CHAPTER 48

Community Corrections Incentive Act

**SECTION 2‑48‑10.** State and local corrections and incarceration needs.

 (A) A need exists for careful planning to expand local detention and correctional facilities to enable local governments adequately to incarcerate offenders who are awaiting trial or serving sentences of imprisonment at the local level. At the same time, South Carolina faces a critical need for more prison space to accommodate the projected increase in the inmate population. At a time when the state's prisons are becoming increasingly overcrowded, budgetary resources are becoming more limited and the future availability of capital improvement bonds for more prison construction is uncertain.

 (B) To ensure that adequate space is available in state corrections facilities for violent and habitual offenders, a need exists for additional community correctional facilities to enable courts to sentence nonviolent offenders to these less costly community correctional facilities which enable the offenders to make restitution payments and otherwise compensate the community for their crimes and which require participation in programs emphasizing substance abuse, education, and mental health counseling.

 (C) The need exists for South Carolina to create a plan from which the State can establish a partnership with local governments to meet the corrections and incarceration needs of local governments and the State by offering less costly facilities for housing state and local inmates in alternative sentencing programs.

HISTORY: 1995 Act No. 7, Part II, Section 39.

**SECTION 2‑48‑20.** Authority to contract for housing and care of inmates; authority to construct community correctional facilities.

 (A) The Department of Corrections and a county, a municipality, another local governmental entity, or a multi‑jurisdictional entity may enter into contracts for the incarceration of state, county, or municipal jail inmates and all services necessary, appropriate, or incidental to the housing and care of the inmates.

 (B) The Department of Corrections, with the approval of the governing body of the local or multi‑jurisdictional entity provided in subsection (A), may construct, contract to have constructed, or fund all or a portion of the construction costs associated with community correctional facilities for alternative sentencing programs within a municipality, county, or multi‑jurisdictional region if the General Assembly appropriates the necessary funds.

HISTORY: 1995 Act No. 7, Part II, Section 39; 2001 Act No. 50, Section 1.

**SECTION 2‑48‑30.** Local governmental entity to provide land for community correctional facility; construction costs; equipment costs; construction of facility.

 (A) Before construction of a community correctional facility by the Department of Corrections pursuant to Section 2‑48‑20, tracts of land suitable for the construction of community corrections facilities must be provided by the county, municipality, or other local governmental or multi‑jurisdictional entity involved. The title of the lands provided must be conveyed to the State of South Carolina. Upon the acquisition of the land in the name of the State, the Department of Administration has the authority to convey the land to the Department of Corrections for the erection and construction of the facilities. The original construction costs and necessary equipment costs for the facilities must be paid by the State. These facilities must be constructed to the extent possible by utilizing inmate labor as determined appropriate by the Director of the Department of Corrections. When circumstances warrant, the Department of Corrections may contract for the construction of these facilities. Legal title to the facilities must be transferred to the State of South Carolina, as set forth in this chapter, and the facilities are the property of the Department of Corrections.

 (B) The Department of Corrections may contract with a county, municipality, or other local governmental or multi‑jurisdictional entity to fund all or a portion of the construction costs associated with a community correctional facility if the appropriations are provided by the General Assembly. All other provisions of Chapter 48 and all other applicable statutes apply in respect to this contractual arrangement, except that the title to the land and the title to the facilities are not transferred to the State of South Carolina and neither the land nor the facilities shall become the property of the Department of Corrections.

HISTORY: 1995 Act No. 7, Part II, Section 39; 2001 Act No. 50, Section 2.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 2‑48‑40.** Purpose of community correctional facility

 The construction of community correctional facilities, as authorized pursuant to this chapter, provides the courts with a less costly alternative to committing offenders to more secure state correctional institutions and assists in the supervision and rehabilitation of drug and alcohol and other nonviolent offenders, who can be incarcerated safely in community correctional facilities. The facilities may be used for furthering the reintegration of offenders into the community before their release. Facilities established pursuant to this chapter must be available as a means of providing sentencing alternatives for persons sentenced to incarceration in a state correctional facility. However, upon the approval by the Director of the Department of Corrections, the facilities may be made available to persons who otherwise would be sentenced to incarceration in a jail of the county, municipality, other local governmental, or multi‑jurisdictional entity involved, if the inmates do not displace state inmates from participating in the programs.

HISTORY: 1995 Act No. 7, Part II, Section 39.

**SECTION 2‑48‑50.** What constitutes community correctional facility.

 Community correctional facilities constructed pursuant to this chapter may include:

 (1) work camps or other minimum security facilities to house offenders who are assigned under Section 24‑13‑660 or 24‑13‑910;

 (2) minimum security or nonsecure facilities to house former probationers who have violated the terms or conditions of their probation;

 (3) minimum security or nonsecure residential drug treatment facilities to house nonviolent drug offenders who are required to reside in them while receiving outpatient substance abuse treatment and working or attending school;

 (4) minimum security or nonsecure facilities to house persons who are required to reside in them while working to make restitution.

HISTORY: 1995 Act No. 7, Part II, Section 39.

**SECTION 2‑48‑60.** Contract with local entity required for construction of facility; terms of contract.

 Before the construction of a community correctional facility, as authorized pursuant to this chapter, the Department of Corrections shall establish a contract with the involved municipality, county, other local governmental entity, or multi‑jurisdictional entity by which the involved local governing body agrees to:

 (1) operate and manage the community correctional facility in accordance with the Minimum Standards for Local Detention Facilities in South Carolina;

 (2) provide for the treatment, care, maintenance, employment, and rehabilitation of inmates in the community correctional facility. The municipality, county, other local governmental entity, or multi‑jurisdictional entity may be reimbursed for the cost of caring for each state inmate as provided by contract. The contract also must:

 (a) allow the governing body of the municipality, county, other local governmental entity, or multi‑jurisdictional entity to rescind the contract by notification of its intention to rescind the contract at the beginning of the fiscal year. The recision is effective beginning the following fiscal year;

 (b) provide that upon recision, the operation and management of the facilities constructed pursuant to this chapter and the care of the state inmates located at that facility revert to the Department of Corrections;

 (c) provide that all inmates under the jurisdiction of the municipality, county, other local governmental entity, or multi‑jurisdictional entity who are incarcerated at that facility must be returned to the custody of their respective governmental entities.

HISTORY: 1995 Act No. 7, Part II, Section 39; 2001 Act No. 50, Section 3.

**SECTION 2‑48‑70.** Application of applicable zoning laws or regulations not preempted

 This chapter does not preempt application of applicable zoning laws or regulations.

HISTORY: 1995 Act No. 7, Part II, Section 39.

**SECTION 2‑48‑80.** Legal custody of state inmates assigned to community correctional facility.

 Legal custody of state inmates assigned to a community correctional facility is in accordance with Section 24‑3‑30.

HISTORY: 1995 Act No. 7, Part II, Section 39.