



RESOLUTION OF THE SOUTH CAROLINA ACCESS TO JUSTICE COMMISSION

Certificate of Action Taken by Consent

December 11, 2023

The members of the South Carolina Access to Justice Commission consent to adopt and take the following resolutions as the action of the Commission:

Establishment of a Homeless Court Program in Greenville

WHEREAS the Commission recognizes that certain members of the homeless population in South Carolina are in need of rehabilitative services and treatment for physical and mental health and to treat substance use disorders, and

WHEREAS the Commission recognizes that certain members of the homeless population in South Carolina have been charged with, and carry convictions for, minor criminal offenses within the jurisdiction of the City of Greenville, and

WHEREAS the Commission recognizes that the adjudication of these minor criminal offense can, at times, prevent the proper administration of justice specific to this segment of our state's homeless population and does not fully promote the necessary rehabilitation and treatment they need, and

WHEREAS the Commission recognizes that there is a significant need to provide rehabilitation and treatment to certain members of the homeless population in Greenville and that the establishment of a specialty Homeless Court program will meet this need and will promote the administration of justice in the City of Greenville, and

WHEREAS the Commission has supported the establishment of Homeless Court programs in a number of other cities in South Carolina, including Columbia, Charleston, Myrtle Beach, Florence, Spartanburg, and Rock Hill.

THEREFORE BE IT RESOLVED, that the Commission supports the establishment of a Homeless Court program in Greenville, and recommends that the Supreme Court of South Carolina establish such a program to adjudicate minor criminal offenses against qualifying homeless participants according to the attached criteria proposed by the program partners in Greenville, and as may be modified at a later date.

The above resolutions are taken by a majority of the members of the South Carolina Access to Justice Commission as of December 11, 2023.

City of Greenville Municipal Court Homeless Court Program (“HCP”)
Participation Criteria and Processes

I. Program Purpose and Goal

The City of Greenville Municipal Court Homeless Court is a voluntary program intended to help individuals who are either: (1) currently homeless, (2) were homeless at the time charged with a criminal offense, or (3) facing homelessness as a result of pending criminal charges, who meet the criteria for Homeless Court participation. The purpose of the Homeless Court is to encourage participants to receive and complete treatment and rehabilitation programs as consideration for the possibility of dismissal of pending charges, suspension of fines associated with a criminal offense, expungement of arrest information from the public record and, in some cases, the opening and expungement of a previous criminal conviction.

II. Admission Criteria and Screening Process

1. A person is considered “homeless” for purposes of the Homeless Court Program (HCP) if he or she experienced homelessness in the calendar year immediately preceding arrest on pending municipal court charges, is currently homeless, or faces homelessness as a result of pending charges. A person may qualify for admission to HCP if he or she faces eviction or cannot secure housing because of past Greenville Municipal Court charge convictions or bench warrants.
2. The Office of the City Prosecutor for Greenville Municipal Court and/or The City Attorney’s Office or his or her attorney designee shall screen all applicants for the HCP and has the discretion to admit or deny participation in the HCP. No individual may participate in the HCP without authorization and consent of the City Prosecutor or an attorney with the City Attorney’s Office.
3. Criminal charges, convictions or bench warrants that are not pending and/or did not originate in the Greenville Municipal Court may be adjudicated along with qualifying Greenville Municipal Court charges, convictions or bench warrants by consent of the participant and the prosecuting agencies with jurisdiction over the non-Greenville Municipal Court offenses. The Greenville Municipal Court does not have jurisdiction to enter dismissals, orders to recall convictions or orders lifting and/or withdrawing bench warrants on non-Greenville Municipal Court offenses.
4. The Court will look to law enforcement, service providers, defense attorneys and City of Greenville staff members to identify potential candidates for HCP and assist in the submission of applications for participating in HCP.
5. The ideal candidate is an individual who is actively receiving services and/or treatment and is making progress towards their goals but has criminal convictions or charges that are posing barriers to employment and housing.

6. An individual charged with an offense within the Municipal Court's jurisdiction who is homeless as defined above is eligible for HCP, with some exceptions. The following offenses are not eligible for diversion programs per state law:
 - Driving Under the Influence/DUAC (Driving with Unlawful Alcohol Concentration)
 - Domestic Violence – any degree
7. Individuals charged with violent offenses such as assault and battery or crimes against persons such as harassment or with convictions for such offenses are presumed to be ineligible for HCP. Should facts and circumstances exist that the City Prosecutor or City Attorney or any designee determine that, though charged or previously convicted of violent offenses, the individual has demonstrated a degree of rehabilitation, is seeking treatment or services related to the violent offenses, or otherwise demonstrates that he or she is a good candidate for HCP, and the Municipal Court Judge consents, that individual may be admitted to the program. Per the Crime Victim's Bill of Rights, victims must also be consulted prior to an individual being referred to HCP and, if requested by the victim, must be notified of all court dates related to the offense in which they are a victim. Evidence relied upon to admit an individual with a pending violent offense or convictions shall be documented and included in the files of the prosecutor and court to the extent permitted by law.
8. **Anticipated Court Process:**
 - a. Participant makes application to the HCP through service provider or legal counsel.
 - b. The City Prosecutor/Attorney, defense counsel and participant agree to participation in the program.
 - c. Participant is introduced at the first Homeless Court session following admission to the program or at a Homeless Court session agreed upon by the court, participant, city attorney and any counsel for the participant.
 - d. Participant, defense counsel and providers will provide monthly status updates during Homeless Court sessions as the participant progresses through treatment/service provider goals.
 - e. Once the participant meets all goals and completes all conditions of the program, the Court will determine the adjudication of any pending charges, whether to suspend any fines, or reopen and expunge prior convictions at the recommendation of the City Prosecutor and defense counsel, if any.
 - f. There will be a role for defense counsel's legal services in assisting participants with resolving civil issues contributing to homelessness and/or unemployment such as identification, driver's licenses, evictions, government benefits, and other civil matters.
 - *Service Providers are encouraged to look out for these issues as well to help connect the participant to the appropriate resource.

- g. As the HCP is established and progresses, it is foreseeable that some of the criteria for admission and program processes will need to be reevaluated and may change. All stakeholders and participating entities shall conduct a review of the HCP processes after holding 6 months of court and again 1 year following establishment of the program. It shall be the responsibility of the Court to update these Program Criteria and Process and publish and distribute the updated document.

Jurisdiction of the Court

1. This program will be established in the City of Greenville, South Carolina Municipal Court creating a Homeless Court for minor criminal offenses properly filed and subject to jurisdiction and venue in the City of Greenville Municipal Court, or properly transferred to the City pursuant to §15-7-100 of the South Carolina Code of Laws.
2. In addition to his other duties, Chief Municipal Judge Matthew Hawley will preside over the Greenville Homeless Court. Judge Hawley may name successor judges as appropriate.
3. Upon a homeless participant's successful completion of the program, the Greenville Homeless Court Program will notify the Municipal Court. If a homeless participant fails to complete the program, or voluntarily withdraws, the participant's criminal charges will be referred back to the Municipal Court for disposition.