South Carolina Homeless Courts

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South Carolina Constitution, Art. V §4

• Chief Justice serves as administrative head of the unified judicial system
• Chief Justice has the power to set the terms of any court and have the power to assign any judge to sit in any court within the unified judicial system
• Supreme Court makes rules governing the administration of all courts of the State
• Allows the State Supreme Court to set up alternative courts
South Carolina Access to Justice Commission:

• A creation of the South Carolina Supreme Court begun in 2007;
• Charged with identifying and resolving obstacles to access to the courts and court system.
• August 28, 2014 petitioned the S.C. Supreme Court to create a pilot homeless court in the city of Columbia;
• September 23, 2016 petitioned the S. C. Supreme Court to create a homeless court in the city of Charleston;
• October, 2016: work begun on the formation of a Greenville homeless court committee, but has not moved forward;
• Spring, 2018: a homeless court committee formed for the City of Myrtle Beach
South Carolina Access to Justice Commission (cont)

• August 14, 2018, ATJ petitions the South Carolina Supreme Court to create a Homeless Court in the City of Myrtle Beach.
• September 24, 2018, South Carolina Supreme Court approves the Homeless Court for Myrtle Beach
• November, 2018, Florence Municipal Judge Debra Jackson begins discussions about a Homeless Court for Florence
• March, 2019, Myrtle Beach holds its first Homeless Court session
• May, 2019, Spartanburg Municipal Judge Erika McJimpsey expresses an interest in a Homeless Court for Spartanburg
South Carolina Access to Justice Commission (cont)

• August 19, 2019, SC ATJ considers Florence request to form a Homeless Court

• Week of August 19: ABA trainer Steve Binder comes to Greenville, Spartanburg and Florence for training
American Bar Association Commission on Homelessness and Poverty

• Amy Horton-Newell, Executive Director

• Steve Binder, former assistant Public defender, San Diego; consultant to the ABA on homeless courts

• Jeff Yungman, George Cauthen former commissioners
ABA Basic Principles for Homeless Courts

1. Prosecutors, defense counsel and the court should agree on which offenses may be resolved in the program and approve the criteria for individual participation, recognizing that defendant participation in Homeless Court program shall be voluntary.

2. Community-based service providers should establish criteria for individual participation in the Homeless Court program and screen individuals pursuant to these criteria.

3. The Homeless Court program shall not require defendants to waive any protections afforded by due process of law.
4. All homeless Court participants shall have time for meaningful review of their cases and issues prior to disposition.

5. The process and any disposition therein should recognize defendants’ voluntary participation to improve their lives and move from the streets toward self-sufficiency, including participation in community-based treatment and services.

6. Participation in community-based treatment or services shall replace traditional sanctions such as fines, public work service and custody.

7. Defendants who have completed appropriate treatment or services prior to appearing before the Homeless Court shall have minor charges dismissed and, where appropriate, may have more serious misdemeanor charges before the court reduced or dismissed. Where charges are dismissed, public access to the record should be limited.
First Homeless Court

• San Diego, 1989
• Nontraditional courtroom
• Alternative sentencing
Columbia Homeless Court Committee

- November, 2013: Columbia city Councilwoman Tamika Isaac Devine asks Columbia City Court Chief Judge Dana Turner and George Cauthen to explore creating a homeless court for Columbia
- Committee members include Solicitor Dan Johnson, asst. Solicitor Daniel Coble, asst. Public Defender Dino Pournaras, Chief of Police Skip Holbrook, homeless advocates, service providers
- Committee members visited Homeless Courts in San Diego and Birmingham
- ABA Consultant Steve Binder provided training
Committee continued

• The Columbia Homeless Court began in January 27, 2015 conducting its very first Homeless Court Program at Transitions, a local homeless shelter in Columbia, before the Honorable Dana Turner. Columbia Homeless Court hearings have been conducted monthly since that date.

• On March 23, 2017 the first session of Charleston Homeless Court was held.

• On March 13, 2019, the first session of Myrtle Beach Homeless Court was held.
Committee continued

• Executive Committee meets quarterly to discuss current operations;
• Periodic meetings held with providers
ABA Commission policy on homeless courts, key elements:

• The Homeless Court was established by the Access to Justice Commission's petition and the September 23, 2014 Administrative Order from South Carolina Supreme Court Chief Justice Jean Toal.

• The Homeless Court is a voluntary program created to help individuals who are either currently homeless or homeless at the time charged with a criminal offense.

• The criminal offense subject to Homeless Court must fall within the agreed-upon criteria by the Solicitor’s Office in coordination and agreement with the Municipal Court Judge and the Public Defender’s Office.
elements continued:

• The Homeless Court proceedings are held outside of the traditional court room and are instead held at a local Columbia homeless shelter.

• Every homeless participant receives counsel. Provided that the applicant meets the criteria and is selected for participation, the applicant will be assigned an attorney to help manage the case either by a public defender or a pro bono attorney.

• Participation in community-based treatment or services is preferred to replace traditional sanctions such as fines, public work service and custody.
Elements continued

• Defendants who have completed appropriate treatment or serves prior to appearing before the Homeless Court may have minor charges and fines dismissed.
Entry criteria:

• A Homeless Court participant must be homeless, formerly homeless or facing homelessness as a result of the pending or past charges or bench warrants.

• The victim’s recommendation must be obtained before any qualified case can proceed. If restitution is ordered or owed to a victim, the presentation of the case must include a representation of the past or future efforts by the defendant to pay restitution.
Entry criteria continued

• Any eligible participant must be able to prove to the Solicitor’s Office that they are receiving treatment or have received treatment and are transitioning out of a homeless lifestyle.

• The Fifth Circuit Solicitor’s Office has the sole discretion to admit or deny participation in Homeless Court. The Solicitor collaborates with the Judge to control the docket.
Offenses

- **Offenses eligible:**
  - Begging
  - Obstruction of pedestrian or vehicular traffic
  - Prohibited acts in city owned parking facilities/lots including, but not limited to: use of facilities, littering and fires
  - Soliciting on sidewalk or street

- **Offenses not eligible:**
  - Domestic Violence (DV)
  - Assault and Battery 3rd Degree
  - Driving Under the Influence
  - Felonies
  - Offenses that occur outside the City of Columbia
  - Offenses involving a victim (unless victim gives permission)
Offenses eligible, continued

• Disorderly conduct
• Disturbing the peace
• Loitering
• Drunkenness
• Possession/consumption of alcohol on public property
• Unlawful urination/defecation
• Urban camping/improper use of public place
Step One:

- Applications are sent to the Fifth Circuit Solicitor’s Office and the Columbia Municipal Court.
- An applicant may apply directly or be referred by his or her defense attorney, members of the public, law enforcement, any judge and/or service providers.
Step two:

• Upon notice of the application, the Municipal Court Homeless Court Clerk shall search the records of the Municipal Court to determine whether the applicant has pending charges, cases with outstanding fines or unserved sentences, unserved bench warrants and/or any other open matter(s).

• If the Homeless Court Clerk finds any additional cases pertaining to the Defendant, the Municipal Court shall hold those matters in abeyance until such time as a decision is made whether the Defendant qualifies for Homeless Court.
Step three:

• Upon receipt of the application and information from any service provider(s) or other sources, the Solicitor shall review the same and approve or reject the application.

• If the applicant is rejected, then the applicant’s attorney may provide information to the Solicitor in reconsideration of rejection.

• If the Solicitor determines that the case is not appropriate for Homeless Court, the Municipal Court is notified to reschedule the case on the Municipal Court docket.

• Notification will also be provided to law enforcement/the arresting officer, the defendant, defense counsel, victim(s) and any other relevant party.
Step Four:

• If the defendant’s application is approved, the Solicitor shall notify the defendant and/or his counsel, the Homeless Court Coordinator and the Homeless Court Clerk that the case is approved for Homeless Court.

• If the defendant is *pro se*, then the Municipal Court shall appoint defense counsel (Fifth Circuit Public Defender), who is then notified that his client is approved for participation in Homeless Court. The Homeless Court Clerk shall advise the defense counsel of any other pending matters known to the Municipal Court.
Step Five:

- Defense counsel shall meet with client to discuss the pending charges as well as any additional outstanding matters pending or unresolved with the Municipal Court.
Step Six:

• Once applicant is approved, the case is “staffed” at the Solicitor’s Office. Attendees shall include the Solicitor or his representative, the defendant, defense counsel and the service provider(s) or their designee(s). The purpose of the staffing is that the parties exchange information relevant to the charges before the court, the defendant’s treatment and a final resolution of the charges. The Solicitor and defense counsel shall discuss an appropriate recommendation to the Homeless Court Judge, which may include, but is not limited to 1) a sentence of time served; 2) dismissal of fines and/or court costs; 3) vacating pending bench warrants; and/or 4) dismissal of charge(s).
Step Seven:

• Following the staffing conference, the Solicitor and defense counsel shall advise the Homeless Court Judge of any proposed plea agreement, which the Judge has the discretion to accept or reject. A date certain shall be scheduled on the Homeless Court docket.

• If a plea agreement cannot be reached, the Homeless Court Clerk shall notify the parties of the removal of the matter(s) from the Homeless Court docket and shall schedule a court date on the Municipal Court criminal court docket or another appropriate docket within the Municipal Court’s jurisdiction.
Step Seven continued:

• The Solicitor, defendant, defense counsel and any Service Providers are required to attend Homeless Court.

• Police officers and/or victims (or representatives of victims) may attend but are not required to be present or participate.
Keeping it fresh

• The Homeless Court of March 2020 will look different than the Homeless Court of March 2019, it will be better
• Keep records on Homeless Court cases
• Columbia Homeless Court Executive Committee (Judge, Solicitor, Public Defender and Cauthen) meet quarterly to share feedback, problems, new ideas
• Plan on all SC Homeless Courts to meet once a year to do the same
• Meet once a year with service providers
• Keep current with ABA
Dedicated:

• To Claude Scarborough, who once was homeless