any time prior to the Second Appearance. The scheduling of preliminary hearings should be done by the office of the magistrate.
2. Preliminary hearings will be held at Aiken County Detention Center unless otherwise specified by the Chief Magistrate for Aiken County.
3. The Solicitor's Office will represent the State at all preliminary hearings.
4. Continuances of preliminary hearings should be granted in rare cases and only upon good cause shown to the Court holding the preliminary hearings.
5. Preliminary hearings shall be attended by such witnesses as required by the Solicitor's Office and as required by the law of this State.

### E. General Sessions Court Practice

1. To facilitate the implementation of this Administrative Order there is created within the Clerk of Court's Office the position of General Sessions Court Coordinator for Motions, and the position of General Sessions Court Coordinator for Trials and Guilty Pleas.
2. The General Sessions Court Coordinator for Motions (hereinafter Motions Coordinator) shall maintain a roster of Motions. The Chief Administrative Judge through the Motions Coordinator shall direct the dates for Motion hearings. All motions received at least 5

days prior to the next motion hearing date shall be included on the Motions roster for that date except for Motions that the Chief Administrative Judge determines should be heard on a different date.

3. (a) General Sessions Court Coordinator for Trials and Guilty Pleas (hereinafter Coordinator for Trials and Guilty Pleas) shall create a draft trial docket at least forty-five (45) days prior to a scheduled term of court. The Coordinator for Trials shall distribute the draft trial docket to all counsel of record so that counsel may confer and determine whether there exist circumstances that may conflict with or interfere with the disposition of a case proposed to be included on the published docket. Counsel shall notify the Coordinator for Trials and Guilty Pleas of the existence of any such circumstances as soon as practicable prior to the publishing date of the docket.

(b) The Circuit Solicitor shall have discretion in the scheduling of as many as ten defendants on a published trial docket. Cases so selected by the Circuit Solicitor shall be the first cases of the published trial docket. The Circuit Solicitor shall deliver the list of cases so selected to the Coordinator for Trials no later than thirty (30) days prior to a scheduled term of Court.

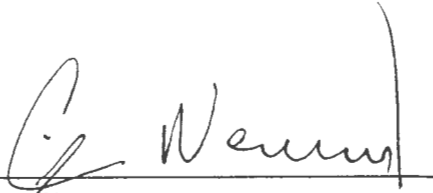
(c) After the Coordinator for Trials and Guilty Pleas has received counsels' information of special circumstances to cases on the draft docket and the list cases chosen by the Circuit Solicitor, the Coordinator for Trials and Guilty Pleas shall prepare and publish a trial docket at least twenty-eight (28) days prior to a scheduled term of court. Publication can be accomplished by Fax, U.S. Mail, hand delivery or electronic posting. It shall be the responsibility of Solicitors, defense counsel of record, and sureties on bond undertakings to monitor the status of pending cases. Defendant's attorney and sureties shall be responsible for notifying defendants and ensuring defendant's timely presence at the scheduled term of court.

(d) The Court Coordinator for Trials and Guilty Pleas shall maintain a roster of guilty pleas and shall schedule such guilty pleas at the direction of the Chief Administrative Judge.
4. The presiding Judge for each term of General Sessions Court shall make himself/herself available for the purpose of holding status conferences with reference to cases on the court docket. Counsel of record for either party may request a status conference.
5. The Chief Judge for Administrative purposes may, at his/her discretion, require a status conference or require a status report in any case(s) that has passed the deadlines provided in this Order. Status reports shall be in such form as the Chief Judge for Administrative purposes shall direct.
6. In addition to the draft docket and the published docket the Coordinator for Trials and Guilty Pleas shall create and maintain a docket for cases referred to the Pretrial

Intervention Program and a docket for cases awaiting drug analysis reports. The time requirements of this Order shall be tolled for cases on these dockets until they are transferred to either the Plea Docket or the Trial Docket.

The Chief Judge for Administrative purposes may direct the creation of other dockets as deemed appropriate.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Clifton Newman", written over a horizontal line.

Clifton Newman  
Chief Administrative Judge  
Second Judicial Circuit

Dated July 13, 2020.