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Indicates New Matter

The House assembled at 12:00 noon.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Proverbs 1:1-3: “The proverbs of Solomon, son of David, the King of Israel; for attaining wisdom and discipline; for understanding words of insight; for acquiring a disciplined and prudent life.”

Let us pray. Almighty God, we thank You for coming to us in Your Word and by instructing us in the best way of life. Direct these Representatives and staff, that they may adhere to Your instructions and be the right leaders for this State. Guard and guide each to do Your will. Bless our Nation, President, State, Governor, Speaker, and all who serve in these Halls of Government. Protect our defenders of freedom at home and abroad as they protect us. Hear us, O Lord, as we pray. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of Friday, the SPEAKER ordered it confirmed.

**MOTION ADOPTED**

Rep. HORNE moved that when the House adjourns, it adjourn in memory of Barbara Blanton of Summerville, which was agreed to.

**REPORT RECEIVED**

The following was received:

Findings of Fact

Memorandum To: Clerk of the House

Clerk of the Senate

Re: Committee Hearings - May 13, 2010

The Committee to Screen Candidates for Boards of Trustees of State Colleges and Universities finds the following candidates for Boards of Trustees qualified. Background reports from the State Law Enforcement Division show no felony charges against any of the candidates.

**University of South Carolina**

11th Circuit Mr. Brad Covar

Mr. Bill Dukes

Mr. Hugh Rogers

Mr. Thad Westbrook

Respectfully submitted,

Senator Jake Knotts, Chairman Rep. Joan Brady, Vice-Chairman

Senator Thomas Alexander Rep. Lanny F. Littlejohn

Senator Harvey Peeler, Jr. Rep. David Mack

Senator Yancey McGill Rep. Bill Whitmire

COMMITTEE TO SCREEN CANDIDATES

FOR BOARDS OF TRUSTEES

OF STATE COLLEGES AND UNIVERSITIES

Thursday, May 13, 2010

9:00 a.m. - 9:54 a.m.

The meeting was conducted on May 13, 2010 at 433 Blatt Building, Columbia, South Carolina, before Lisa F. Huffman, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Senator Jake Knotts, Chairman

Representative Joan Brady, Vice Chairman

Senator Thomas Alexander

Senator Harvey Peeler, Jr.

Senator Yancey McGill

Representative Lanny Littlejohn

Representative David Mack

Representative Bill Whitmire

Also Present: Sophia Derrick

Thursday, May 13, 2010

CHAIRMAN KNOTTS: Thank you. Good morning everybody. I'm going to call this screening committee together for boards and commission. And starting with my left and let everybody introduce themselves.

REPRESENTATIVE WHITMIRE: Thank you, Mr. Chairman. I'm Bill Whitmire and I am a representative from Oconee County District 1.

REPRESENTATIVE MACK: I'm David Mack, III, State Representative out of Charleston County.

REPRESENTATIVE LITTLEJOHN: Lanny Littlejohn. I represent Spartanburg and Cherokee Counties.

CHAIRMAN KNOTTS: I'm Jake Knotts, representing Lexington.

SENATOR ALEXANDER: Thomas Alexander, Senator District 1, Oconee and Pickens.

SENATOR PEELER: I'm Harvey Peeler. Senator District 14, Cherokee, Spartanburg, Union, and York.

SENATOR MCGILL: Yancey McGill, District 32, Florence, Georgetown, Horry, and Williamsburg.

CHAIRMAN KNOTTS: Y'all don't have to sit on the back row. We're not going to bite you here.

SENATOR PEELER: And they're all Baptists.

CHAIRMAN KNOTTS: Are you all Baptists? Welcome. First of all, I'd like all the candidates that are going to be screened today to please stand and raise your right hand. We have four candidates standing. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

CANDIDATES: I do.

CHAIRMAN KNOTTS: Okay. Thank you. For the remainder of this screening process, you all are considered sworn in. Okay? The first person to be screened is Brad Covar.

MR. COVAR: Yes, sir.

CHAIRMAN KNOTTS: Mr. Covar, would you come forward, please?

MR. COVAR: Here or?

MS. DERRICK: Right there.

CHAIRMAN KNOTTS: Right there at the podium.

MR. COVAR: Okay. Thank you.

CHAIRMAN KNOTTS: Just going to ask you a few general questions and then I'll have staff cover some of the background that we've -- clearance that we've gotten. Mr. Covar, do you have any interests professionally or personally that would present a conflict of interest because of your service on the board?

MR. COVAR: No, sir.

CHAIRMAN KNOTTS: Do you now hold any public position of honor or trust that if elected would cause you to violate this dual office-holding clause of the constitution of this State?

MR. COVAR: I believe I do, sir. I serve on the Board of Trustees in Edgefield County School District. And should I be elected to this position, I would resign from that position.

CHAIRMAN KNOTTS: Okay. Any questions from any of the members? Okay. If your seat is determined by congressional district or judicial circuit, do you reside at the address on your driver's license, voter registration, and property tax residence statement or on a full-time basis in the district?

MR. COVAR: I do, sir.

CHAIRMAN KNOTTS: Okay. Do you understand that you are prohibited from seeking a commitment until 48 hours after the release of the committee's report?

MR. COVAR: I do, sir.

CHAIRMAN KNOTTS: Have you asked for any commitments or sent any letters or anything like that out which would actually ask someone to vote for you or have you asked someone to call on your behalf to get a commitment to vote for you?

MR. COVAR: No, sir. I have not.

CHAIRMAN KNOTTS: Okay. I'm going to ask staff to go over the background check that we have completed.

MS. DERRICK: The background report from SLED shows no felony charges against the candidate and no civil or criminal judgments have been found against the candidate either.

CHAIRMAN KNOTTS: The background check and driver's license are matched up?

MS. DERRICK: All clear. Nothing is found except a ticket.

CHAIRMAN KNOTTS: Huh?

MS. DERRICK: That all is clear. Nothing is found against the candidate.

CHAIRMAN KNOTTS: That's what we want to hear every time. Does it show any arrests at all?

MS. DERRICK: No.

CHAIRMAN KNOTTS: Okay. Thank you. If you would briefly tell us why you're seeking this position and what you could do for the University of South Carolina if elected.

MR. COVAR: Alright. I have a short statement and I've already provided you with some information and background. But Mr. Chairman, I want to thank you and the members of the committee for letting me be here this morning. I'd also like to thank my fellow trustee candidates. I'd say it has been a pleasure to get to know each of you over the last four weeks.

I would also like to offer my condolences to the family of Mr. Michael Mungo, whose untimely death is the reason we're all here today. Though I did not know Mr. Mungo personally, I am aware of his countless contributions to the University of South Carolina. Mr. Chairman, I'm here today for several reasons. Like all my fellow candidates, I love my alma mater. I have a genuine desire to help shape the future of the University of South Carolina.

I believe my professional background as a self-employed, certified public accountant, my 18 years of service on the Edgefield County School Board dealing with education issues, and my life experiences in a small town in rural South Carolina not only qualify me for board service, but also give me a unique perspective on higher education in general. My wife and I know first-hand what parents go through trying to save and pay for college. Our oldest daughter, Christina, graduated from USC Columbia last Saturday. Our second child heads off to college this fall. And in two short years, our third child starts college.

As a school trustee, I have worked to ensure our precious funds are spent wisely. Given the current economic client, every dollar spent must be justified. And every program implemented must be reviewed to weigh the cost benefit. Tuition increases should only be considered after all other options have been exhausted. Let me say this in closing: We're all in this together.

Administration officials, board members, and legislators must work together to provide our college students the very best education possible at a reasonable cost. Thank you, Senator.

CHAIRMAN KNOTTS: Okay. Any member of the committee have any questions?

SENATOR PEELER: Mr. Chairman, if there are no questions, I move for favorable report.

CHAIRMAN KNOTTS: Okay. I have a favorable report. Any second?

REPRESENTATIVE WHITMIRE: Second.

REPRESENTATIVE MACK: Second.

CHAIRMAN KNOTTS: Second. Any discussion?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: All in favor say, "Aye".

COMMITTEE: Aye.

CHAIRMAN KNOTTS: All opposed?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Let it be known that it was unanimously approved. Mr. Covar, I want to again remind you until 48 hours after the report is released, you are not to ask for a commitment, call someone to ask on your behalf for a commitment, or it can bring you some problems in being disqualified.

MR. COVAR: I understand, sir.

CHAIRMAN KNOTTS: Okay?

MR. COVAR: Thank you.

CHAIRMAN KNOTTS: Thank you. Next is Mr. Bill Dukes.

MR. DUKES: Good morning, everyone.

COMMITTEE: Good morning.

MR. DUKES: Thanks for giving me the opportunity to be here. And again, I have enjoyed dealing with my fellow candidates. Currently, I am available for any questions that you may have.

CHAIRMAN KNOTTS: Okay. Mr. Dukes, we got some questions for you and would like for you to answer them. Do you have any interests professionally or personally that would present a conflict of interest because of your service on the board?

MR. DUKES: No, sir.

CHAIRMAN KNOTTS: Are you a member of the airport commission?

MR. DUKES: That's correct.

CHAIRMAN KNOTTS: Okay. Do you now hold any public position of honor or trust, that if elected, would cause you to violate the dual office-holding clause of this constitution?

MR. DUKES: Yes, sir. The airport commission.

CHAIRMAN KNOTTS: Okay. And how would you handle that?

MR. DUKES: I would resign.

CHAIRMAN KNOTTS: If your seat is determined by congressional district or judicial circuit, do you reside at the address on your driver's license, voter registration, and property tax residency statement on a full-time basis?

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: In the district?

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: Do you understand that you are prohibited from seeking commitment until 48 hours after release of the committee's report?

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: Okay. Have you written any letters, asked anyone on your behalf or you personally asked -- you asked anyone for a commitment to vote for you for this board seat?

MR. DUKES: (Shakes head.)

CHAIRMAN KNOTTS: Is that a "no"?

MR. DUKES: No, sir.

CHAIRMAN KNOTTS: Okay. All right. Mr. Dukes, go ahead and tell the committee why you want to serve on its board and what you bring to the table to help the University of South Carolina.

MR. DUKES: Yes, sir. Currently the USC board composition does not reflect the diverse professions of its graduates. Only five of the current 17 trustees represent the business profession. My election would bring needed business expertise to the board. I have had the opportunity to serve USC on the education foundation for six years.

And I also was responsible for leading the effort to bring the completion of the arena and the convention center project to this area, the Vista, on behalf of the University and also on behalf of this greater community. That was done as a result of efforts to build consensus among six governmental entities. And we were able to do that and have successful effort at that. I've also had the opportunity over the past 8 and a half years to serve as a member of the Board of Trustees of Newberry College, which is a Lutheran denomination school, private school. And we've had -- probably experience many issues and I believe that those experiences will well qualify me to serve on this board.

At this time, our university is facing major issues including funding, cost containment, and increasing cost of tuition. We must ensure USC is portable and accessible to all South Carolinians. Thank you very much, again, for the opportunity and if there are any questions, I'll be happy to answer them.

CHAIRMAN KNOTTS: Okay. At this time, I'd like to ask staff to give us a report on his SLED report, his driver's license, his credit report, or any other report that you might have for us.

MS. DERRICK: The background report from SLED showed no felony charges against the candidate or no charges on his driving record. There were no criminal or civil judgments out against him.

CHAIRMAN KNOTTS: Okay. Any questions from any of the members?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Mr. Dukes, there has been some publications sent out since then, since signing up and would you clarify some of what those publications were and what the intentions of those publications were for the record?

MR. DUKES: What kind of publications, sir?

CHAIRMAN KNOTTS: The publication where you did a big cover -- a card that was sent out.

MR. DUKES: Oh, resume?

CHAIRMAN KNOTTS: No. It was about World War II veterans and things you had done.

MR. DUKES: Oh, yes, sir.

CHAIRMAN KNOTTS: And all I know -- any emails that you have sent out. Tell us what the intentions of those were.

MR. DUKES: I just sent those out as a -- I have been the Chairman of Honor Flight for South Carolina for the past two years. And that is an effort to recognize our World War II veterans who are still living and giving them the opportunity to visit the World War II Memorial in Washington, D.C. And that is a part of my, you know, contribution back to my community, as would be the alternative if I had the opportunity to serve on the USC Board of Trustees. And I shared that with members of the military, persons that have been in the military in this General Assembly. And also, I sent it to some of the people in the Horry County delegation because I have volunteered and we have funded $5,000 dollars from our organization here in Columbia to provide a trip from Horry County World War II veterans in November this year.

CHAIRMAN KNOTTS: So they were not in any attempt to try to seek any commitment or --

MR. DUKES: Oh, no, no, no. No.

CHAIRMAN KNOTTS: Okay. How about emails? Have you sent out any emails to anybody asking for them to call or to contact any members of the General Assembly on your behalf?

MR. DUKES: I have. Yes, sir. I have. And in my emails, I said that I would not -- that it was not approved for them to ask for support, ask for a vote, or ask for a commitment. And after a meeting in your office, that was even further clarified.

CHAIRMAN KNOTTS: Okay.

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: Thank you, Mr. Dukes.

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: Any other questions from any of the committee?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Okay.

SENATOR PEELER: Mr. Chairman, if there no other questions, I move a favorable report.

REPRESENTATIVE BRADY: Second.

CHAIRMAN KNOTTS: I have a motion for a favorable report and a second. Any discussion? Any further discussion?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Okay. All in favor for a favorable report, raise your right hand.

COMMITTEE: (Raises hands.)

CHAIRMAN KNOTTS: Okay. Thank you. Mr. Dukes, let me further remind you that until 48 hours after the report is issued, you cannot contact anybody on your behalf and ask for a commitment for a vote. You can talk to them and tell them who you are and sit down and discuss your qualifications, but you cannot ask for a commitment. Okay?

MR. DUKES: Yes, sir.

CHAIRMAN KNOTTS: Thank you.

SENATOR MCGILL: Mr. Chairman?

CHAIRMAN KNOTTS: Yes?

SENATOR MCGILL: I'm going to have to leave because I've got a very important call to Washington. I'm going to leave my proxy with Senator Peeler for the other two candidates.

CHAIRMAN KNOTTS: That will be fine. Okay.

SENATOR MCGILL: Thank you very much.

CHAIRMAN KNOTTS: Next is Mr. Hugh Rogers. Mr. Rogers?

MR. ROGERS: Good morning, Senator.

CHAIRMAN KNOTTS: Good morning. Come forward, please. I've got a few questions I want to ask you.

MR. ROGERS: Yes, sir.

CHAIRMAN KNOTTS: First of all, do you have any interests professionally or personally that would present a conflict of interest because of your service on the board?

MR. ROGERS: No, sir.

CHAIRMAN KNOTTS: Okay. Are you a member of any other boards or commissions?

MR. ROGERS: No, sir.

CHAIRMAN KNOTTS: Do you now hold any public position of honor or trust, that if elected, would cause you to violate the dual office-holding clause of the constitution?

MR. ROGERS: No, sir.

CHAIRMAN KNOTTS: If your seat is determined by congressional district, which this is, or judicial circuit, do you reside at the address on your driver's license, voter registration, and property tax residency statement on a full-time basis in 2nd congressional district?

MR. ROGERS: Yes, sir. I live in the 11th judicial circuit and that's where I live. I've lived there a long time.

CHAIRMAN KNOTTS: Okay. All right. Do you understand that you are prohibited from seeking a commitment until 48 hours after release of the committee's report?

MR. ROGERS: I've got that down pat. Yes, sir.

CHAIRMAN KNOTTS: Thank you. Give us a report on his SLED, driver's license, credit, and civil record.

MS. DERRICK: The background reports from SLED show no felony charges against the candidate or on his driving record. And no civil or criminal judgments were filed against the candidate.

CHAIRMAN KNOTTS: Okay. If you would, please, give us the reason why you want to serve on this board and what you can do to help the University of South Carolina.

MR. ROGERS: Alright. Thanks very much. I think I have two or three reasons or more, seriously. I hope I'm not out of turn.

One of my daughters who finished Carolina is here. Aida Rogers, who's the long-term editor of Sand Lapper magazine. I think you're familiar with that edition. She's here to support me. Thank you for giving me this opportunity.

I entered the University of South Carolina 1948 as I've said in some of my handouts. The same time that Steve Wadiak came down from Chicago. I was fortunate to get through the university with an A/B degree in English and History, which I think has been put to pretty good use. And then, filed magistrate at Lexington.

I entered our law school at the University of South Carolina and was able to finish. At that time, my draft board knew exactly where I was and they grabbed me, and it was fortunate for me. I learned a new career. I stayed in after active duty in going to Korea.

I stayed in the reserves and certainly glad I did. I was incrementally elevated until the time I was separated from that, I was a Colonel. At any rate, I do believe I have some experience and some talent that I can bring to help our university which is -- it's not floundering, but we all know it's got its problems. I'm worried that the people in my circuit who want to come to college won't be able to.

In that regard, if I am elected, my office will be where it's almost always been, in the heart of Lexington under the eaves of the courthouse. People from Edgefield and Saluda and McCormick and Lexington itself can reach me. I've got plenty of parking there. I hope to be a bridge between the populous, those parents who are panicky that they won't be able to send their children to our flagship university. That's what I want to do is relate them to our institution as well as sitting on that board which, as I have mentioned, I have done in the past.

By virtue of the fact that I was the President of the general Alumni Association of USC. I think that Carolina has done a great deal to further the economic situation of our State. I believe we should strive to reach the level of the University of North Carolina, Chapel Hill while providing degree opportunities for the average good, determined student. And I think some of that Chapel Hill business is perception rather than all reality, but it's something for us to strive for.

Dr. Sorenson, while president, reached out to Clemson, to MUSC, and the larger South Carolina hospitals to seize the potential in the health industry; if successful, South Carolinians benefit by living healthier lives. And the workers in that field enjoy higher earnings. It's the cluster concept that we all know about and we all want to push it. The knowledge economy is important.

It's real and it should be pursued. But Innovista requires careful, constant attention as it appears to be our problem child today. And we have more than one problem child. And then to be, it's continually upward movement of tuition. Carolina, every year, sends out educated graduates into virtually all our communities.

These alumni teach, cure, plan, engage, demonstrate, and compete and lead our populous to a better life. Lawyers, engineers, and scientists all improve the standard of living and the quality of life. And they promote civility. That's something sorely needed today. And now we're in the 21st century.

Our school of arts and sciences equip students for important life work in over 124 fields of study. Our grads have to compete worldwide. I believe the humanities equips students, undergraduate and graduate, to communicate, thereby making useful the important knowledge they gained at USC. As I say, I started with Carolina in 1948.

We had 5,000 students on campus. And today, just at Columbia, we have 27,000 thereabouts. And, of course, we have the state-wide system. That's a lot of people. And I say hopefully the professors now are still teaching the truth to the best of their ability, still inspiring students to tackle the hard assignments.

In producing mature men and women who can lead and succeed anywhere in the world. I am not a member, as I testified, on any other trustee board, so there would be not only no conflict, but not even any influence for my time and whatever talent I might have. I believe being located where I am, the people can find me. And if I need to find you ladies and gentlemen on the legislature, in the legislature, I can do that. But it's a plus for the populous to be able to find their circuit trustee closer to where they live.

I served on the board before. I didn't get kicked off. I hope I'll have that opportunity to serve again. And I thank you very much.

CHAIRMAN KNOTTS: Do we have any questions from any members of the committee?

SENATOR WHITMIRE: Senator?

CHAIRMAN KNOTTS: Yes, sir.

SENATOR WHITMIRE: Mr. Rogers?

MR. ROGERS: Yes.

SENATOR WHITMIRE: I'm going to vote to confirm you even though Wadiak beat the heck out of Clemson several times.

MR. ROGERS: Be careful about that, sir. I appreciate it.

CHAIRMAN KNOTTS: Any other members?

SENATOR ALEXANDER: Favorable report.

CHAIRMAN KNOTTS: I have a move for a favorable report by Senator Alexander. Do I have a second?

REPRESENTATIVE MACK: Second.

CHAIRMAN KNOTTS: I have a second by Representative Mack. Any further discussion?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Be no discussion. All in favor raise your right hand.

COMMITTEE: (Raise hands.)

CHAIRMAN KNOTTS: All opposed?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Let it be known that it was unanimous. Do we have a proxy vote?

SENATOR PEELER: Yes, Senator McGill's proxy.

CHAIRMAN KNOTTS: Senator McGill's proxy is favorable.

SENATOR PEELER: (Affirmative.)

CHAIRMAN KNOTTS: Okay. Mr. Rogers?

MR. ROGERS: Yes, sir.

CHAIRMAN KNOTTS: I just want to advise you as I have the others. Until 48 hours after the report of this committee is released, you cannot ask or seek any seat to get a commitment by yourself or have anyone on your behalf seek a commitment from any member of the legislature until 48 hours after. That means you can talk to them, tell them your qualification, but you cannot ask or seek a commitment until 48 hours after.

MR. ROGERS: Forty-eight hours, sir.

CHAIRMAN KNOTTS: Yes, sir, 48 hours after the release of this report. This report will not be released today.

MR. ROGERS: Yes, sir.

CHAIRMAN KNOTTS: You'll be notified by staff of the time that we're going to have it on the desk of the legislators. They got 48 hours to review before you can ask them.

MR. ROGERS: I understand.

CHAIRMAN KNOTTS: Okay. Thank you.

MR. ROGERS: Thank you.

CHAIRMAN KNOTTS: Next Mr. Thad Westbrook.

MR. WESTBROOK: Good morning.

CHAIRMAN KNOTTS: Good morning, Mr. Westbrook. I got a few questions to ask you. Do you have any interests professionally or personally that would prevent a conflict of interest because of your service on the board?

MR. WESTBROOK: I do not.

CHAIRMAN KNOTTS: Do you now hold any current position of honor or trust, that if elected, would cause you to violate the dual office-holding clause of the constitution?

MR. WESTBROOK: Yes, sir. I do. I serve on the Board of Directors for Lexington Medical Center, which is the health service district appointed by our county council. And if elected to the board of trustees, I would resign from that hospital board.

CHAIRMAN KNOTTS: Okay. If your seat is determined by judicial circuit or congressional district, do you reside at the address on your driver's license, voter registration and property tax residency statement on a full-time basis in the district?

MR. WESTBROOK: Yes, sir. I do.

CHAIRMAN KNOTTS: Do you understand that you are prohibited from seeking a commitment until 48 hours after release of the committee's report?

MR. WESTBROOK: Yes, I do.

CHAIRMAN KNOTTS: And you cannot ask anyone on your behalf to seek a commitment for you on your behalf?

MR. WESTBROOK: Yes, sir.

CHAIRMAN KNOTTS: Thank you. Staff, give us a report on this.

MS. DERRICK: The background report from SLED shows no felony charges against the candidate, no charges on his driver's license. There are no civil or criminal judgments found against the candidate, either.

CHAIRMAN KNOTTS: Okay. Mr. Westbrook, if you would tell the committee why you want to serve on the USC board and what you bring to the table that you feel could benefit the citizens and also the school.

MR. WESTBROOK: Thank you, Mr. Chairman. And good morning. And good morning to the members of the committee. Thank you for this opportunity for me to talk about my interests in serving on the USC Board of Trustees. I decided to run for the board of trustees because I believe in the mission of the university. I believe that if I serve on the board, I can help advance the university to fulfill its mission.

As you know, the mission of the university is to educate the diverse citizens of our State through teaching, through research and creative activity and through service. And the University of South Carolina being the flagship school has a significant responsibility to train the leaders for tomorrow in South Carolina. To help make progress on social issues and develop research and technology that benefits our state. I believe the board of trustees has the responsibility to provide the education to students that is affordable and accessible to South Carolinians. And in doing so and in looking at programs, you know, I believe the board needs to exercise physical discipline and to be good stewards of the university's resources.

I am a product of the University of South Carolina. I graduated from the Honors College and from the law school. After law school, I clerked with federal Judge G. Ross Anderson, Jr. for a year. And I'm now in private practice as an attorney with Nelson Mullins. As an attorney in my firm, I am chairman of our firm's recruiting committee, and I also serve on the diversity steering committee for our firm.

I'm active in the South Carolina Bar. In particular, I proudly serve on Supreme Court's Committee on Character and Fitness, which is a committee appointed by our State Supreme Court. I live in Lexington with my wife and three children and I do have some other board experience I think is helpful. And it helps give me unique experience to come do this job. I served for two years on the Board of Visitors for the Medical University of South Carolina.

I've also served for the past 4 years on the Board of Visitors for the University of South Carolina. And I've been vice chairman of that board for two years. Those board experiences have helped me gain an understanding of the issues of providing our universities and colleges in South Carolina and that's the experience that I think I can take with me to the board of trustees to be proactive and entrusting issues there. I also want to note that I serve on the Lexington Medical Center Hospital Board. I've been there for 8 years.

I'm now in my third year as chairman of that board. Lexington Medical Center is a $525 million-dollar operation with more than 5,200 employees. It's the third largest employer in the Midlands. I take my job very seriously there. I've never missed a board meeting in 8 years.

I'm very proactive in addressing the issues that are facing the board. And also, being involved in the health care industry and with the university having a medical school, a nursing school, a school of public health, a pharmacy school I bring a certain level of understanding to the board in addressing those types of issues. I'll tell you when I became chairman, there were some issues regarding the Lexington Medical Center. We had ongoing certificate of need disputes with other hospitals.

And I decided as chairman, that that was not good business for the hospital, it was not good for the patients in the midlands. And so, I became very proactive and worked hard to resolve those issues. Last year, we resolved our issues with Providence Hospital. And in fact, at the end of last year, our hospitals joined together in a joint application to DHEC for a certificate of need in collaboration with each other. This month, we resolved our issues for Palmetto Health.

Now, today, Lexington Medical Center has no ongoing disputes with another hospital. The reason I tell you that, is because I believe as a member of the board, it was my responsibility to be proactive in addressing issues. To work hard, to use a great amount of energy to get the job done and we did that. In conclusion, I want to tell you that I know it's a great responsibility to be on the board of trustees at the university. It's something I take very seriously. And as a member of the board, I will be very accessible.

Accessible to the General Assembly, accessible to my community, accessible to students and faculty. Because with that accessibility, I believe I would know what the issues are. I would need to work on them and address them on behalf of the university and on behalf of our State. So thank you for your time. Thank you for this opportunity to talk to you this morning.

CHAIRMAN KNOTTS: Any questions from any of the members?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Mr. Westbrook, let me ask you this. You mentioned the service to the University of South Carolina on the boards and boards of visitors and stuff. Are you aware of the, I guess, the movement towards a partnership with Greenville Hospital on a medical, as part of the Medical University of South Carolina?

MR. WESTBROOK: Yes, sir. I'm familiar with the issue. I have worked with them in going through process and meeting with members of the General Assembly. So I have some familiarity with it. My understanding is that the university is trying to come up with a 5-year plan to demonstrate how that collaboration with the board. I don't think it's been released yet.

CHAIRMAN KNOTTS: Okay. Any other questions?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: Okay. Do I have a motion?

SENATOR ALEXANDER: Motion.

CHAIRMAN KNOTTS: I have a motion by Senator Alexander for a favorable report. Do I have a second?

SENATOR PEELER: Second.

CHAIRMAN KNOTTS: Second by Senator from Gaffney. Any discussions?

COMMITTEE: (No response.)

CHAIRMAN KNOTTS: No discussion. All in favor say, "Aye".

COMMITTEE: Aye.

CHAIRMAN KNOTTS: Raise your right hand, I mean.

COMMITTEE: (Raise hands.)

CHAIRMAN KNOTTS: Do I have a proxy?

SENATOR PEELER: I have a proxy.

CHAIRMAN KNOTTS: Have a proxy. Let it be unanimous. Mr. Westbrook, let me advise you like I have advised the rest of them. You cannot seek a commitment nor ask someone to seek a commitment on your behalf for a vote in the General Assembly, any member of the General Assembly until 48 hours after this report is released. Staff will notify you when the report will be released.

We'll let you know when we believe it will be released. But until it's released, 48 hours after that time, you can seek commitments.

MR. WESTBROOK: Yes, sir. I understand.

CHAIRMAN KNOTTS: You understand that fully?

MR. WESTBROOK: Yes, sir.

CHAIRMAN KNOTTS: Okay. Thank you.

MR. WESTBROOK: Thank you.

CHAIRMAN KNOTTS: Any further business of the committee? There'll be no -- yes, ma'am, Ms. Brady?

REPRESENTATIVE BRADY: I would like for you to discuss as I had another meeting prior, do we have a schedule? Are we going to try to get this report out a little earlier than normal? Do we know when the election will be?

CHAIRMAN KNOTTS: Yes, ma'am. We are going to try to get it out as quickly as the court reporter can get it prepared.

MS. DERRICK: Next Tuesday is what we're looking at.

CHAIRMAN KNOTTS: And talking about next Tuesday morning at…

MS. DERRICK: At noon.

CHAIRMAN KNOTTS: -- at noon. So that means Thursday at noon, someone could -- you candidates can probably look forward to trying to get your commitments. That's tentative. Until it's put on a desk on Tuesday. That's just tentative. Okay.

(Off the record discussion.)

CHAIRMAN KNOTTS: Okay. We're going to get this election started soon as possible and held as soon as possible. So if -- it looks like it's going to be at least two weeks from today before we can even consider having a joint session. We'll get in touch with you and let you know. Okay.

(Adjourned at 9:54 a.m.)

Received as information.

**REPORT RECEIVED**

The following was received:

To: Clerk of the House

Clerk of the Senate

Date: May 13, 2010

Screening Report of the Department of Employment and

Workforce Review Committee

Act No. 146 of 2010 created the Department of Employment and Workforce Review Committee and charged the review committee with, among other duties, the duty to screen candidates for membership on the new South Carolina Department of Employment and Workforce Appellate Panel and report the qualified candidates to the General Assembly for election. The transcript of the screening of each candidate is available on the WRC website which is located on the Citizen’s Interest tab of the Statehouse website.

The members of the Workforce Review Committee are as follows:

Senator Greg Ryberg, Chairman

Representative Kenny Bingham, Vice-Chairman

Senator Nikki Setzler

Senator Luke Rankin

Representative Jackie Hayes

Representative Jenny Horne

Mr. Isaac Dickson, Governor Appointee

Mr. Gary Pennington, Governor Appointee

Ms. Laurie Hollick, Governor Appointee

The Review Committee reported that the following candidates exceed the minimum qualifications to serve on the South Carolina Department of Employment and Workforce Appellate Panel:

Evelyn Belicia Ayers

Kristina Jones Catoe

Tim Dangerfield

Thomas T. Medlock, Jr.

Sandra Bell Grooms

The Review Committee reported that the following candidates meet the minimum qualifications to serve on the South Carolina Department of Employment and Workforce Appellate Panel:

John Cagle

Ronnie Hoover

Steve Kelly, Jr.

Gary Porth

M. Wade Scott, Jr.

The Review Committee may not release its candidate qualifications report any earlier than forty-eight hours from the release of the names of candidates to the General Assembly. Therefore, each of you will receive the Report of Qualifications on Saturday at Noon via e-mail. As a result, candidates may not seek your vote nor may you pledge your vote until Saturday at Noon.

The Joint Assembly elections will occur next Wednesday, May 19th, at Noon.

**CONCLUSION**

The following individuals were found to be qualified to seek three

seats on the Department of Employment and Workforce Appellate Panel.

**Three Seats**

Evelyn Belicia Ayers

John Cagle

Kristina Jones Catoe

Tim Dangerfield

Sandra Bell Grooms

Ronnie Hoover

Steve Kelly, Jr.

Thomas T. Medlock, Jr.

Gary Porth

M. Wade Scott, Jr.

Respectfully submitted,

Senator Greg Ryberg, Chairman

Representative Kenny Bingham, Vice-Chairman

Senator Nikki Setzler

Senator Luke Rankin

Representative Jackie Hayes

Representative Jenny Horne

Mr. Isaac Dickson, Governor Appointee

Mr. Gary Pennington, Governor Appointee

Ms. Laurie Hollick, Governor Appointee

Received as information.

**MESSAGE FROM THE SENATE**

The following was received:

Columbia, S.C., May 13, 2010

Mr. Speaker and Members of the House:

The Senate respectfully informs your Honorable Body that it has overridden the Veto by the Governor on R. 193, H. 3584 by a vote of 33 to 13:

(R193) H. 3584 -- Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J. R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E. H. Pitts, Rice, Skelton, D. C. Smith, G. M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J. E. Smith and Bales: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-21-625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE-HALF CENTS, TO PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA HOLLINGS CANCER CENTER FOR TOBACCO-RELATED CANCER RESEARCH, THE SMOKING PREVENTION AND CESSATION TRUST FUND, AND THE MEDICAID RESERVE FUND, TO PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND TO DEFINE "CIGARETTE"; TO AMEND SECTION 12-21-620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO INCLUDE THE DEFINITION OF "CIGARETTE"; BY ADDING SECTION 11-11-230 SO AS TO CREATE AND ESTABLISH THE SMOKING PREVENTION AND CESSATION TRUST FUND AND THE MEDICAID RESERVE FUND, BOTH SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; AND BY ADDING SECTION 11-49-55 SO AS TO PROVIDE THAT IF FUNDS FROM THE SMOKING PREVENTION AND CESSATION TRUST FUND ARE AVAILABLE, AND NOT OTHERWISE COMMITTED, THE DEPARTMENT OF AGRICULTURE SHALL RECEIVE ONE MILLION DOLLARS ANNUALLY FOR FIVE YEARS FOR MARKETING AND BRANDING STATE-GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS.

Very respectfully,

President

Received as information.

**HOUSE RESOLUTION**

The following was introduced:

H. 4983 -- Rep. Harrison: A HOUSE RESOLUTION TO AUTHORIZE THE SOUTH CAROLINA CHAPTER OF THE AMERICAN BOARD OF TRIAL ADVOCATES TO USE THE HOUSE CHAMBER ON FRIDAY, SEPTEMBER 17, 2010, FOR THE ORGANIZATION'S JAMES OTIS LECTURE, IN ACCORDANCE WITH THE BUILDING POLICY AS ADMINISTERED BY THE CLERK OF THE HOUSE.

The Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

**HOUSE RESOLUTION**

On motion of Rep. HUTTO, with unanimous consent, the following was taken up for immediate consideration:

H. 4984 -- Reps. Hutto, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO AUTHORIZE THE SOUTH CAROLINA STUDENT LEGISLATURE TO USE THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES ON WEDNESDAY THROUGH FRIDAY, OCTOBER 13 THROUGH OCTOBER 15, 2010, PROVIDED THE HOUSE IS NOT IN SESSION, AND TO PROVIDE FOR THE USE OF THE HOUSE CHAMBER ON ALTERNATE DATES AND TIMES AS MAY BE SELECTED BY THE SPEAKER IF THE HOUSE IS IN SESSION ON THESE DATES.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 4985 -- Reps. Hayes, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE DOUGLAS JENNINGS, JR., OF MARLBORO COUNTY FOR TWENTY YEARS OF SELFLESS AND DEDICATED SERVICE IN THE HOUSE OF REPRESENTATIVES ON BEHALF OF THE CITIZENS OF SOUTH CAROLINA, AND TO WISH HIM MUCH SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

Whereas, the members of the South Carolina House of Representatives learned with sincere regret that Douglas Jennings, Jr., will retire from the House of Representatives at the conclusion of his current term; and

Whereas, after he received a Bachelor of Arts from Clemson University in 1978, Douglas Jennings earned his law degree from the University of South Carolina School of Law in 1982; and

Whereas, he served as a legislative assistant in the United States House of Representatives from 1978 to 1979 and then became a research assistant to the South Carolina Senate Judiciary Committee from 1979 to 1982; and

Whereas, from 1982 to 1988, Mr. Jennings served as the Assistant Solicitor of the Fourth Judicial Circuit while also serving on the Pee Dee Tourism Commission, and he served his community further as the Chairman of the Boy Scout Troop 625 Commission from 1983 to 1985; and

Whereas, he served with distinction on the Board of Visitors of Francis Marion University from 1985 to 1991 and as the President of the Marlboro County Election Commission from 1986 to 1991; and

Whereas, in 1987, he served as Campaign Chairman for the Marlboro County United Way and in 1988 as its President; and

Whereas, Representative Jennings entered the South Carolina House of Representatives in 1991, serving there as the House Minority Leader from 2001 to 2003, and he currently serves as the Chairman of the North Eastern Strategic Alliance Interstate 73 (NESA I 73) Committee; and

Whereas, he was named to the Clemson Board of Visitors from 1997 to 1999 and received the Governor’s prestigious Rural Economic Leadership Award in 1999, and in 2002 he received an honorary doctorate from Francis Marion University; and

Whereas, his broad involvement in his community has made him effective in his role as President of the Rotary Club in Bennettsville and as an elder in the First Presbyterian Church of Bennettsville; and

Whereas, the members of the House of Representatives will miss the enthusiastic and energetic service that Douglas Jennings, Jr., their colleague and friend, has given to the House of Representatives, and hope that he will enjoy deep fulfillment in the years to come. Now, therefore,

Be it resolved by the House of Representatives:

That the members of the South Carolina House of Representatives, by this resolution, recognize and commend the Honorable Douglas Jennings, Jr., of Marlboro County for twenty years of selfless and dedicated service in the House of Representatives on behalf of the citizens of South Carolina, and wish him much success and happiness in all his future endeavors.

Be it further resolved that a copy of this resolution be presented to the Honorable Douglas Jennings, Jr.

The Resolution was adopted.

**HOUSE RESOLUTION**

On motion of Rep. HUGGINS, with unanimous consent, the following was taken up for immediate consideration:

H. 4986 -- Rep. Huggins: A HOUSE RESOLUTION TO AUTHORIZE THE SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION STUDENT GOVERNMENT TO USE THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES ON TUESDAY, SEPTEMBER 21, 2010, PROVIDED THE HOUSE IS NOT IN SESSION, AND TO PROVIDE FOR THE USE OF THE HOUSE CHAMBER ON AN ALTERNATE DATE AND TIME AS MAY BE SELECTED BY THE SPEAKER IF THE HOUSE IS IN SESSION ON THIS DATE.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4987 -- Rep. J. E. Smith: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR THE REVEREND ROBERT G. RIEGEL OF COLUMBIA, UPON THE OCCASION OF HIS EIGHTIETH BIRTHDAY, AND TO WISH HIM CONTINUED GOOD HEALTH AND MUCH HAPPINESS IN THE YEARS TO COME.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4988 -- Reps. R. L. Brown, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE THE ADMINISTRATION, FACULTY, STAFF, PARENTS, AND STUDENTS OF EDITH L. FRIERSON ELEMENTARY SCHOOL OF WADMALAW ISLAND FOR THE SCHOOL'S OUTSTANDING ACADEMIC PROGRESS, AND TO CONGRATULATE THE SCHOOL ON RECEIVING A COVETED 2010 PALMETTO GOLD AWARD FOR CLOSING THE ACHIEVEMENT GAP AND A 2010 PALMETTO SILVER AWARD FOR OVERALL GENERAL PERFORMANCE.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**HOUSE RESOLUTION**

The following was introduced:

H. 4989 -- Reps. Harvin, Anderson, Allen, R. L. Brown, Clyburn, Cobb-Hunter, Dillard, Hart, Hayes, Hodges, Hosey, Jennings, McEachern, McLeod, Miller, Mitchell, Ott, Rutherford, Sellers, Williams, Agnew, Alexander, Allison, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, Cato, Chalk, Clemmons, Cole, Cooper, Crawford, Daning, Delleney, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hearn, Herbkersman, Hiott, Horne, Howard, Huggins, Hutto, Jefferson, Kelly, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, Merrill, Millwood, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Sandifer, Scott, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE KENNETH KENNEDY OF WILLIAMSBURG COUNTY FOR TWENTY YEARS OF ENERGETIC AND DEVOTED SERVICE IN THE HOUSE OF REPRESENTATIVES ON BEHALF OF THE CITIZENS OF SOUTH CAROLINA, AND TO WISH HIM MUCH SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

Whereas, the members of the South Carolina House of Representatives learned with sincere regret that Kenneth Kennedy will retire from the House of Representatives at the conclusion of his current term; and

Whereas, after graduation from C. E. Murray High School, he attended Benedict College and Brooklyn College in New York; and

Whereas, Kenneth Kennedy was born to Susie and Ben Kennedy in 1942 and married his beloved wife Doris M. Glast in 1963, and together they raised three fine children, Manuel, Kimberly, and Kathy; and

Whereas, a businessman in Greeleyville, he served on the Williamsburg County Council from 1984 to 1991 and on the Board of Directors for Greeleyville Medical Center from 1985 to 1989; and

Whereas, widely active in his community, he served as the President of the C. E. Murray High School Parent Teacher Association from 1983 to 1988, and he is currently a trustee of Trinity Baptist Church and a member of the Pride of Foreston Masonic Lodge #296 and the Mouzon Community Men’s Club; and

Whereas, he brought his business expertise and leadership voice to the Williamsburg County Democratic Party, serving as chairman from 1987 to 1990; and

Whereas, Representative Kennedy entered the South Carolina General Assembly in 1991 to represent District 101, and he has served on the Ways and Means Committee where he has assisted in directing the State during some of the most financially challenging days in our nation; and

Whereas, since 1990, he has served on the University of South Carolina Substance Abuse Advisory Council; and

Whereas, the members of the South Carolina House of Representatives will miss the selfless and dedicated service that Kenneth Kennedy, their colleague and friend, has given to the House of Representatives and hope that he will enjoy deep fulfillment in the years to come. Now, therefore,

Be it resolved by the House of Representatives:

That the members of the South Carolina House of Representatives, by this resolution, recognize and commend the Honorable Kenneth Kennedy of Williamsburg County for twenty years of enthusiastic and devoted service in the House of Representatives on behalf of the citizens of South Carolina, and wish him much success and happiness in all his future endeavors.

Be it further resolved that a copy of this resolution be presented to the Honorable Kenneth Kennedy.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The Senate sent to the House the following:

S. 1445 -- Senators Rankin and Elliott: A CONCURRENT RESOLUTION TO HONOR THE LIFE ACHIEVEMENTS OF DR. BUZZ ALDRIN, RETIRED UNITED STATES AIR FORCE PILOT AND NASA ASTRONAUT, AND TO WELCOME HIM TO THE PALMETTO STATE FOR THE MYRTLE BEACH MEMORIAL DAY PARADE.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anderson |
| Anthony | Bales | Ballentine |
| Bannister | Barfield | Bedingfield |
| Bingham | Bowen | Brady |
| Branham | Brantley | G. A. Brown |
| R. L. Brown | Cato | Chalk |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Cooper | Crawford |
| Daning | Delleney | Dillard |
| Duncan | Edge | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Govan | Hamilton |
| Hardwick | Harrell | Harrison |
| Hart | Harvin | Hayes |
| Hearn | Herbkersman | Hiott |
| Hodges | Horne | Hosey |
| Howard | Huggins | Hutto |
| Jefferson | Jennings | Kelly |
| Kennedy | King | Kirsh |
| Limehouse | Littlejohn | Loftis |
| Long | Lowe | Lucas |
| McEachern | McLeod | Merrill |
| Miller | Millwood | Mitchell |
| D. C. Moss | V. S. Moss | Nanney |
| J. H. Neal | J. M. Neal | Neilson |
| Norman | Ott | Owens |
| Parker | Pinson | M. A. Pitts |
| Rice | Sandifer | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stewart | Stringer |
| Toole | Umphlett | Vick |
| Viers | Weeks | White |
| Whitmire | Williams | Willis |
| Wylie | A. D. Young | T. R. Young |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Tuesday, May 18.

|  |  |
| --- | --- |
| Boyd Brown | William Bowers |
| Terry Alexander | Wendell Gilliard |
| Patsy Knight | David Mack |
| Jackson "Seth" Whipper | Todd Rutherford |
| Paul Agnew |  |

**Total Present--117**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. BATTLE a leave of absence for the week due to business purposes.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. GUNN a leave of absence for the week due to business purposes.

**DOCTOR OF THE DAY**

Announcement was made that Dr. William Simpson of Charleston was the Doctor of the Day for the General Assembly.

**CO-SPONSORS ADDED**

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co‑sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co‑sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member’s or co‑sponsor’s written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 4919 |
| Date: | ADD: |
| 05/18/10 | SANDIFER |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3994 |
| Date: | ADD: |
| 05/18/10 | CATO |

**H. 3298--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3298 -- Reps. Sellers, Bedingfield, Nanney, Cato, Delleney, Kelly, Pinson, E. H. Pitts, M. A. Pitts, Parker and Millwood: A BILL TO AMEND SECTION 16-23-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CARRYING OF A HANDGUN, SO AS TO PROVIDE THAT A PERSON MAY LAWFULLY STOW A HANDGUN UNDER THE SEAT OF A VEHICLE.

Rep. RICE proposed the following Amendment No. 3 (COUNCIL\SWB\8127CM10), which was adopted:

Amend the bill, as and if amended, Section 16‑23‑20(a) by deleting Section 16‑23‑20(a) and inserting:

/ (a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver’s license, registration, or proof of insurance. If the person has been issued a concealed weapons permit pursuant to Article 4, Chapter 31 of Title 23, then the person also may secure his weapon under a seat in a vehicle, or in any open or closed storage compartment within the vehicle’s passenger compartment; or /

Renumber sections to conform.

Amend title to conform.

Rep. RICE explained the amendment.

The amendment was then adopted.

Rep. G. R. SMITH proposed the following Amendment No. 2 (COUNCIL\SWB\8107CM10), which was tabled:

Amend the bill, as and if amended, by adding the following appropriately numbered SECTION:

/ SECTION \_\_. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 2

Transportation and Storage of Firearms in a Locked Vehicle

Section 23‑31‑50. No property owner, tenant, public or private employer, or person or business in legal possession or control of real property, or agent for any of them, may establish a policy or rule that prohibits any person not otherwise prohibited by law from transporting or storing firearms, or both in a locked or attended vehicle on such property, nor may they post any sign stating such policy or rule. Any policy, rule or sign in violation of this section shall be a nullity, unenforceable, and without legal effect. Nothing in this law shall be interpreted to expand any existing duty, or create any additional duty, on the part of a property owner, tenant, public or private employer, or person or business in legal possession or control of real property, or agent for any of them.” /

Renumber sections to conform.

Amend title to conform.

Rep. G. R. SMITH explained the amendment.

Rep. STAVRINAKIS spoke against the amendment.

Rep. SELLERS moved to table the amendment, which was agreed to.

Rep. M. A. PITTS demanded the yeas and nays which were taken, resulting as follows:

Yeas 104; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anderson |
| Anthony | Bales | Ballentine |
| Bannister | Barfield | Bedingfield |
| Bingham | Bowen | Bowers |
| Brady | Branham | Brantley |
| H. B. Brown | Cato | Chalk |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Cooper | Crawford |
| Delleney | Dillard | Duncan |
| Edge | Erickson | Forrester |
| Frye | Funderburk | Gambrell |
| Govan | Hamilton | Hardwick |
| Harrell | Harrison | Hart |
| Harvin | Hayes | Hearn |
| Herbkersman | Hiott | Hodges |
| Horne | Hosey | Huggins |
| Hutto | Jefferson | Jennings |
| Kelly | Kennedy | King |
| Kirsh | Littlejohn | Loftis |
| Long | Lowe | Lucas |
| McEachern | McLeod | Merrill |
| Miller | Millwood | Mitchell |
| D. C. Moss | V. S. Moss | Nanney |
| J. H. Neal | J. M. Neal | Neilson |
| Norman | Ott | Owens |
| Parker | Pinson | M. A. Pitts |
| Rice | Rutherford | Sandifer |
| Sellers | Simrill | Skelton |
| D. C. Smith | G. M. Smith | G. R. Smith |
| J. E. Smith | J. R. Smith | Sottile |
| Stavrinakis | Stewart | Stringer |
| Toole | Vick | Viers |
| Weeks | White | Whitmire |
| Williams | Willis | Wylie |
| A. D. Young | T. R. Young |  |

**Total--104**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 906--DEBATE ADJOURNED**

Rep. NEILSON moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 906 -- Senators Leatherman, Land, Coleman and Elliott: A BILL TO AMEND SECTION 9-8-50 OF THE 1976 CODE, RELATING TO SERVICE CREDIT IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, TO PROVIDE THAT A MEMBER UPON TERMINATION WHO DOES NOT QUALIFY FOR A MONTHLY BENEFIT MAY TRANSFER HIS SERVICE CREDIT TO THE SOUTH CAROLINA RETIREMENT SYSTEM, AND TO CLARIFY PROVISIONS RELATED TO THE TRANSFER OF EARNED SERVICE CREDIT IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS.

**S. 405--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 405 -- Senator Cleary: A BILL TO AMEND SECTION 12-37-220 OF THE 1976 CODE, RELATING TO PROPERTY TAX EXEMPTIONS, TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR MAY NOT RECEIVE A FORTY-TWO AND 75/100 PERCENT EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED AS A PRIMARY OR SECONDARY RESIDENCE FOR PROPERTY TAX PURPOSES; TO AMEND SECTION 12-37-224, RELATING TO BOATS AS A PRIMARY OR SECONDARY RESIDENCE, TO PROVIDE THAT A BOAT OR WATERCRAFT THAT CONTAINS A COOKING AREA WITH AN ONBOARD POWER SOURCE, A TOILET WITH EXTERIOR EVACUATION, AND A SLEEPING QUARTER, SHALL BE CONSIDERED A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF AD VALOREM PROPERTY TAXATION IN THIS STATE; AND TO AMEND SECTION 12-37-714, RELATING TO BOATS WITH A SITUS IN THIS STATE, TO PROVIDE THAT UPON AN ORDINANCE PASSED BY THE LOCAL GOVERNING BODY, A COUNTY MAY SUBJECT A BOAT, INCLUDING ITS MOTOR IF THE MOTOR IS SEPARATELY TAXED, TO PROPERTY TAX IF IT IS WITHIN THIS STATE FOR NINETY DAYS IN THE AGGREGATE, REGARDLESS OF THE NUMBER OF CONSECUTIVE DAYS.

Rep. MERRILL proposed the following Amendment No. 1 (COUNCIL\BBM\9748HTC10), which was adopted:

Amend the bill, as and if amended, by adding a penultimate new SECTION appropriately numbered to read:

/ SECTION \_\_. Section 12‑37‑224 of the 1976 Code, as last amended by Act 66 of 2007, is further amended to read:

“Section 12‑37‑224. (A) A motor home~~, a boat or watercraft,~~ or trailer used for camping and recreational travel that is pulled by a motor vehicle on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or secondary residence also is a primary or secondary residence for purposes of ad valorem property taxation in this State. The fair market value of a motor home~~, a boat or watercraft,~~ or trailer used for camping and recreational travel that is pulled by a motor vehicle classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes.

(B)(1) A person who owns a boat or watercraft that contains a cooking area with an onboard power source, a toilet with exterior evacuation, and a sleeping quarter, may claim one boat or watercraft as a primary residence and one boat or watercraft as a secondary residence for purposes of ad valorem property taxation in this State. The fair market value of the boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section must be determined in the manner that motor vehicles are valued for property tax purposes. A boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to this section is not a watercraft or motor for purposes of Section 12‑37‑220(B)(38).

(2) Only an individual may claim a qualifying boat or watercraft as his primary residence for purposes of ad valorem property taxation. The individual or his agent must certify the qualifying boat or watercraft as his primary residence pursuant to Section 12‑43‑220(c)(2)(ii). Additionally, the individual or his agent must provide any proof the assessor requires pursuant to Section 12‑43‑220(c)(2)(iv). One other qualifying boat or watercraft owned by an individual that cannot be considered a primary residence, or one other qualifying boat or watercraft owned by another person shall be considered a secondary residence for purposes of ad valorem property taxation.

(3) For purposes of this subsection a person includes an individual, a sole proprietorship, partnership, and an ‘S’ corporation, including a limited liability company taxed as sole proprietorship, partnership, or ‘S’ corporation.” /

Renumber sections to conform.

Amend title to conform.

Rep. MERRILL explained the amendment.

The amendment was then adopted.

Rep. MERRILL proposed the following Amendment No. 2 (COUNCIL\DKA\4041DW10), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Section 50‑23‑295 of the 1976 Code, as added by Act 91 of 2007, is amended to read:

“Section 50‑23‑295. (A) A certificate of title to watercraft or an outboard motor may not be transferred if the department has notice that property taxes for property tax years beginning after 1999, are owed on the watercraft or outboard motor. If transfer of title has been denied pursuant to this section, a tax receipt on the watercraft or outboard motor from the person officially charged with the collection of ad valorem taxes in the county where the taxes are due must be accepted as proof that the taxes have been paid. The bill of sale or title to watercraft or an outboard motor must require certification that property taxes that are due and payable for property tax years beginning after 1999, have been paid and are current as of the date of sale.

(B) ~~In addition to any applicable criminal penalties, falsely signing such a certification subjects the person signing the certification to a fee of five hundred dollars and suspension of any title issued in the applicant’s name by the department. The title can be reinstated upon proof to the department of payment of all taxes due and payment of the five‑hundred‑dollar fee to the department.~~

~~(C)~~ The county treasurer or other appropriate official annually, or more frequently as the county considers appropriate, shall transmit a list of delinquent taxes due on watercraft and outboard motors to the department. The list may be transmitted in any electronic format considered acceptable by the department.” /

Renumber sections to conform.

Amend title to conform.

Rep. MERRILL explained the amendment.

The amendment was then adopted.

Rep. G. M. SMITH proposed the following Amendment No. 3 (COUNCIL\BBM\9786HTC10), which was adopted:

Amend the bill, as and if amended, by adding a penultimate new SECTION appropriately numbered to read:

/ SECTION \_\_. A. Subsections (B) and (C) of Section 12‑6‑3610 of the 1976 Code, as last amended by Act 261 of 2008, are further amended to read:

“(B)(1) A taxpayer that constructs and places in service in this State a commercial facility for the production of renewable fuel is allowed a credit equal to twenty‑five percent of the cost to the taxpayer of constructing or renovating a building and equipping the facility for the purpose of producing renewable fuel. Production of renewable fuel includes intermediate steps such as milling, crushing, and handling of feedstock, demethylation of glycerin derived from biodiesel production, and the distillation and manufacturing of the final product.

(2) The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit.

(3) The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(4) As used in this subsection, ‘renewable fuel’ means liquid nonpetroleum‑based fuels that may be placed in motor vehicle fuel tanks and used as a fuel in a highway vehicle. It includes all forms of fuel commonly or commercially known or sold as biodiesel and ethanol. A ‘renewable fuel’ also means solid nonpetroleum‑based fuels that are State Energy Office approved to produce electricity that may be used for charging the batteries of an electrically powered highway vehicle. It includes nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991.

(5) A taxpayer that claims any other credit allowed under this article with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(C)(1) To obtain the amount of credit available to a taxpayer, the taxpayer must submit a request for credit to the State Energy Office ~~by January thirty‑first~~ for all qualifying property or a qualifying facility, as applicable, placed in service in the previous calendar year and the State Energy Office must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.”

B. Subsections (C) and (D) of Section 12‑6‑3620 of the 1976 Code, as last amended by Act 261 of 2008, are further amended to read:

“(C) For purposes of this section:

(1) ‘Biomass resource’ means noncommercial wood, by‑products of wood processing, demolition debris containing wood, agricultural waste, animal waste, sewage, landfill gas, nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991, and other organic materials, not including fossil fuels.

(2) ‘Commercial use’ means a use intended for the purpose of generating a profit.

(3) If the equipment ceases to use biomass resources as its primary fuel source before the entire credit has been utilized, the taxpayer is ineligible to utilize any remaining credit until it resumes using biomass resources as its primary fuel source (at least ninety percent). The fifteen‑year carry forward period must not be extended due to periods of noncompliance.

(D)(1) To obtain the ~~maximum~~ amount of credit available to a taxpayer, a taxpayer must submit a request for credit to the State Energy Office ~~by January thirty‑first~~ for all qualifying equipment placed in service in the previous calendar year and the State Energy Office must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the maximum amount of the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.”

C. Section 12‑6‑3631 of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“Section 12‑6‑3631. (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to this chapter for qualified expenditures for research and development.

(B) For purposes of this section:

(1) ‘Qualified expenditures for research and development’ means expenditures to develop feedstocks and processes for cellulosic ethanol and for algae‑derived biodiesel, including:

(a) enzymes and catalysts involving cellulosic ethanol and algae‑derived biodiesel;

(b) best and most cost efficient feedstocks for South Carolina; ~~or~~

(c) product and development, including cellulosic ethanol or algae‑derived biodiesel products; or

(d) demethylation of glycerin derived from biodiesel production.

(2) ‘Cellulosic ethanol’ means fuel from ligno‑cellulosic materials, including wood chips derived from noncommercial sources, corn stover, and switchgrass.

(C) The credit is equal to twenty‑five percent of qualified expenditures for research and development. A taxpayer’s total credit in all years, for all expenditures allowed pursuant to this section, must not exceed one hundred thousand dollars. Unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(D) Expenditures qualifying for a tax credit allowed by this section must be certified by the State Energy Office. The State Energy Office may consult with the Department of Agriculture and the South Carolina Institute for Energy Studies on standards for certification.

(E)(1) To obtain the ~~maximum~~ amount of the credit available to a taxpayer, each taxpayer must submit a request for the credit to the State Energy Office ~~by January thirty‑first~~ for qualifying research expenses incurred in the previous calendar year and the State Energy Office must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer ~~by March first of that year~~ within thirty days. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the maximum amount of the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. ~~Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009.~~ A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.”

D. Section 12‑63‑20 of the 1976 Code, as last amended by Act 261 of 2008, is further amended to read:

“Section 12‑63‑20. (A)(1) An incentive payment for an alternative fuel purchase is provided beginning after June 30, 2009, and ending before July 1, 2012, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) five cents to the retailer for each gallon of E70 fuel or greater sold, provided that the ethanol‑based fuel is subject to the South Carolina motor fuel user fee;

(b) twenty‑five cents to the retailer for each gallon of pure biodiesel fuel sold so that the biodiesel in the blend is at least two percent B2 or greater, provided that the qualified biodiesel content fuel is subject to the South Carolina motor fuel user fee. Biodiesel fuel is a fuel for motor vehicle diesel engines comprised of vegetable oils or animal fats and meeting the specifications of the American Society of Testing and Materials (ASTM) D6751 or (ASTM) D975 blended stock; ~~and~~

(c) twenty‑five cents to the retailer or wholesaler for each gallon of pure biodiesel fuel sold as dyed diesel fuel for ‘off‑road’ uses, so that the biodiesel in the blend is at least two percent B2 or greater; and

(d) five cents to the retailer or wholesaler for each pound of renewable fuel or biomass resource sold to produce electricity which may be used to recharge electric highway vehicles.

(2) The payments allowed pursuant to this subsection must be made to the retailer upon compliance with verification procedures set forth by the Department of Agriculture.

(B)(1) An incentive payment for production of electricity or energy is provided pursuant to subitems (a) and (b), beginning after June 30, 2008, and ending before July 1, 2018, and shall be provided from the general fund, excluding revenue derived from the sales and use tax as follows:

(a) One cent per kilowatt‑hour (kwh) for electricity produced from biomass resources in a facility not using biomass resources before June 30, 2008, or facilities which produce at least twenty‑five percent more electricity from biomass resources than the greatest three‑year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The incentive payment is also applicable to electricity from a qualifying facility placed in service and first producing electricity on or after July 1, 2008. The incentive payment extends for five years, and ends on July 1, 2013, or five years from the date the facility was placed in service and first produced electricity. In no case shall the incentive payment apply after June 30, 2018.

(b) Thirty cents per therm (100,000 Btu) for energy produced from biomass resources in a facility not using biomass resources before June 30, 2008, for biomass resources or renewable fuels produced by a facility to be used for energy production, or facilities which utilize at least twenty‑five percent more energy from biomass resources than the greatest three‑year average before June 30, 2008, up to a maximum of one hundred thousand dollars per year per taxpayer for five years. The incentive payment is also applicable to energy from a qualifying facility placed in service and first producing energy on or after July 1, 2008. The incentive payment extends for five years, and ends on July 1, 2013, or five years from the date the facility was placed in service and first produced energy. In no case shall the incentive payment apply after June 30, 2018.

The incentive payment for the production of electricity or thermal energy may not be claimed for both electricity and energy produced from the same biomass resource.

(2) For purposes of this subsection, a biomass resource means wood, wood waste, agricultural waste, animal waste, sewage, landfill gas, nonhazardous industrial solid waste recovered by a materials recovery facility as defined in Chapter 96, Title 44, the Solid Waste Policy and Management Act of 1991, and other organic materials, not including fossil fuels.

(C) The Department of Revenue may prescribe forms and procedures, issue policy documents, and distribute funds as necessary to ensure the orderly and timely implementation of the provisions of this section. The Department of Revenue shall coordinate with the Department of Agriculture as necessary.”

E. Notwithstanding any other effective date provided in this act, the provisions of this section take effect upon approval of this act by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. G. M. SMITH explained the amendment.

The amendment was then adopted.

The yeas and nays were taken resulting as follows:

Yeas 103; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Allison |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Barfield |
| Bedingfield | Bingham | Bowen |
| Bowers | Brady | Branham |
| Brantley | G. A. Brown | H. B. Brown |
| R. L. Brown | Cato | Chalk |
| Clemmons | Clyburn | Cole |
| Cooper | Crawford | Daning |
| Delleney | Dillard | Duncan |
| Edge | Erickson | Forrester |
| Frye | Funderburk | Gambrell |
| Hamilton | Hardwick | Harrell |
| Harrison | Harvin | Hayes |
| Hearn | Herbkersman | Hiott |
| Horne | Hosey | Huggins |
| Hutto | Jefferson | Jennings |
| Kelly | Kirsh | Limehouse |
| Littlejohn | Loftis | Long |
| Lowe | Lucas | McEachern |
| Merrill | Miller | Millwood |
| Mitchell | D. C. Moss | V. S. Moss |
| Nanney | J. H. Neal | J. M. Neal |
| Neilson | Norman | Owens |
| Parker | Pinson | M. A. Pitts |
| Rice | Sandifer | Sellers |
| Simrill | Skelton | D. C. Smith |
| G. M. Smith | G. R. Smith | J. E. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stewart | Stringer |
| Toole | Umphlett | Vick |
| Viers | Weeks | Whipper |
| White | Whitmire | Williams |
| Willis | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--103**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. GOVAN a leave of absence for the remainder of the day due to a doctor's appointment.

**RECURRENCE TO THE MORNING HOUR**

Rep. LIMEHOUSE moved that the House recur to the Morning Hour, which was agreed to.

**REPORT OF STANDING COMMITTEE**

Rep. BANNISTER, from the Greenville Delegation, submitted a favorable report on:

S. 1338 -- Senator Fair: A BILL TO AMEND ACT 432 OF 1947, AS AMENDED, RELATING TO THE GREENVILLE HOSPITAL SYSTEM, ITS CREATION, BOARD, POWERS, AND DUTIES, SO AS TO PROVIDE THAT THE GREENVILLE HOSPITAL SYSTEM BOARD OF TRUSTEES MAY ESTABLISH A POLICE DEPARTMENT, EMPLOY POLICE AND SECURITY OFFICERS, AND TO PROVIDE FOR THE POLICE DEPARTMENT'S DUTIES, RESPONSIBILITIES, POWERS, FUNCTIONS, AND JURISDICTION.

Ordered for consideration tomorrow.

**HOUSE RESOLUTION**

The following was introduced:

H. 4990 -- Reps. Horne, Harrell, Knight, A. D. Young, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE PINEWOOD PREPARATORY SCHOOL GIRLS SOCCER TEAM FOR ITS OUTSTANDING SEASON AND FOR CAPTURING THE 2010 SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION CLASS AAA STATE CHAMPIONSHIP AND TO HONOR THE TEAM'S EXCEPTIONAL PLAYERS, COACHES, AND STAFF.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 4991 -- Reps. Horne, Harrell, Knight, A. D. Young, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE PINEWOOD PREPARATORY SCHOOL BOYS SOCCER TEAM FOR ITS OUTSTANDING SEASON AND FOR CAPTURING THE 2010 SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION CLASS AAA STATE CHAMPIONSHIP, AND TO HONOR THE TEAM'S EXCEPTIONAL PLAYERS, COACHES, AND STAFF.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4992 -- Reps. Harrell, Limehouse, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR MEMORABLE "MEM" FACTOR OF CHARLESTON COUNTY, AND TO CONGRATULATE HIM FOR WINNING FIRST PLACE IN THE FIRST-GRADE DIVISION AT THE STATE MATHFEST COMPETITION AND FOR BEING NAMED A NATIONAL CHAMPION OF LE GRAND CONCOURS 2010 FRENCH COMPETITION.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4993 -- Reps. Harrell, Limehouse, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR CAILLEY FACTOR OF CHARLESTON COUNTY, AND TO CONGRATULATE HER FOR WINNING FIRST PLACE IN THE SECOND-GRADE DIVISION AT THE STATE MATHFEST COMPETITION AND FOR BEING NAMED A NATIONAL CHAMPION OF LE GRAND CONCOURS 2010 FRENCH COMPETITION.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

Rep. JENNINGS moved that the House recede until 2:30 p.m., which was agreed to.

**THE HOUSE RESUMES**

At 2:30 p.m. the House resumed, Acting Speaker DILLARD in the Chair.

**POINT OF QUORUM**

The question of a quorum was raised.

A quorum was later present.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. RICE a leave of absence for the remainder of the day.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. BALLENTINE a leave of absence for the remainder of the day for business and family reasons.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. HEARN a temporary leave of absence.

**MESSAGE FROM THE SENATE**

The following was received:

Columbia, S.C., May 18, 2010

Mr. Speaker and Members of the House:

The Senate respectfully informs your Honorable Body that it concurs in the amendments proposed by the House to S. 1261:

S. 1261 -- Senator Cromer: A BILL TO AMEND ARTICLE 5, CHAPTER 3, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CUTTING OF TIMBER ON LANDS HELD BY THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO MAKE TECHNICAL CORRECTIONS; TO DELETE OBSOLETE REFERENCES; TO REQUIRE THE DEPARTMENT TO COORDINATE THE CUTTING AND SALE OF SUCH TIMBER WITH THE STATE FORESTER, RATHER THAN TO SUBMIT THE MATTER TO THE STATE FORESTER FOR APPROVAL; TO PROVIDE THAT LAND OWNED BY THE DEPARTMENT THAT WAS PREVIOUSLY USED FOR AGRICULTURE OR MANAGED FOREST LAND MUST BE MANAGED TO PROVIDE OPTIMUM FISH AND WILDLIFE HABITAT AND TIMBER PRODUCTION; TO REVISE PROCEDURES FOR ADVERTISING FOR BIDS ON THE TIMBER; TO PROVIDE PROCEDURES FOR THE HARVEST AND SALE OF TIMBER IF AN EMERGENCY OR NATURAL DISASTER OCCURS NECESSITATING IMMEDIATE HARVESTING OF TIMBER; TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT, RATHER THAN THE BOARD, TO EXECUTE DEEDS AND CONTRACTS REQUIRED IN CARRYING OUT THIS ARTICLE; AND TO PROVIDE THAT, UNLESS OTHERWISE PROVIDED FOR, THE PROCEEDS OF THESE TIMBER SALES MUST CONTINUE TO BE CREDITED TO THE FISH AND WILDLIFE PROTECTION FUND.

and has ordered the Bill enrolled for ratification.

Very respectfully,

President

Received as information.

**H. 4244--SENATE AMENDMENTS AMENDED AND RETURNED TO THE SENATE**

On the motion of Rep. OWENS, the Senate Amendments to the following Bill were taken up for immediate consideration:

H. 4244 -- Rep. Limehouse: A BILL TO AMEND SECTION 59-130-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLEGE OF CHARLESTON BOARD OF TRUSTEES, SO AS TO ADD AN ADDITIONAL TRUSTEE TO BE APPOINTED BY THE COLLEGE OF CHARLESTON ALUMNI ASSOCIATION BOARD OF DIRECTORS, TO SET HIS TERM, AND TO PROVIDE CRITERIA FOR HIS SELECTION.

Reps. OWENS and HARRELL proposed the following Amendment No. 1 (COUNCIL\20854SD10KRL), which was adopted:

Amend the bill, as and if amended, by adding a new SECTION to be appropriately numbered to read:

/SECTION \_\_. Section 59-117-10 of the 1976 Code is amended to read:

“Section 59-117-10. The board of trustees of the University of South Carolina shall be composed of the Governor of the State ~~(~~or his designee~~)~~, the State Superintendent of Education, and the President of the Greater University of South Carolina Alumni Association or his designee, which three shall be members ex officio of the board; and seventeen other members including one member from each of the sixteen judicial circuits to be elected by the general vote of the General Assembly as hereinafter provided, and one at‑large member appointed by the Governor. The Governor shall make the appointment based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.”/

Renumber sections to conform.

Amend title to conform.

Rep. OWENS explained the amendment.

The amendment was then adopted.

The Senate Amendments, as amended, were then agreed to and the Bill was ordered returned to the Senate.

**S. 1363--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1363 -- Senators Hayes, Setzler and Courson: A BILL TO AMEND SECTION 59-26-85 OF THE 1976 CODE, RELATING TO THE INCREASE PAY FOR TEACHERS CERTIFIED BY THE NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS, TO PROVIDE THAT TEACHERS RECEIVING CERTIFICATION PRIOR TO JULY 1, 2010, SHALL RECEIVE AN INCREASE IN PAY FOR THE LIFE OF THE CERTIFICATION, TO PROVIDE THAT TEACHERS RECEIVING CERTIFICATION ON OR AFTER JULY 1, 2010, ONLY SHALL RECEIVE AN INCREASE IN PAY FOR THE INITIAL TEN YEARS OF THE CERTIFICATION, AND TO PROVIDE THAT ONLY TEACHERS WHO APPLY FOR CERTIFICATION PRIOR TO JULY 1, 2010, MAY RECEIVE A LOAN FOR THE APPLICATION FEE.

Rep. COOPER proposed the following Amendment No. 2 (COUNCIL\18008BH10), which was adopted:

Amend the bill, as and if amended, by deleting in its entirety Section 59‑26‑85(A)(1), as contained in SECTION 1, pages 1‑2, and inserting:

/ “Section 59‑26‑85. (A)(1) Teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) prior to July 1, 2010, shall enter a recertification cycle for their South Carolina certificate consistent with the recertification cycle for National Board certification and NBPTS certified teachers moving to this State are exempted from initial certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with National Board certification. Teachers receiving national certification from the NBPTS prior to July 1, 2010, shall receive an increase in pay for ~~the life of the certification~~ the initial ten‑year National Board certification and no more than one ten‑year renewal of National Board certification. The pay increase shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher. /

Renumber sections to conform.

Amend title to conform.

Rep. COOPER explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 286--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 286 -- Senators Cleary, Rose and Scott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 8 TO TITLE 44 SO AS TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO IMPLEMENT A TARGETED COMMUNITY HEALTH PROGRAM IN THREE TO FIVE COUNTIES OF NEED FOR DENTAL HEALTH EDUCATION, SCREENING, AND TREATMENT REFERRALS IN PUBLIC SCHOOLS FOR CHILDREN IN KINDERGARTEN, THIRD, SEVENTH, AND TENTH GRADES OR UPON ENTRY INTO PUBLIC SCHOOLS, TO REQUIRE PROGRAM GUIDELINES TO BE PROMULGATED IN REGULATIONS, TO REQUIRE AN ACKNOWLEDGMENT OF DENTAL SCREENING TO BE ISSUED UPON COMPLETION OF THE SCREENING AND TO REQUIRE THIS ACKNOWLEDGMENT TO BE PRESENTED TO THE CHILD'S SCHOOL, TO REQUIRE NOTIFICATION TO THE CHILD'S PARENT IF PROFESSIONAL ATTENTION IS INDICATED BY THE SCREENING AND IF AUTHORIZED BY THE CHILD'S PARENTS, TO PROVIDE NOTIFICATION TO THE COMMUNITY HEALTH COORDINATOR TO FACILITATE FURTHER ATTENTION IF NEEDED, AND TO PROVIDE THAT A SCREENING MUST BE COMPLETED UNLESS A CHILD'S PARENT COMPLETES AN EXEMPTION FORM.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\AGM\18043BH10), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 8

Community Oral Health Coordinator

Section 44‑8‑10. The Department of Health and Environmental Control shall implement a targeted community program for dental health education, screening, and treatment referral in the public schools for children in kindergarten, third, seventh, and tenth grades or upon entry into a South Carolina school. The department shall target three to five counties of need. The program must seek collaboration from local school districts, other governmental entities, school nurses, and dentists to coordinate federal Medicaid assistance and any volunteer efforts to reduce costs to the State to the extent practicable. Program guidelines must be promulgated in regulations and must include procedures for screenings and for the issuance of an Acknowledgment of Dental Screening for a child indicating that the child has had the dental screening. These guidelines also must provide that the screenings required by this section be made by an authorized provider at no charge.

Section 44‑8‑20. Unless a different meaning is required by the context:

(1) ‘Acknowledgment of Dental Screening’ means a document designed to serve as official confirmation that a child has had a dental screening.

(2) ‘Authorized practitioner’ means dentists, hygienists, certified dental assistants, physicians, and nurses, and anyone who has qualified under the department’s training module.

(3) ‘Community oral health coordinator’ means someone located in the county of need that will provide support to county health departments and school districts to strengthen the capacity to respond to the oral health needs of school children. They will assist in facilitating the removal of barriers to dental care, partnership development or enhancement, building or enhancing of dental safety net systems, oral health training and education, and strategic planning for accessing additional resources.

(4) ‘County of Need’ means any county in this State that is considered to be a dentally underserved area based on the most recent Oral Health Needs Assessment or any other data deemed appropriate by the department.

(5) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(6) ‘School’ means any public school operating within the county, as defined by Section 59‑1‑120.

(7) ‘Screening’ means a visual scan of the oral cavity and facial structures performed consistent with national standards as recognized and approved by the department.

Section 44‑8‑30. (A) In the target counties of need, no later than one hundred twenty calendar days following a child’s start date to five year old kindergarten, third grade, seventh grade, tenth grade, or upon entry into a South Carolina school, the student shall present to the school an Acknowledgment of Dental Screening signed by an authorized practitioner.

Section 44‑8‑40. When a dental screening is performed by an authorized practitioner in a school setting in one of the targeted counties of need, the practitioner shall issue an Acknowledgment of Dental Screening for the child. The school nurse or other school employee designated by the school district superintendent shall notify and advise the child’s parent or guardian to seek further professional attention for the child if indicated by the screening. Upon receipt of written permission from the parent or guardian, the school also shall notify the community oral health coordinator who will serve as a facilitator if further attention is needed upon completion of the screening. The community oral health coordinator also shall maintain all records and data determined necessary by the department.

Section 44‑8‑50. A screening must be performed for students in the targeted counties of need unless a parent or guardian completes an exemption form provided to them by the school. The school shall accept a parental exemption form in place of the Acknowledgment of Dental Screening.

Section 44‑8‑60. The initial and continued implementation of the provisions of this chapter is contingent upon the appropriation of adequate funding. There is no mandatory financial obligation to the Department of Health and Environmental Control, the Department of Education, or school districts within the counties chosen to participate if adequate funding is not appropriated or made available.”

SECTION 2. Section 44‑1‑240 of the 1976 Code is repealed.

SECTION 3. This act takes effect July 1, 2010, and applies to students in the grade levels specified in Section 44‑8‑30 of the 1976 Code, as added by Section 1 of this act, no later than the 2011‑2012 school year, contingent upon regulations authorized in Section 44‑8‑10 of the 1976 Code, as added by Section 1 of this act, being effective and funding for this program being available to the Department of Health and Environmental Control. /

Renumber sections to conform.

Amend title to conform.

Rep. WHITMIRE explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. DUNCAN a leave of absence for the remainder of the day.

**S. 915--DEBATE ADJOURNED**

Rep. J. R. SMITH moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 915 -- Senators Land, Anderson, Nicholson, Leventis, Elliott, Williams, Sheheen and Setzler: A BILL TO AMEND ACT 314 OF 2000, TO TERMINATE THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT ON JUNE 30, 2015.

**S. 1078--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1078 -- Senators Jackson, Knotts, Courson, Ryberg, Nicholson, Sheheen, Thomas, Rose, Campbell, Malloy, Ford, L. Martin, Hayes, Verdin, Davis, Leventis and Cromer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-264 SO AS TO REQUIRE THE OWNER OF A COMMUNITY RESIDENTIAL CARE FACILITY TO UNDERGO A CRIMINAL RECORD CHECK AS A REQUIREMENT OF LICENSURE AND TO ENUMERATE THOSE CRIMES THAT PRECLUDE LICENSURE.

The Medical, Military, Public and Municipal Affairs Committee proposed the following Amendment No. 1 (COUNCIL\NBD\ 12307AC10), which was adopted:

Amend the bill, as and if amended, Section 44‑7‑264(B)(1) on page 1, line 33 after /check/ by adding /pursuant to subsection (A)/. So, when amended, that portion of Section 44‑7‑264(B)(1) preceding the colon reads:

/(B)(1) A nursing home license or community residential care facility license must not be issued to the applicant, and if issued, may be revoked, if the person or any one of the persons required to undergo a criminal records check pursuant to subsection (A) is required to register under the sex offender registry pursuant to Section 23‑3‑430 or has been convicted of:/

Renumber sections to conform.

Amend title to conform.

Rep. ALEXANDER explained the amendment.

The amendment was then adopted.

Rep. WHITE proposed the following Amendment No. 2 (COUNCIL\NBD\12325AC10), which was adopted:

Amend the bill, as and if amended, by deleting Section 44-7-264(B)(1)(a) through (f) on page 1, line 35 through page 2, line 6 and inserting:

/ (a) abuse, neglect, or exploitation of a child or vulnerable adult, as defined in Section 43‑35‑10;

(b) any violent crime, as defined in Section 16‑1‑60;

(c) any other drug related felony;

(d) forgery, embezzlement, or breach of trust with fraudulent intent, as classified in Section 16‑1‑90(E); or

(e) a criminal offense similar in nature to the crimes listed in this subsection committed in another jurisdiction or under federal law./

Renumber sections to conform.

Amend title to conform.

Rep. WHITE explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**SPEAKER *PRO TEMPORE* IN CHAIR**

**ORDERED TO THIRD READING**

The following Bill was taken up, read the second time, and ordered to a third reading:

H. 4153 -- Reps. T. R. Young, D. C. Moss and McLeod: A BILL TO AMEND SECTION 2-17-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYISTS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2-17-25, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYIST'S PRINCIPALS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST PRINCIPAL MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2-17-50, RELATING TO THE AUTHORITY OF THE STATE ETHICS COMMISSION TO ENFORCE FILING REQUIREMENTS AND ASSESS PENALTIES FOR FAILURE TO FILE, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT; TO AMEND SECTION 8-13-100, RELATING TO THE DEFINITION OF "FAMILY MEMBER" FOR THE PURPOSES OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT OF 1991, SO AS TO INCLUDE BROTHERS-IN-LAW AND SISTERS-IN-LAW; TO AMEND SECTION 8-13-700, RELATING TO USE OF ONE'S OFFICIAL POSITION FOR OFFICIAL GAIN, SO AS TO REPLACE CERTAIN REFERENCES TO "IMMEDIATE FAMILY" WITH THE BROADER TERM "FAMILY MEMBER"; AND TO AMEND SECTION 8-13-1510, AS AMENDED, RELATING TO PENALTIES FOR EITHER LATE FILING OF OR FAILURE TO FILE A REPORT OR STATEMENT REQUIRED BY CHAPTER 13, TITLE 8, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT.

Rep. T. R. YOUNG explained the Bill.

**H. 4806--REQUESTS FOR DEBATE**

The following Bill was taken up:

H. 4806 -- Reps. Clemmons and Huggins: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7-1-120 SO AS TO AUTHORIZE THE GOVERNING BODY OF A MUNICIPALITY, COUNTY, SCHOOL DISTRICT, OR BOARD TO ADOPT A TERM LIMIT FOR THEIR RESPECTIVE BODIES OR BOARDS UPON THE APPROVAL OF A TWO-THIRDS VOTE OF THE MEMBERS OF THE BODY OR BOARD.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\AGM\18061AHB10):

Amend the bill, as and if amended, by deleting Section 7-1-120, as contained in SECTION 1, page 1, lines 25-28, and inserting:

/ “Section 7‑1‑120. The governing body of a municipality, county, school district, or board may adopt or abolish a term limit for their respective body or board upon the approval of a two‑thirds vote of the members of the body or board.” /

Renumber sections to conform.

Amend title to conform.

Rep. CLEMMONS explained the amendment.

Reps. KING, KIRSH, DILLARD, NORMAN, CLEMMONS, PARKER, SIMRILL, HIOTT, WYLIE, JEFFERSON, WILLIAMS, CLYBURN, HOSEY, GILLIARD and ANDERSON requested debate on the Bill.

**S. 288--DEBATE ADJOURNED**

Rep. FORRESTER moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 288 -- Senator L. Martin: A BILL TO AMEND CHAPTER 1, TITLE 56 OF THE 1976 CODE, BY ADDING SECTION 56-1-146 TO PROVIDE THAT A PERSON WHO IS CONVICTED OF A VIOLENT CRIME MUST SURRENDER HIS DRIVER'S LICENSE OR SPECIAL IDENTIFICATION CARD TO THE COURT WHICH MUST TRANSMIT IT TO THE DEPARTMENT OF MOTOR VEHICLES TOGETHER WITH NOTICE OF THE CRIME AND TO PROVIDE THAT THE DRIVER'S LICENSE OR SPECIAL IDENTIFICATION CARD IS CONSIDERED REVOKED AND MUST NOT BE RETURNED TO THE PERSON UNDER CERTAIN CIRCUMSTANCES; BY ADDING 56-1-148 TO PROVIDE THAT A PERSON CONVICTED OF A VIOLENT CRIME MUST HAVE A SPECIAL CODE AFFIXED TO THE REVERSE SIDE OF HIS DRIVER'S LICENSE OR SPECIAL IDENTIFICATION CARD THAT IDENTIFIES THE PERSON AS HAVING BEEN CONVICTED OF A VIOLENT CRIME, TO PROVIDE A FEE TO BE CHARGED FOR AFFIXING THE CODE AND FOR ITS DISTRIBUTION, AND TO PROVIDE A PROCESS FOR REMOVING THE CODE; TO AMEND SECTION 56-1-80, RELATING TO THE CONTENTS OF A DRIVER'S LICENSE APPLICATION, TO PROVIDE THAT THE APPLICATION MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME; AND TO AMEND SECTION 56-1-3350, RELATING TO THE ISSUANCE OF A SPECIAL IDENTIFICATION CARD BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT THE APPLICATION FOR A SPECIAL IDENTIFICATION CARD MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME.

**S. 1154--INTERRUPTED DEBATE**

The following Bill was taken up:

S. 1154 -- Senators Malloy, Knotts, Campsen, McConnell, Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey, Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin, Leventis, Leatherman, Setzler, O'Dell, Hayes and Pinckney: A BILL TO ENACT THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010, RELATING TO CRIMINAL OFFENSES, CORRECTIONS, PROBATION, AND PAROLE PROVISIONS, SO AS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT RECOMMENDATIONS PROPOSED BY THE SENTENCING REFORM COMMISSION REPORT OF FEBRUARY 2010.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\MS\7840AHB10):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This bill may be cited as “The Omnibus Crime Reduction and Sentencing Reform Act of 2010”. It is the intent of the General Assembly to preserve public safety, reduce crime, and use correctional resources most effectively. Currently, the South Carolina correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes, or are returned to prison for violations of supervision requirements. It is, therefore, the purpose of this act to reduce recidivism, provide fair and effective sentencing options, employ evidence‑based practices for smarter use of correctional funding, and improve public safety.

PART I

Criminal Offenses Revisions

SECTION 2. It is the intent of the General Assembly that the provisions in PART I of this act shall provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism.

SECTION 3. Section 16‑11‑110 of the 1976 Code is amended to read:

“Section 16‑11‑110. (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, structure, or any property specified in subsections (B) and (C) whether the property of himself or another, which results, either directly or indirectly, in the death or serious bodily injury to of a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less than ten nor more than thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures the a burning that results in damage to a dwelling house, church or place of worship, a public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings, building, structure, or any property whether the property of himself or another, which results, either directly or indirectly, in serious bodily injury to a person is guilty of the felony of arson in the second degree and, upon conviction, must be imprisoned not less than five three nor more than twenty‑five years.

(C) A person who wilfully and maliciously:

(1) causes an explosion, sets fire to, burns, or causes a burning which to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, or structure other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or, or any property,

(2) aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire; whether the property of himself or another, which results, either directly or indirectly, in bodily injury to a person or damage to the property is guilty of the felony of arson in the third degree and, upon conviction, must be imprisoned not less than one and not more than ten fifteen years.

(D) For purposes of this section, ‘damage’ means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.”

SECTION 4. Section 16‑3‑210 of the 1976 Code is amended to read:

“Section 16‑3‑210.Any act of violence inflicted by a mob upon the body of another person which results in the death of the person shall constitute the crime of lynching in the first degree and shall be a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend the defendant to the mercy of the court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years at the discretion of the presiding judge. (A) For purposes of this section, a ‘mob’ is defined as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

(B) Any act of violence inflicted by a mob upon the body of another person, which results in the death of the person, shall constitute the felony crime of assault and battery by mob in the first degree and, upon conviction, an offender shall be punished by imprisonment for not less than thirty years.

(C) Any act of violence inflicted by a mob upon the body of another person, which results in serious bodily injury to the person, shall constitute the felony crime of assault and battery by mob in the second degree and, upon conviction, an offender shall be punished by imprisonment for not less than three years nor more than twenty‑five years.

(D) Any act of violence inflicted by a mob upon the body of another person, which results in bodily injury to the person, shall constitute the misdemeanor crime of assault and battery by mob in the third degree and, upon conviction, an offender shall be punished by imprisonment for not more than one year.

(E) When any mob commits an act of violence, the sheriff of the county wherein the crime occurs and the solicitor of the circuit where the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

(F) The solicitor of any circuit has summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

(G) This article shall not be construed to relieve a member of any such mob from civil liability.”

SECTION 5. Sections 16‑3‑220, 16‑3‑230, 16‑3‑240, 16‑3‑250, 16‑3‑260, and 16‑3‑270 of the 1976 Code are repealed.

SECTION 6. A. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑29. A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder. A person who violates this section is guilty of a felony, and, upon conviction, must be imprisoned for not more than thirty years. A sentence imposed pursuant to this section may not be suspended nor may probation be granted.”

B. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑600.(A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) ‘Moderate bodily injury’ means physical injury requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia.

(3) ‘Private parts’ means the genital area or buttocks of a male or female or the breasts of a female.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than twenty years.

(3) Assault and battery of a high and aggravated nature is a lesser‑included offense of attempted murder, as defined in Section 16‑3‑29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of an adult, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

(3) Assault and battery in the first degree is a lesser‑included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted; or

(b) the act involves the nonconsensual touching of the private parts of an adult, either under or above clothing.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) Assault and battery in the second degree is a lesser‑included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(E)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) Assault and battery in the third degree is a lesser‑included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.”

C. Section 16‑3‑610 of the 1976 Code is amended to read:

“Section 16‑3‑610. If any a person be is convicted of assault, assault and battery, assault or assault and battery with intent to kill an offense pursuant to Section 16‑3‑29, 16‑3‑600, or manslaughter, and it shall appear upon the trial that the assault, assault and battery, assault or assault and battery with intent to kill or manslaughter shall have been the offense is committed with a deadly weapon of the character as specified in Section 16‑23‑460 carried or concealed upon the person of the defendant so convicted, the presiding judge shall, in addition to the punishment provided by law for such assault, assault and battery, assault or assault and battery with intent to kill or manslaughter offense, inflict further punishment upon sentence the person so convicted by confinement in the Penitentiary to imprisonment for the misdemeanor offense for not less than three months nor more than twelve months, with or without hard labor, or a fine of not less than two hundred dollars, or both fine and imprisonment, at the discretion of the judge.”

SECTION 7. A. Sections 16‑3‑612, 16‑3‑620, 16‑3‑630, and 16‑3‑635 of the 1976 Code are repealed.

B. The common law offenses of assault and battery with intent to kill, assault with intent to kill, assault and battery of a high and aggravated nature, simple assault and battery, assault of a high and aggravated nature, aggravated assault, and simple assault are abolished for offenses occurring on or after the effective date of this act.

C. Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.

SECTION 8. Section 22‑3‑560 of the 1976 Code, as last amended by Act 346 of 2008, is further amended to read:

“Section 22‑3‑560.(A) Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both, all assaults and batteries and other breaches of the peace when the offense is neither an assault and battery against school personnel pursuant to Section 16‑3‑612 nor an assault and battery of a high and aggravated nature requiring, in their judgment or by law, greater punishment.

(B) Magistrates may punish by fine not exceeding one thousand dollars or imprisonment for a term not exceeding sixty days, or both, all assaults and batteries against sports officials and coaches when, in committing an assault and battery, the offender knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault and battery to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contests held at the athletic facility. For the purposes of this subsection, “sports official” means a person at an athletic contest who enforces the rules of the contest, such as an umpire, referee, scorekeeper, and “coach” means a person recognized as a coach by the sanctioning authority that conducted the athletic contest.”

SECTION 9. Section 17‑15‑30 of the 1976 Code, as last amended by Act 280 of 2008, is further amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, the court may, on the basis of available information, consider the nature and circumstances of the offense charged and the accused’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) The court shall consider:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(23) all incident reports generated as a result of the offense charged, if available; and

(34) whether the accused is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status.

(C) Prior to or at the time of the hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in subsection (C) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in subsection (C) does not constitute grounds for the postponement or delay of the person’s hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 10. Section 22‑5‑510 of the 1976 Code is amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) Prior to or at the time of the bond hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the person’s criminal record;

(2) any charges pending against the person;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining bail.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in subsection (C) is not available at the time of the bond hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in subsection (C) does not constitute grounds for the postponement or delay of the person’s bond hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 11. Section 16‑11‑312(C) of the 1976 Code is amended to read:

“(C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one‑third of the term of the sentence.”

SECTION 12. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It shall be unlawful:

(1) For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.

(B) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not less than thirty days nor more than ninety days.

(C) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section. If the person is a child as defined by Section 63‑19‑20, jurisdiction must remain vested in the Family Court.”

SECTION 13. Article 1, Chapter 25, Title 17 of the 1976 Code is amended by adding:

“Section 17‑25‑65. (A) Upon the State’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the State’s motion made more than one year after sentencing, the court may reduce a sentence if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing, and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision shall be filed by that circuit solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge of the circuit within five days of filing. The chief judge or a circuit court judge currently assigned to that county shall have jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 14. A. Section 56‑1‑440 of the 1976 Code is amended to read:

“Section 56‑1‑440. (A) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty‑five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty‑five days nor more than six months. However, a charge of driving a motor vehicle without a driver’s license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

B. Section 56‑3‑1970 of the 1976 Code, as last amended by Act 24 of 2009, is further amended to read:

“Section 56‑3‑1970.(A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56‑3‑1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56‑3‑1910, 56‑3‑1960, and 56‑3‑1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(D) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

SECTION 15. A. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑395. (A) The Department of Motor Vehicles shall establish a driver’s license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver’s license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than six months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes three hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a six‑month license upon payment of a thirty‑five dollar administrative fee and payment of fifteen percent of the reinstatement fees owed.

(B) During the period of the six‑month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver’s license.

(D) If all fees are not paid by the end of the six‑month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver’s license has been suspended pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.

(F) No person may participate in the payment program more than one time in any three‑year period.

(G) The payment program administrative fee of thirty‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses.”

B. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑396. (A) The Department of Motor Vehicles shall establish a driver’s license suspension amnesty period.

(B) The amnesty period must be for one week on an annual basis at the department’s discretion.

(C) During the amnesty period, a person whose driver’s license is suspended prior to the amnesty period may apply to the department to have qualifying suspensions cleared.

(D) If the person has met all conditions for reinstatement other than service of the suspension period, including payment of all applicable fees, the department must reinstate the person’s driver’s license.

(E) If the qualifying suspensions are cleared, but non‑qualifying suspensions remain to be served, the department must recalculate the remaining suspension start dates to begin as soon as feasible.

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.”

SECTION 16. A. Section 16‑11‑510(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, or both, as permitted by law and without presentment or indictment by the grand jury not more than thirty days, or both.”

B. Section 16‑11‑520(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, or both, as permitted by law and without presentment or indictment of the grand jury not more than thirty days, or both.”

C. Section 16‑11‑523(C) of the 1976 Code, as added by Act 260 of 2008, is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is one two thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than one two thousand dollars but less than five ten thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five ten thousand dollars or more.”

D. Section 16‑13‑10(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than five ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.”

E. Section 16‑13‑30 of the 1976 Code is amended to read:

“Section 16‑13‑30. (A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of one two thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of one two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

(1) five years if the value of the personalty is more than one two thousand dollars but less than five ten thousand dollars;

(2) ten years if the value of the personalty is five ten thousand dollars or more.”

F. Section 16‑13‑40 of the 1976 Code is amended to read:

“Section 16‑13‑40. (A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the instrument stolen or taken has a value of one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than one two thousand dollars but less than five ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of five ten thousand dollars or more.”

G. Section 16‑13‑50 of the 1976 Code is amended to read:

“Section 16‑13‑50. (A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty‑five hundred dollars, or both, if the value of the livestock is five ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the livestock is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27‑21‑10.”

H. Section 16‑13‑66 of the 1976 Code is amended to read:

“Section 16‑13‑66. (A) A person violating the provision of Section 16‑13‑65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, must be fined an amount not to exceed five hundred one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, an offense punishable under this subitem may be tried in magistrate’s magistrates or municipal court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) Provided further, that if If the value of such property stolen or damaged is less than one two hundred dollars, the case shall be tried in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and the punishment shall be no more than is permitted by law without presentment or indictment by a grand jury a fine of not more than one thousand dollars or imprisonment for not more than thirty days, or both.”

I. Section 16‑13‑70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.”

J. Section 16‑13‑80 of the 1976 Code is amended to read:

“Section 16‑13‑80. The larceny of a bicycle is a misdemeanor and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than one two thousand dollars, the case is triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days.”

K. Section 16‑13‑110(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is one two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than one two thousand dollars but less than five ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is five ten thousand dollars or more.”

L. Section 16‑13‑180 of the 1976 Code is amended to read:

“Section 16‑13‑180. (A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the theft of the property.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days;

(2) felony and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years if the value of the property is more than one two thousand dollars but less than five ten thousand dollars;

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years if the value of the property is five ten thousand dollars or more.

(C) For the purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.”

M. Section 16‑13‑210 of the 1976 Code is amended to read:

“Section 16‑13‑210. (A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and imprisoned not more than five years if the amount of the embezzled funds is less than five ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two‑thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.”

N. Section 16‑13‑230(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than one two thousand dollars but less than five ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is five ten thousand dollars or more.”

O. Section 16‑13‑240 of the 1976 Code is amended to read:

“Section 16‑13‑240. A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment of the grand jury not more than thirty days.”

P. Section 16‑13‑260 of the 1976 Code is amended to read:

“Section 16‑13‑260. A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person’s name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.”

Q. Section 16‑13‑290 of the 1976 Code is amended to read:

“Section 16‑13‑290. It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than two four hundred dollars.

(2) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than one two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of two four hundred dollars or less.”

R. Section 16‑13‑331 of the 1976 Code is amended to read:

“Section 16‑13‑331. Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, willfully wilfully conceals a book or other library or archive property, while still on the premises of such library or archive, or willfully wilfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and upon conviction shall be punished in accordance with the following: (1) by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than fifty one hundred dollars, the punishment shall be a fine of not more than one two hundred dollars or imprisonment for not more than thirty days. Proof of the willful wilful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.”

S. Section 16‑13‑420 of the 1976 Code is amended to read:

“Section 16‑13‑420. (A) A person having any motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear property within seventy‑two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of his the lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court , notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the rented or leased item is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days is permitted by law without presentment or indictment by the grand jury, or both.”

T. Section 16‑13‑430(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of five ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than one two thousand dollars but less than five ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of food stamps fraudulently acquired or used is of a value of one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both is permitted by law without presentment or indictment by the grand jury.”

U. Section 16‑14‑80(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(a) if the value of the money, goods, services, and anything else of value, is five hundred one thousand dollars or less in any six‑month period;

(2) felony and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(b) if the value of the money, goods, services, or anything of value is more than five hundred one thousand dollars in any six‑month period.”

V. Section 16‑14‑100 of the 1976 Code is amended to read:

“Section 16‑14‑100. (a) A crime punishable under this subsection is a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than one two thousand dollars or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and, upon conviction, the person must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.”

W. Section 16‑17‑600(C) of the 1976 Code, as last amended by Act 229 of 2004, is further amended to read:

“(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

(a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at two four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

(b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the theft of, destruction to, injury to, or loss of property is valued at less than two four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, pursuant to the jurisdiction of magistrates as provided in Section 22‑3‑550 , and must be required to perform not more than two hundred fifty hours of community service.”

X. Section 16‑21‑80 of the 1976 Code is amended to read:

“Section 16‑21‑80. A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

(1) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the vehicle is one two thousand dollars or less. Upon conviction, the person must be fined, not more than one thousand dollars, or imprisoned, not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both,;

(2) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than one two thousand dollars but less than five ten thousand dollars;

(3) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is five ten thousand dollars or more.”

Y. Section 36‑9‑410(C) of the 1976 Code, as added by Act 265 of 2004, is amended to read:

“(C) If the value of the personal property subject to a perfected security interest is worth:

(1) one two thousand dollars or less, a person who violates the provisions of this section is guilty of a misdemeanor triable in the magistrate’s magistrates court or the municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days, or both;

(2) more than one two thousand dollars but less than five ten thousand dollars, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) five ten thousand dollars or more, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.”

Z. Section 38‑55‑170 of the 1976 Code is amended to read:

“Section 38‑55‑170. A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is five ten thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than one two thousand dollars but less than five ten thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of the claim is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.”

A.A. Section 45‑1‑50(A) of the 1976 Code, as last amended by Act 81 of 1999, is further amended to read:

“(A) A person who:

(1) obtains food, lodging or other service, or accommodation at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant and intentionally absconds without paying for it; or

(2) while a guest at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant, intentionally defrauds the keeper in a transaction arising out of the relationship as guest, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred one thousand dollars or imprisoned not more than six months, or both. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, an offense punishable under this subsection may be tried in magistrates or municipal court.”

B.B. Section 45‑2‑40 of the 1976 Code, as added by Act 446 of 1994, is amended to read:

“Section 45‑2‑40.(A) A person who on the premises or property of a lodging establishment:

(1) uses or possesses a controlled substance in violation of Chapter 53 of Title 44;

(2) consumes or possesses beer, wine, or alcoholic liquors in violation of Sections 63‑19‑2440 or 630‑19‑2450 63‑19‑2450; is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(B) A person who on the premises or property of a lodging establishment maliciously and wilfully commits a violation of this chapter resulting in damage to a lodging establishment room or its furnishings is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount of injury or damage to the property is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount of injury or damage to the property is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of injury or damage to the property is one two thousand dollars or less. Upon conviction, the person must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days.

(C) A person who rents or leases a room in a lodging establishment for the purpose of allowing the room to be used by another to do any act enumerated in subsections (A) or (B) of this section is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred one thousand dollars or imprisoned not more than thirty days.

(D) In a case arising under this section involving damage to a lodging establishment room or its furnishings, the court may order the person renting or leasing the lodging establishment room or the person causing such damage, or both:

(1) to pay restitution for any damages suffered by the owner or operator of the lodging establishment, which damages may include the lodging establishment’s loss of revenue resulting from the establishment’s inability to rent or lease the room during the period of time the lodging establishment room is being repaired; and

(2) to pay damages or restitution to any other person who is injured in person or property.

In a case arising under this subsection triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, a magistrate judge may order restitution not to exceed one thousand dollars the civil jurisdictional amount of magistrates court provided in 22‑3‑10(2).

In the case of a minor, the parents of the minor are liable for acts of the minor in violation of this section which cause damages to the lodging establishment room or furnishings or cause injury to persons or property.

(E) This section does not prohibit the prosecution of a person for the underlying violation which occurred on the premises or property of the lodging establishment.”

C.C. Section 46‑1‑20 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 46‑1‑20. A person who steals from the field any grain, cotton, or vegetables, whether severed from the freehold or not, is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the crop is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the crop is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the crop is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days.”

D.D. Section 46‑1‑40 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 46‑1‑40. A person who steals tobacco plants, whether severed from the freehold or not, from any tobacco plant beds is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the tobacco plants is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the tobacco plants is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the tobacco plants is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days.”

E.E. Section 46‑1‑60(B) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.”

F.F. Section 46‑1‑70(B) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is five ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than one two thousand dollars but less than five ten thousand dollars;

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.”

G.G. Section 49‑1‑50(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the lumber or timber is five ten thousand dollars or more.

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the lumber or timber is more than one two thousand dollars but less than five ten thousand dollars.

(3) misdemeanor triable in magistrate’s magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the lumber or timber is one two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than is permitted by law without presentment or indictment by the grand jury not more than thirty days, or both.”

SECTION 17. Section 16‑13‑425 of the 1976 Code is repealed.

SECTION 18. A. Section 56‑1‑460(A) of the 1976 Code is amended to read:

“Section 56‑1‑460. (A)(1) Except as provided in subitem item (2), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than up to ninety days or confined to a person’s place of residence pursuant to the Home Detention Act for not less than ninety days nor more than six months,. no No portion of which a term of imprisonment or confinement under home detention may be suspended by the trial judge. For purposes of this item, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, and 14‑25‑65, an offense punishable under this subitem item may be tried in magistrate’s magistrates or municipal court.

(e) (i) A person convicted of a first or second offense of this item, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to this item, may apply for a route restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the route restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university and that he lives further than one mile from his place of employment or place of education.

(ii) When the department issues a route restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver’s license pursuant to this item must report to the department immediately any change in his employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver’s license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route restricted license by the person issued that license is a violation of item (A)(1).

(2) A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56‑5‑2990 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

(d) No portion of the minimum sentence imposed under this subitem item may be suspended.”

B. Article 5, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑1105. (A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) ‘Habitual offender’ has the same meaning as in Section 56‑1‑1020.

(B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender’s license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver’s license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently.”

SECTION 19. Section 16‑5‑50 of the 1976 Code is amended to read:

“Section 16‑5‑50. Any person who shall (a) hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not less than fifty nor more than one three thousand dollars or imprisonment for not less than three months nor more than one year three years, or both, at the discretion of the court having jurisdiction.”

SECTION 20. Section 17‑25‑45 of the 1976 Code, as last amended by Act 72 of 2007, is further amended to read:

“Section 17‑25‑45. (A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has either:

(1) one or more prior convictions for:

(1a) a most serious offense; or

(2b) a federal or out‑of‑state conviction for an offense that would be classified as a most serious offense under this section; or

(3) any combination of the offenses listed in items (1) and (2) above

(2) two or more prior convictions for:

(a) a serious offense; or

(b) a federal or out‑of‑state conviction for an offense that would be classified as a serious offense under this section.

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

(1) a serious offense;

(2) a most serious offense;

(3) a federal or out‑of‑state offense that would be classified as a serious offense or most serious offense under this section; or

(4) any combination of the offenses listed in items (1), (2), and (3) above.

(C) As used in this section:

(1) ‘Most serious offense’ means:

16‑1‑40 Accessory, for any offense enumerated in this item

16‑1‑80 Attempt, for any offense enumerated in this item

16‑3‑10 Murder

16‑3‑29 Attempted Murder

16‑3‑30 Killing by poison

16‑3‑40 Killing by stabbing or thrusting

16‑3‑50 Voluntary manslaughter

16‑3‑85(A)(1) Homicide by child abuse

16‑3‑85(A)(2) Aiding and abetting homicide by child abuse

16‑3‑210 Lynching, First degree

16‑3‑210(B) Assault and battery by mob, First degree

16‑3‑430 Killing in a duel

16‑3‑620 Assault and battery with intent to kill

16‑3‑652 Criminal sexual conduct, First degree

16‑3‑653 Criminal sexual conduct, Second degree

16‑3‑655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16‑3‑655(3)

16‑3‑656 Assault with intent to commit criminal sexual conduct, First and Second degree

16‑3‑910 Kidnapping

16‑3‑920 Conspiracy to commit kidnapping

16‑3‑1075 Carjacking

16‑11‑110(A) Arson, First degree

16‑11‑311 Burglary, First degree

16‑11‑330(A) Armed robbery

16‑11‑330(B) Attempted armed robbery

16‑11‑540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results

24‑13‑450 Taking of a hostage by an inmate

25‑7‑30 Giving information respecting national or state defense to foreign contacts during war

25‑7‑40 Gathering information for an enemy

43‑35‑85(F) Abuse or neglect of a vulnerable adult resulting in death

55‑1‑30(3) Unlawful removing or damaging of airport facility or equipment when death results

56‑5‑1030(B)(3) Interference with traffic‑control devices or railroad signs or signals prohibited when death results from violation

58‑17‑4090 Obstruction of railroad, death results.

(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16‑3‑210(C) Assault and battery by mob, Second degree

16‑3‑600(B) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

(3) ‘Conviction’ means any conviction, guilty plea, or plea of nolo contendere.

(D) Except as provided in this subsection or subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16-3-50, kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment.

(E) For the purpose of this section only, a person sentenced pursuant to this section may be paroled if:

(1) the Department of Corrections requests the Department of Probation, Parole, and Pardon Services to consider the person for parole; and

(2) the Department of Probation, Parole, and Pardon Services determines that due to the person’s health or age he is no longer a threat to society; and

(a) the person has served at least thirty years of the sentence imposed pursuant to this section and has reached at least sixty‑five years of age; or

(b) the person has served at least twenty years of the sentence imposed pursuant to this section and has reached at least seventy years of age; or

(c) the person is afflicted with a terminal illness where life expectancy is one year or less; or

(d) the person can produce evidence comprising the most extraordinary circumstances.

(F) For the purpose of determining a prior or previous conviction under this section and Section 17‑25‑50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication. There is no requirement that the sentence for the prior or previous conviction must have been served or completed before a sentence of life without parole can be imposed under this section.

(G) The decision to invoke sentencing under Section 17‑25‑45(B) this section is in the discretion of the solicitor. The provisions of Section 17‑25‑45(A) shall be mandatory.

(H) Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given by the solicitor to the defendant and defendant’s counsel not less than ten days before trial.”

SECTION 21. Section 16‑3‑20(A) and (B) of the 1976 Code, as last amended by Act 278 of 2002, is further amended to read:

“(A) A person who is convicted of or pleads guilty to murder must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years to life. If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14 of Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(B) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty‑four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pleaded guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of South Carolina or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.”

SECTION 22. Sections 16‑3‑30, 16‑3‑40, and 16‑3‑430 of the 1976 Code are repealed.

SECTION 23. Section 14‑25‑65 of the 1976 Code, as last amended by Act 78 of 1999, is further amended to read:

“Section 14‑25‑65. If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an amount not to exceed five thousand dollars the civil jurisdictional amount of magistrates court provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 24. Section 22‑3‑550(A) of the 1976 Code is amended to read:

“Section 22‑3‑550. (A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed five thousand dollars the civil jurisdictional amount provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 25. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑500. (A) It is unlawful for a person who has been convicted of a violent crime, as defined by Section 16‑1‑60, that is classified as a felony offense, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(D) The judge that hears the case involving the violent offense, as defined by Section 16‑1‑60, that is classified as a felony offense, shall make a specific finding on the record that the offense is a violent offense, as defined by Section 16‑1‑60, and is classified as a felony offense.”

SECTION 26. Section 16‑1‑60 of the 1976 Code, as last amended by Act 379 of 2006, is further amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10 ); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)); criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first and second degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B); kidnapping (Section 16‑3‑910); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); criminal domestic violence of a high and aggravated nature (Section 16‑25‑65); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); attempt to commit any of the above offenses (Section 16‑1‑80); and taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑33‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); lewd act upon a child under sixteen (Section 16‑15‑140); sexual exploitation of a minor first Degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 27. Section 16‑23‑490(C) of the 1976 Code is amended to read:

“(C) Except as provided in this subsection, The the person sentenced under this section is not eligible during this five‑year period for parole, work release, or extended work release. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good‑time credits or work credits, but may earn credits during this period. The person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment.”

SECTION 28. Section 24‑13‑125(A) of the 1976 Code is amended to read:

“(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, or as provided in this subsection, a prisoner convicted of a ‘no parole offense’, as defined in Section 24‑13‑100, and sentenced to the custody of the Department of Corrections, including a prisoner serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20, is not eligible for work release until the prisoner has served not less than eighty percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment. Except as provided in this subsection, Nothing nothing in this section may be construed to allow a prisoner convicted of murder or a prisoner prohibited from participating in work release by another provision of law to be eligible for work release.”

SECTION 29. Section 24‑13‑650 of the 1976 Code is amended to read:

“Section 24‑13‑650. (A) No offender committed to incarceration for a violent offense as defined in Section 16‑1‑60 or a ‘no parole offense’ as defined in Section 24‑13‑100 may be released back into the community in which the offender committed the offense under the work release program, except in those cases wherein, where applicable, the victim of the crime for which the offender is charged or the relatives of the victim who have applied for notification under Article 15, Chapter 3, Title 16 if the victim has died, the law enforcement agency which employed the arresting officer at the time of the arrest, and the circuit solicitor all agree to recommend that the offender be allowed to participate in the work release program in the community where the offense was committed. The victim or the victim’s nearest living relative, the law enforcement agency, and the solicitor, as referenced above, must affirm in writing that the offender be allowed to return to the community in which the offense was committed to participate in the work release program.

(B) An offender committed to incarceration for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), may be released under the work release program back into the community in which the offender committed the offense, if the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, the person is within three years of release from imprisonment, and the provisions of subsection (A) are fulfilled.”

SECTION 30. Section 24‑3‑20(B)(2) of the 1976 Code is amended to read:

“(2) the rates of pay and other conditions of employment will not be less than those paid and provided for work of similar nature in the locality in which the work is to be performed.

The department shall notify victims registered pursuant to Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and sheriff of the county or the law enforcement agency of the jurisdiction where the offense occurred before releasing inmates on work release. However, the trial judge may waive his right to receive the notification contained in this section by notifying the department of this waiver in writing. The department has the authority to deny release based upon opinions received from these persons, if any, as to the suitability of the release.

A prisoner’s place of confinement may not be extended as permitted by this subsection who if the prisoner:

(a) is currently serving a sentence for or has a prior conviction for criminal sexual conduct in the first, second, or third degree; attempted criminal sexual conduct; assault with intent to commit criminal sexual conduct; criminal sexual conduct when the victim is his legal spouse; criminal sexual conduct with a minor; committing or attempting to commit a lewd act on a child; engaging a child for sexual performance; spousal sexual battery; or a violent offense as defined in Section 16‑1‑60, a harassment or stalking offense pursuant to Article 17, Chapter 3 of Title 16, or a burglary offense pursuant to Section 16‑11‑311 or 16‑11‑312(B). ; or

(b) is currently serving a sentence for a violent offense as defined in Section 16‑1‑60, except that a prisoner serving a sentence for kidnapping, pursuant to Section 16‑3‑910, voluntary manslaughter, pursuant to Section 16‑3‑50, armed robbery, pursuant to Section 16‑11‑330(A), attempted armed robbery, pursuant to Section 16‑11‑330(B), burglary in the second degree, pursuant to Section 16‑11‑312(B), or carjacking, pursuant to Section 16‑3‑1075 may be eligible to participate in the work release programs so long as the prisoner is within three years from the date of his release from incarceration, and the prisoner is not serving a sentence involving criminal sexual conduct or other violent crime, as classified under Section 16‑1‑60.

(3) A prisoner who is serving a sentence for a ‘no parole offense’ as defined in Section 24‑13‑100 and who is otherwise eligible for work release shall not have his place of confinement extended until he has served the minimum period of incarceration as set forth in Section 24‑13‑125.”

SECTION 31. Section 24‑19‑10 of the 1976 Code is amended to read:

“Section 24‑19‑10. As used herein:

(a) ‘Department’ means the Department of Corrections.

(b) ‘Division’ means the Youthful Offender Division.

(c) ‘Director’ means the Director of the Department of Corrections.

(d) ‘Youthful offender’ means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less, or;

(ii) seventeen but less than twenty‑five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(iv) seventeen but less than twenty‑one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing a lewd act upon a child pursuant to Section 16‑15‑140, and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty‑five years of age at the time of conviction for committing a lewd act upon a child pursuant to Section 16‑15‑140, and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 32. Section 22‑5‑920(B) of the 1976 Code, as last amend by Act 36 of 2009, is further amended to read:

“(B) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, after five years from the date of completion of his sentence, including probation and parole, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to an offense involving the operation of a motor vehicle, to a violation of Title 50 or the regulations promulgated under it for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses authorized, to an offense classified as a violent crime in Section 16‑1‑60, or to an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16‑25‑30. If the defendant has had no other conviction during the five‑year period following completion of his sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have his record expunged pursuant to the provisions of this section.”

SECTION 33. Section 24‑19‑110 of the 1976 Code, as last amended by an unnumbered Act of 2010 bearing ratification number R 140, is further amended by adding an appropriately lettered subsection to read:

“( ) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender. The division has the authority to deny conditional release and unconditional discharge based upon information received from the victim as to the suitability of the release.”

SECTION 34. Section 24‑19‑120 of the 1976 Code is amended to read:

“Section 24‑19‑120. (A) A youthful offender shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

(B) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender.”

SECTION 35. Section 14‑1‑213(A) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(A) In addition to all other assessments and surcharges required to be imposed by law, a one‑hundred‑dollar one hundred and fifty dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.”

SECTION 36. Section 44‑53‑160(4) of the 1976 Code is amended to read:

“(4) If any substance is added, deleted, or rescheduled as a controlled substance under Federal law or regulation and notice of the designation is given to the Department, the Department shall by rule, at its first regular or special meeting recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly not less than thirty days after publication in the Federal register of a the final order designating a the substance as a controlled substance or rescheduling or deleting a the substance, unless the Department objects to the change. In that case, the Department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the Department’s recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be.

If the Department does not object to the change of schedule, it shall by rule, at its first regular or special meeting after the final order by the Bureau or its successor agency is published in the Federal register, reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly; in such case, no hearing need be given unless requested by an interested party. This rule issued by the Department shall be in substance identical with the order published in the Federal register effecting the change in Federal status of the substance. The Department shall notify the General Assembly in writing of the change in federal law or regulation and of the corresponding change in South Carolina law.”

SECTION 37. Section 44‑53‑370 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑370. (a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than fifteen ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(c) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.

(d) A person who violates subsection (c) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) possession of more than: ten grains one gram of cocaine, one hundred milligrams of alpha‑ or beta‑eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty‑eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty‑ eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44‑53‑450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17‑22‑10 through 17‑22‑160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14‑1‑205. The assessment portion of the bail must be distributed as provided in Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

(1) ten pounds or more of marijuana is guilty of a felony which is known as ‘trafficking in marijuana’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;

3. for a third or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(2) ten grams or more of cocaine or any mixtures containing cocaine, as provided in Section 44‑53‑210(b)(4), is guilty of a felony which is known as ‘trafficking in cocaine’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten grams or more, but less than twenty‑eight grams:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(3) four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44‑53‑190 or 44‑53‑210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as ‘trafficking in illegal drugs’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty‑eight grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty‑eight grams or more, a mandatory term of imprisonment of not less than twenty‑five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(4) fifteen grams or more of methaqualone is guilty of a felony which is known as ‘trafficking in methaqualone’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) fifteen grams but less than one hundred fifty grams:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) fifteen kilograms or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as ‘trafficking in LSD’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(6) one gram or more of flunitrazepam is guilty of a felony which is known as ‘trafficking in flunitrazepam’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one gram but less than one hundred grams;

1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) five kilograms or more, a term of imprisonment of not less than twenty‑five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as ‘trafficking in gamma hydroxybutyric acid’ and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

(b) for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24‑13‑610, or supervised furlough, as provided in Section 24‑13‑710. Notwithstanding Section 44‑53‑420, a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one‑half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in Section 44‑53‑370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.

(8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4‑methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as ‘trafficking in MDMA or ecstasy’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars.

(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16‑3‑910;

(2) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

(3) criminal sexual conduct with a minor in the first or second degree, Section 16‑3‑655;

(4) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

(5) spousal sexual battery, Section 16‑3‑615;

(6) engaging a child for a sexual performance, Section 16‑3‑810;

(7) committing lewd act upon child under sixteen, Section 16‑15‑140;

(8) petit larceny, Section 16‑13‑30 (A); or

(9) grand larceny, Section 16‑13‑30 (B).

(g) A person who violates subsection (f) with respect to:

(1) a controlled substance classified in Schedule I (b) or (c) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted;

(2) any other controlled substance or gamma hydroxy butyrate is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty‑five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted.”

SECTION 38. Section 44‑53‑375 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑375. (A) A person possessing or attempting to possess less than one gram of methamphetamine or cocaine base, as defined in Section 44‑53‑110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44‑53‑370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than fifteen ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44‑53‑110, 44‑53‑210(d)(1), or 44‑53‑210(d)(2), is guilty of a felony which is known as ‘trafficking in methamphetamine or cocaine base’ and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty‑eight grams:

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(2) twenty‑eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains twelve nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as ‘trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) twelve nine grams or more, but less than twenty‑eight grams:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products:

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(F) Except for a first offense, as provided in subsection (A) of this section, sentences Sentences for violation of the provisions of this section subsections (C) and (E) may not be suspended and probation may not be granted. A person convicted and sentenced under this subsection subsections (C) and (E) to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24‑13‑610, or supervised furlough as provided in Section 24‑13‑710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 63‑5‑70, if a child was present at any time during the unlawful manufacturing of methamphetamine.”

SECTION 39. Section 44‑53‑445 of the 1976 Code is amended to read:

“Section 44‑53‑445. (A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B) For a person to be convicted of an offense pursuant to subsection (A), the person must:

(1) have knowledge that that he is in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and

(2) actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(C) A person must not be convicted of an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B)(1)(D)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

(2) When a violation involves the distribution, sale, manufacture, or possession with intent to distribute crack cocaine, the person is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and imprisoned not less than ten nor more than fifteen years.

(32) When a violation involves only the purchase of a controlled substance, including crack cocaine, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(CE) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44‑53‑370 and 44‑53‑375 apply to criminal prosecutions under this section.”

SECTION 40. Section 44‑53‑450 of the 1976 Code, as last amended by Act 36 of 2009, is further amended to read:

“Section 44‑53‑450. (aA) Whenever any person who has not previously been convicted of any offense under this article or any offense under any State or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370 (c) and (d), or Section 44‑53‑375 (A) except narcotic drugs classified in Schedule I (b) and (c) and narcotic drugs classified in Schedule II, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a State‑supported facility or a facility approved by the Commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

(bB) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug, the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 41. Section 44‑53‑470 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑470. (A) An offense is considered a second or subsequent offense if:

(1) for a possession offense pursuant to the provisions of this article, the offender has been convicted within the previous ten years of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs; and

(2) for all other offenses pursuant to the provisions of this article, the offender has at any time been convicted of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs.

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance, offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later.”

SECTION 42. Section 44‑53‑582 of the 1976 Code is amended to read:

“Section 44‑53‑582. All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation must be returned to the State or local agency or unit of government furnishing the monies upon a determination by the court that the monies were used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation. The court may order a defendant to return the monies to the state or local agency or unit of government at the time of sentencing.”

SECTION 43. Section 56‑1‑745(A) of the 1976 Code is amended to read:

“(A) The driver’s license of a person convicted of a controlled substance violation involving hashish or marijuana must be suspended for a period of six months. The driver’s license of a person convicted of any other controlled substance violation must be suspended for a period of one year. If the person does not have a driver’s license, the court shall order the Department of Motor Vehicles not to issue a driver’s license for six months after the person legally is eligible for the issuance of a driver’s license if the offense involves hashish or marijuana. If the offense involves any other controlled substance, the court shall order the department not to issue a driver’s license for one year after the person legally is eligible for the issuance of a driver’s license. For each subsequent conviction under this section, the court shall order the driver’s license to be suspended for an additional six months or one year, as the case may be. The additional period of suspension for a subsequent offense runs consecutively and does not commence until the expiration of the suspension for the prior offense.”

PART II

Release and Supervision Revisions

SECTION 44. It is the intent of the General Assembly that the provisions in PART II of this Act shall provide cost‑effective prison release and community supervision mechanisms and cost‑effective and incentive‑based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety.

SECTION 45. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑5. As used in this chapter:

(1) ‘Administrative monitoring’ means a form of monitoring by the department beyond the end of the term of supervision in which the only remaining condition of supervision not completed is the payment of financial obligations. Under administrative monitoring, the only condition of the monitoring shall be the requirement that reasonable progress be made towards the payment of financial obligations. The payment of monitoring mandated fees shall continue. When an offender is placed on administrative monitoring, he shall register with the department’s representative in his county, notify the department of his current address each quarter, and make payments on financial obligations owed, until the financial obligations are paid in full or a consent order of judgment is filed.

(2) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(3) ‘Department’ means the Department of Probation, Parole and Pardon Services.

(4) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

(5) ‘Financial obligations’ mean fines, fees, and restitution either ordered by the court or statutorily imposed.

(6) ‘Hearing Officer’ means an employee of the department who conducts preliminary hearings to determine probable cause on alleged violations committed by an individual under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law.”

SECTION 46. Section 24‑21‑10 of the 1976 Code is amended to read:

“Section 24‑21‑10.(A) The department Department of Probation, Parole, and Pardon Services, hereafter referred to as the ‘department’, is governed by the its director of the department. The director must be appointed by the Governor with the advice and consent of the Senate. To qualify for appointment, the director must have a baccalaureate or more advanced degree from an institution of higher learning that has been accredited by a regional or national accrediting body, which is recognized by the Council for Higher Education Accreditation and must have at least ten years of training and experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work.

(B) The Board of Probation, Parole, and Pardon Services is composed of seven members. The terms of office of the members are for six years. Six of the seven members must be appointed from each of the congressional districts and one member must be appointed at large. The at‑large appointee shall have at least five years of work or volunteer experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work. Vacancies must be filled by gubernatorial appointment with the advice and consent of the Senate for the unexpired term. If a vacancy occurs during a recess of the Senate, the Governor may fill the vacancy by appointment for the unexpired term pending the consent of the Senate, provided the appointment is received for confirmation on the first day of the Senate’s next meeting following the vacancy. A chairman must be elected annually by a majority of the membership of the board. The chairman may serve consecutive terms.

(C) The Governor shall deliver an appointment within sixty days of the expiration of a term, if an individual is being reappointed, or within ninety days of the expiration of a term, if an individual is an initial appointee. If a board member who is being reappointed is not confirmed within sixty days of receipt of the appointment by the Senate, the appointment is considered rejected. For an initial appointee, if confirmation is not made within ninety days of receipt of the appointment by the Senate, the appointment is deemed rejected. The Senate may by resolution extend the period after which an appointment is considered rejected. If the failure of the Senate to confirm an appointee would result in the lack of a quorum of board membership, the seat for which confirmation is denied or rejected shall not be considered when determining if a quorum of board membership exists.

(D) Within ninety days of a parole board member’s appointment by the Governor and confirmation by the Senate, the board member must complete a comprehensive training course developed by the department using training components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training course must include classes regarding the following:

(1) the elements of the decision making process, through the use of evidence‑based practices for determining offender risk, needs and motivations to change, including the actuarial assessment tool that is used by the parole agent;

(2) security classifications as established by the Department of Corrections; 3) programming and disciplinary processes and the department’s supervision, case planning, and violation process;

(4) the dynamics of criminal victimization; and

(5) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety.

The department must promulgate regulations setting forth the minimum number of hours of training required for the board members and the specific requirements of the course that the members must complete.

(E)(1) Each parole board member is also required to complete a minimum of eight hours of training annually, which shall be provided for in the department’s annual budget. This annual training course must be developed using the training components consistent with those offered by the National Institute of Corrections or American Probation and Parole Association and must offer classes regarding:

(1) a review and analysis of the effectiveness of the assessment tool used by the parole agents;

(2) a review of the department’s progress toward public safety goals;

(3) the use of data in decision making; and

(4) any information regarding promising and evidence‑based practices offered in the corrections related and crime victim dynamics field.

The department must promulgate regulations setting forth the specific criteria for the course that the members must complete.

(2) If a parole board member does not fulfill the training as provided in this section, the governor, upon notification, must remove that member from the board unless the Governor grants the parole board member an extension to complete the training, based upon exceptional circumstances.

(F) The department must develop a plan that includes the following:

(1) establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence‑based practices and factors that contribute to criminal behavior, which the Parole Board shall use in making parole decisions, including additional objective criteria that may be used in parole decisions;

(2) establishment of procedures for the department on the use of the validated assessment tool to guide the department, Parole Board, and agents of the department in determining supervision management and strategies for all offenders under the department’s supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism; and

(3) establishment of goals for the department, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and performance safety performance indicators.

(G) The director shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the department must submit an annual report to the Sentencing Reform Oversight Committee on its performance for the previous fiscal year and plans for the upcoming year. The department must collect and report all relevant data in a uniform format of both board decisions and field services and must annually compile a summary of past practices and outcomes.”

SECTION 47. Section 24‑21‑13 of the 1976 Code is amended to read:

“Section 24‑21‑13.(A) It is the duty of the director to oversee, manage, and control the department. The director shall develop written policies and procedures for the following:

(1) the supervising of offenders on probation, parole, community supervision, and other offenders released from incarceration prior to the expiration of their sentence, which supervising shall be based on a structured decision‑making guide designed to enhance public safety, which uses evidence based practices and focuses on considerations of offenders’ criminal risk factors;

(2) the consideration of paroles and pardons and the supervision of offenders in the community supervision program, and other offenders released from incarceration prior to the expiration of their sentence. The requirements for an offender’s participation in the community supervision program and an offender’s progress toward completing the program are to be decided administratively by the Department of Probation, Parole, and Pardon Services. No inmate or future inmate shall have a ‘liberty interest’ or an ‘expectancy of release’ while in a community supervision program administered by the department;

(3) the operation of community‑based correctional services and treatment programs; and

(4) the operation of public work sentence programs for offenders as provided in item (1) of this subsection. This program also may be utilized as an alternative to technical revocations. The director shall establish priority programs for litter control along state and county highways. This must be included in the ‘public service work’ program.

(B) It is the duty of the board to consider cases for parole, pardon, and any other form of clemency provided for under law.”

SECTION 48. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑32.(A) For purposes of this section, ‘release date’ means the date determined by the South Carolina Department of Corrections on which an inmate is released from prison, based on the inmate’s sentence and all earned credits allowed by law.

(B) Notwithstanding the provisions of this chapter, an inmate, who is not required to participate in a community supervision program pursuant to Article 6, Chapter 21, Title 24, shall be placed on reentry supervision with the department before the expiration of the inmate’s released date. Inmates who have been incarcerated for a minimum of two years shall be released to reentry supervision one hundred and eighty days before their release date. For an inmate whose sentence includes probation, the period of reentry supervision is reduced by the term of probation.

(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence‑based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director.

(D) If the department determines that an inmate has violated a term or condition of reentry supervision sufficient to revoke the reentry supervision, a probation agent must initiate a proceeding before a department administrative hearing officer. The proceeding must be initiated pursuant to a warrant or a citation describing the violations of the reentry supervision. No inmate arrested for violation of a term or condition of reentry supervision may be released on bond; however, he shall be credited with time served as set forth in Section 24‑13‑40 toward his release date. If the administrative hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions set forth in the regulations or department guidelines, and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate’s reentry supervision and the inmate shall be incarcerated up to one hundred eighty days, but the maximum aggregate time that the inmate shall serve on reentry supervision or for revocation of the reentry supervision shall not exceed an amount of time equal to the length of incarceration imposed by the court for the offense that the inmate was serving at the time of his initial reentry supervision. The decision of the administrative hearing officer on the reentry supervision shall be final and there shall be no appeal of his decision.”

SECTION 49. Section 24‑21‑220 of the 1976 Code is amended to read:

“Section 24‑21‑220. The director is vested with the exclusive management and control of the department and is responsible for the management of the department and for the proper care, assessment, treatment, supervision, and management of offenders under its control. The director shall manage and control the department and it is the duty of the director to carry out the policies of the department. The director is responsible for scheduling board meetings, assuring that the proper cases and investigations are prepared for the board, maintaining the board’s official records, and performing other administrative duties relating to the board’s activities. The director must employ within his office such personnel as may be necessary to carry out his duties and responsibilities including the functions of probation, parole, and community supervision, community‑based programs, financial management, research and planning, staff development and training, and internal audit. The director shall make annual written reports to the board, the Governor, and the General Assembly providing statistical and other information pertinent to the department’s activities.”

SECTION 50. Section 24‑21‑280 of the 1976 Code is amended to read:

“Section 24‑21‑280. (A) A probation agent must investigate all cases referred to him for investigation by the judges or director and report in writing. He must furnish to each person released on probation, parole, or community supervision under his supervision a written statement of the conditions of probation, parole, or community supervision and must instruct him regarding them. He must keep informed concerning the conduct and condition of each person on probation, parole, or community supervision under his supervision by visiting, requiring reports, and in other ways, and must report in writing as often as the court or director may require. He must use practicable and suitable methods that are consistent with evidence‑based practices to aid and encourage persons on probation, parole, or community supervision to bring about improvement in their conduct and condition and to reduce the risk of recidivism for the offenders under his supervision. A probation agent must keep detailed records of his work, make reports in writing, and perform other duties as the director may require.

(B) A probation agent has, in the execution of his duties, the power to issue an arrest warrant or a citation charging a violation of conditions of supervision, the powers of arrest, and, to the extent necessary, the same right to execute process given by law to sheriffs. A probation agent has the power and authority to enforce the criminal laws of the State. In the performance of his duties of probation, parole, community supervision, and investigation, he is regarded as the official representative of the court, the department, and the board.

(C) A probation agent must conduct an actuarial assessment of offender risks and needs, including criminal risk factors and specific needs of each individual, under the supervision of the department, which shall be used to make objectively based decisions that are consistent with evidence‑based practices on the type of supervision and services necessary. The actuarial assessment tool shall include screening and comprehensive versions. The screening version shall be used as a triage tool to determine offenders who require the comprehensive version. The director shall also require each agent to receive annual training on evidence‑based practices and criminal risks factors and how to target these factors to reduce recidivism.

(D) A probation agent, in consultation with his supervisor, shall identify each individual under the supervision of the department, with a term of supervision of more than one year, and shall calculate and award compliance credits as provided in this section. Credits may be earned from the first day of supervision on a thirty‑day basis, but shall not be applied until after each thirty‑day period of supervision has been completed. Compliance credits may be denied for noncompliance on a thirty‑day basis as determined by the department. The denial of nonearned compliance credits is a final decision of the department and is not subject to appeal. An individual may earn up to twenty days of compliance credits for each thirty‑day period in which he has fulfilled all of the conditions of his supervision, has no new arrests, and has made all scheduled payments of his financial obligations.

(E) Any portion of the earned compliance credits are subject to be revoked by the department if an individual violates a condition of supervision during a subsequent thirty‑day period.

(F) The department shall provide annually to the Sentencing Reform Oversight Committee the number of offenders who qualify for compliance credits and the amount of credits each has earned within a fiscal year.”

SECTION 51. Section 24‑21‑230 of the 1976 Code is amended to read:

“Section 24‑21‑230. (A) The director must employ probation agents required for service in the State and clerical assistants as necessary. The probation agents must take and pass psychological and qualifying examinations as directed by the director. The director must ensure that each probation agent receives adequate training. Until the initial employment requirements are met, no person may take the oath of a probation agent nor exercise the authority granted to them.

(B) The director must employ hearing officers who conduct preliminary hearings to determine probable cause on violations committed by individuals under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The department shall promulgate regulations for the qualifications of the hearing officers and the procedures for the preliminary hearings. Until regulations are adopted, the qualifications and procedures shall be based on guidelines developed by the director.”

SECTION 52. Article 1, Chapter 21, Title 24 is amended by adding:

“Section 24‑21‑100. (A) Notwithstanding the provisions of Sections 24‑19‑120, 24‑21‑440, 24‑21‑560(B), or 24‑21‑670, when an individual has not fulfilled his obligations for payment of financial obligations by the end of his term of supervision, then the individual shall be placed under quarterly administrative monitoring, as defined in Section 24‑21‑5, by the department until such time as those financial obligations are paid in full or a consent order of judgment is filed. If the individual under administrative monitoring fails to make reasonable progress towards the payment of such financial obligations, as determined by the department, the department may petition the court to hold an individual in civil contempt for failure to pay the financial obligations. If the court finds the individual has the ability to pay but has not made reasonable progress towards payment, the court may hold the individual in civil contempt of court and may impose a term of confinement in the local detention center until payment of the financial obligations, but in no case to exceed ninety days of confinement. Following any term of confinement, the individual shall be returned to quarterly administrative monitoring by the department. If the individual under administrative monitoring does not have the ability to pay the financial obligations and has no reasonable likelihood of being able to pay in the future, the Department may submit a consent order of judgment to the court, which shall relieve the individual of any further administrative monitoring.

(B) An individual placed on administrative monitoring shall pay a regular monitoring fee towards offsetting the cost of his administrative monitoring for the period of time that he remains under monitoring. The regular monitoring fee must be determined by the department based upon the ability of the person to pay. The fee must not be more than ten dollars a month. All regular monitoring fees must be retained by the department, carried forward, and applied to the department’s operation.”

SECTION 53. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑110. (A) In response to a violation of the terms and conditions of any supervision program operated by the department, whether pursuant to statute or contract with another state agency, the probation agent may, with the concurrence of his supervisor and, as an alternative to issuing a warrant or citation, serve on the offender a notice of administrative sanctions. The agent must not serve a notice of administrative sanctions on an offender for violations of special conditions if a sentencing court provided that those violations would be heard by the court. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation.

(B) If the offender agrees in writing to the additional conditions set forth in the notice or order of administrative sanctions, the conditions must be implemented with swiftness and certainty. If the offender does not agree, or if after agreeing the offender fails to fulfill the additional conditions to the satisfaction of the probation agent and his supervisor, then the probation agent may commence revocation proceedings.

(C) In addition to the notice of administrative sanctions, a hearing officer with the department may, as an alternative to sending a case forward to the revoking authority, impose on the offender an order of administrative sanctions. The order may be made only after the hearing officer has made a finding of probable cause at a preliminary hearing that an offender has violated the terms and conditions of any supervision program operated by the department, whether pursuant to statute or a contract with another state agency. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation. The sanctions must be implemented with swiftness and certainty.

(D) The administrative sanctions shall be established by regulations of the department, as set forth by established administrative procedures. The department shall delineate in the regulations a listing of administrative sanctions for the most common types of supervision violations including, but not limited to: failure to report; failure to pay fines, fees, and restitution; failure to participate in a required program or service; failure to complete community service; and failure to refrain from the use of alcohol or controlled substances. The sanctions shall consider the severity of the current violation, the offender’s previous criminal record, the number and severity of previous supervision violations, the offender’s assessment, and the extent to which administrative sanctions were imposed for previous violations. The department, in determining the list of administrative sanctions to be served on an offender, shall ascertain the availability of community‑based programs and treatment options including, but not limited to: inpatient and outpatient substance abuse treatment facilities; day reporting centers; restitution centers; intensive supervisions; electronic monitoring; community service; programs to reduce criminal risk factors; and other community‑based options consistent with evidence‑based practices.

(E) The department shall provide annually to the Sentencing Reform Oversight Committee:

(1) the number of offenders who were placed on administrative sanctions during the prior fiscal year, and who were not returned to incarceration within that fiscal year;

(2) the number and percentage of offenders whose supervision programs were revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010; and

(3) the number and percentage of offenders who were convicted of a new offense and sentenced to a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010.”

SECTION 54. Section 24‑21‑490 of the 1976 Code is amended to read:

“Section 24‑21‑490.(A) The Department of Probation, Parole and Pardon Services shall collect and distribute restitution on a monthly basis from all offenders under probationary and intensive probationary supervision.

(B) Notwithstanding Section 14‑17‑725, the department shall assess a collection fee of twenty percent of each restitution program and deposit this collection fee into a separate account. The department shall maintain individual restitution accounts that reflect each transaction and the amount paid, the collection fee, and the unpaid balance of the account. A summary of these accounts must be reported to the Governor’s Office, the President of the Senate, the Speaker of the House, the Chairman of the House Judiciary Committee, and the Chairman of the Senate Corrections and Penology Committee every six months following the enactment of this section.

(C) The department may retain the collection fees described in subsection (B) and expend the fees for the purpose of collecting and distributing restitution. Unexpended funds at the end of each fiscal year may be retained by the department and carried forward for use for the same purpose by the department.

(D) For financial obligations collected by the department pursuant to administrative monitoring requirements, payments shall be distributed by the department proportionately to pay restitution and fees based on the ratio of each category to the total financial obligation owed. Fines shall continue to be paid and collected pursuant to the provisions of Chapter 17 of Title 14.”

SECTION 55. Article 7, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑715. (A) As contained in this section:

(1) ‘Terminally ill’ means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk.

(2) ‘Geriatric’ means an inmate who is seventy years of age or older and suffers from chronic infirmity, illness, or disease related to aging, which has progressed so the inmate is incapacitated as determined by a licensed physician to the extent that the inmate does not pose a public safety risk.

(3) ‘Permanently incapacitated’ means an inmate who no longer poses a public safety risk because of a medical condition that is not terminal but that renders him permanently and irreversibly incapacitated as determined by a licensed physician and which requires immediate and long term residential care.

(B) Notwithstanding another provision of law, only the full Parole Board, upon a petition filed by the Director of the Department of Corrections, may order the release of an inmate who is terminally ill, geriatric, permanently incapacitated, or any combination of these conditions.

(C) The parole order issued by the Parole Board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate’s supervision and conditions for his participation and removal.

(D) An inmate granted a parole pursuant to this section is under the supervision of the Department of Probation, Parole and Pardon Services. The inmate must reside in an approved residence and abide by all conditions ordered by the Parole Board. The department is responsible for supervising an inmate’s compliance with the conditions of the parole board’s order as well as monitoring the inmate in accordance with the department’s policies.

(E) The department shall retain jurisdiction for all matters relating to the parole granted pursuant to this section and conduct an annual review of the inmate’s status to ensure that he remains eligible for parole pursuant to this section. If the department determines that the inmate is no longer eligible to participate in the parole set forth in this section, a probation agent must issue a warrant or citation charging a violation of parole and the board shall proceed pursuant to the provisions of Section 24‑21‑680.”

SECTION 56. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 11

Office of Pretrial Intervention Coordinator

Diversion Program Data and Reporting

Section 17‑22‑1110. As used in this chapter:

(1) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(2) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

Section 17‑22‑1120. (A) In addition to the information collected and processed by the Office of Pretrial Intervention Coordinator within the Commission on Prosecution Coordination pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office of Pretrial Intervention Coordination shall be responsible for collecting data on all programs administered by a circuit solicitor, the Commission on Prosecution Coordination, or a court, which divert offenders from prosecution to an alternative program or treatment.

(B) This shall include programs administered by circuit solicitors, which are either statutorily mandated or established by judicial order, and shall include, but are not limited to: alcohol education programs; drug courts for adults or juveniles; traffic education programs; worthless checks units; pre‑trial intervention; mental health courts; or juvenile arbitration.

(C) Notwithstanding the provisions of Section 17‑22‑130, 17‑22‑360, 17‑22‑370, or 17‑22‑560, the Office of Pretrial Intervention Coordinator shall collect and make available for public inspection an annual report on the numbers of individuals who apply for a diversion program, the number of individuals who begin a diversion program or treatment, the number of individuals who successfully complete a program or treatment within a twelve‑month period, the number of individuals who do not successfully complete a program or treatment within the same twelve‑month period, but who are still participating in the program or treatment, the number of individuals who did not complete the program within the twelve‑month period and who have been prosecuted for the offense committed, and the number of individuals with fees fully or partially waived for indigence. The data collected and made available for public inspection shall be listed by each county, by each program or treatment, and the offense originally committed, but shall not contain any identifying information of the participant.

(D) A copy of the report shall be sent to the Sentencing Reform Oversight Committee for evaluation of the diversion programs and treatments being administered in the State by the circuit solicitors or a court, the effectiveness of each program, and to ascertain the need for additional programs, program modifications, or repeal of existing programs. In evaluating the programs and treatments, the Sentencing Reform Oversight Committee may request information on the evidence‑based practices used in each program or treatment to identify offender risks and needs, and the specific interventions employed in each program or treatment to identify criminal risk factors and reduce recidivism.”

SECTION 57. Section 24‑13‑2130 of the 1976 Code is amended to read:

“Section 24‑13‑2130. (A) The memorandum of understanding between the South Carolina Department of Corrections, Probation, Parole and Pardon Services, the Department of Vocational Rehabilitation, Employment Security Commission, Alston Wilkes Society, and other private sector entities shall establish the role of each agency in:

(1) ascertaining an inmate’s opportunities for employment after release from confinement and providing him with vocational and academic education and life skills assessments based on evidence‑based practices and criminal risk factors analysis as may be appropriate;

(2) developing skills enhancement programs for inmates, as appropriate;

(3) coordinating job referrals and related services to inmates prior to release from incarceration;

(4) encouraging participation by inmates in the services offered;

(5) developing and maintaining a statewide network of employment referrals for inmates at the time of their release from incarceration and aiding inmates in the securing of employment;

(6) identifying and facilitating other transitional services within both governmental and private sectors;

(7) surveying employment trends within the State and making proposals to the Department of Corrections regarding potential vocational training activities.

(B) Further, the Department of Corrections and the Department of Probation, Parole and Pardon Services are directed to work with the Department of Motor Vehicles to develop and implement a plan for providing inmates who are being released from a correctional facility with a valid photo identification card. To the extent that funds are available from an individual inmate’s account, the Department of Corrections shall transfer five dollars to the Department of Motor Vehicles to cover the cost of issuing the photo identification card. The Department of Motor Vehicles shall use existing resources and technology to produce the photo identification card.”

SECTION 58. Section 24‑21‑645 of the 1976 Code, as last amended by an unnumbered Act of 2010 bearing ratification number R 140, is further amended to read:

“Section 24‑21‑645. (A) The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two‑thirds of the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16‑1‑60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

(B) The conditions of parole must include the requirement that the parolee must permit the search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, and any of the parolee’s possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

However, the conditions of parole for a parolee who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the parolee agree to be subject to search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, or any of the parolee’s possessions.

(C) By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

(D) Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16‑1‑60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16‑25‑90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This section subsection applies retroactively to a prisoner who has had a parole hearing pursuant to Section 16‑25‑90 prior to the effective date of this act.”

SECTION 59. Section 16‑1‑130 of the 1976 Code, as added by Act 106 of 2005, is amended to read:

“Section 16‑1‑130. (A) A person may not be considered for a diversion program, including, but not limited to, a drug court program or a mental health court, if the:

(1) person’s current charge is for a violent offense as defined in Section 16‑1‑60 or a stalking offense pursuant to Article 17, Chapter 3, Title 16;

(2) person has a prior conviction for a violent crime as defined in Section 16‑1‑60, or a harassment or stalking offense pursuant to Article 17, Chapter 3, Title 16;

(3) person is subject to a restraining order pursuant to the provisions of Article 17, Chapter 3, Title 16 or a valid order of protection pursuant to the provisions of Chapter 4, Title 20;

(4) person is currently on parole or probation for any offense a violent crime as defined in Section 16‑1‑60; or

(5) consent of the victim has not been obtained unless reasonable attempts have been made to contact the victim and the victim is either nonresponsive or cannot be located after a reasonable search.

(B) The provisions of this section do not apply to a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor.”

PART III

Oversight Established

SECTION 60. It is the intent of the General Assembly that the provisions in PART III provide oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

SECTION 61. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑74.(A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Office of State Budget shall assist in preparing the fiscal impact statement.

(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Office of State Budget. The Office of State Budget shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Office of State Budget requests an extension of time. The Office of State Budget shall not unreasonably delay the delivery of a fiscal impact statement.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Office of State Budget and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the Office of State Budget in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Office of State Budget in a timely fashion.

(G) In preparing fiscal impact statements, the Office of State Budget shall consider and evaluate information as submitted by state agencies and political subdivisions. The Office of State Budget shall provide to the requesting Senate or House of Representatives committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the Office of State Budget.

(H) The Office of State Budget may request information from nongovernmental agencies and organizations to assist in preparing the fiscal impact statement.”

SECTION 62. Title 24 of the 1976 Code is amended by adding:

“Chapter 28

Sentencing Reform Oversight Committee

Section 24‑28‑10. There is hereby established a committee to be known as the Sentencing Reform Oversight Committee, hereinafter called the oversight committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 24‑28‑20. (A) The oversight committee shall be composed of seven members, two of whom shall be members of the Senate, including the Chair of the Judiciary Committee or his designee; two of whom shall be members of the House of Representatives, including the Chair of the House Judiciary Committee or his designee; one of whom shall be appointed by the Chair of the Senate Judiciary Committee from the general public at large; one of whom shall be appointed by the Chair of the House Judiciary Committee from the general public at large; and one of whom shall be appointed by the Governor. Provided, however, that in making appointments to the oversight committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent of all segments of the population of the State. The members of the general public appointed by the chairs of the Judiciary Committees must be representative of all citizens of this State and must not be members of the General Assembly.

(B) The oversight committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of four members.

(C) The oversight committee terminates five years after its first meeting, unless the General Assembly, by joint resolution, continues the oversight committee for a specified period of time.

Section 24‑28‑30. The oversight committee has the following powers and duties:

(1) to review the implementation of the recommendations made in the Sentencing Reform Commission report of February 2010 including, but not limited to:

(a) the plan required from the Department of Probation, Parole and Pardon Services on the Parole Board training and other goals identified in Section 24‑21‑10;

(b) the report from the Department of Probation, Parole and Pardon Services on its goals and development of assessment tools consistent with evidence‑based practices;

(c) the report from the Office of Pretrial Intervention Coordinator in the Commission on Prosecution Coordination on diversion programs required by the provisions of Article 11, Chapter 22, Title 17; and

(d) the report from the Department of Probation, Parole and Pardon Services on:

(i) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who have earned compliance credits; and

(ii) the number and percentage of probationers and parolees whose supervision has been revoked for violations of conditions or for convictions of new offenses;

(2) to request data similar to the information contained in the report required by Section 17‑22‑1120 from private organizations whose programs are operated through a court and that divert individuals from prosecution, incarceration, or confinement, such as diversion from incarceration for failure to pay child support, and whose programs are sanctioned by, coordinated with, or funded by federal, state, or local governmental agencies;

(3)(a) to annually calculate:

(i) any state expenditures that have been avoided by reductions in the revocation rate as calculated by the Department of Probation, Parole and Pardon Services and reported under Sections 24‑21‑450 and 24‑21‑680;

(ii) any state expenditures that have been avoided by reductions in the new felony offense conviction rate as calculated by the Department of Probation, Parole and Pardon Services and reported under Sections 24‑21‑450 and 24‑21‑680.

(b) to develop rules and regulations for calculating the savings in item (3)(a), which shall account at a minimum for the variable costs averted, such as food and medical expenses, and also consider fixed expenditures that are avoided if larger numbers of potential inmates are avoided.

(c) on or before December 1 of each year, beginning in 2011, to report the calculations made pursuant to item (3)(a) to the President of the Senate, the Speaker of the House of Representatives, the chief justice of the South Carolina Supreme Court, and the Governor. The report shall also recommend whether to appropriate up to thirty‑five percent of any state expenditures that are avoided as calculated in item (3)(a) to the Department of Probation, Parole and Pardon Services.

(d) with respect to the recommended appropriations in item (c), none of the calculated savings shall be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the Department of Probation, Parole and Pardon Services who are convicted of a new felony offense as calculated in subitem (3)(a)(ii).

(e) any funds appropriated pursuant to the recommendations in item (c) shall be used to supplement, not replace, any other state appropriations to the Department of Probation, Parole and Pardon Services.

(f) funds received through appropriations pursuant to this item shall be used by the Department of Probation, Parole and Pardon Services for the following purposes:

(i) implementation of evidence‑based practices;

(ii) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or

(iii) grants to nonprofit victim services organizations to partner with the Department of Probation, Parole and Pardon Services and courts to assist victims and increase the amount of restitution collected from offenders;

(4) to submit to the General Assembly, on an annual basis, the oversight committee’s evaluation of the implementation of the recommendations of the Sentencing Reform Commission report of February 2010;

(5) to make reports and recommendations to the General Assembly on matters relating to the powers and duties set forth in this section, including recommendations on transfers of funding based on the success or failure of implementation of the recommendations; and

(6) to undertake such additional studies or evaluations as the oversight committee considers necessary to provide sentencing reform information and analysis.

Section 24‑28‑40. (A) The oversight committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The oversight committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 24‑28‑50. (A) The oversight committee must use clerical and professional employees of the General Assembly for its staff, who must be made available to the oversight committee.

(B) The oversight committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the oversight committee.

(C) The oversight committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Sentencing Reform Commission report of February 2010.”

PART IV

SECTION 63. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of sentencing reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 64. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 65. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 66. The provisions of PART I and PART II take effect on January 1, 2011, for offenses occurring on or after that date, except that the provisions of SECTION 15 for implementation of a driver’s license reinstatement payment plan and the provisions of SECTION 18 for implementation of route restricted licenses shall become effective January 1, 2011, or six months after the signature of the Governor, whichever event occurs later in time. Regulations required pursuant to this act shall be submitted to the General Assembly no later than January 11, 2011, or six months after enactment, whichever event occurs later in time. All other provisions become effective upon signature of the Governor. Cases and appeals arising or pending under the law as it existed prior to the effective date of this act are saved. /

Renumber sections to conform.

Amend title to conform.

Rep. KELLY explained the amendment.

Further proceedings were interrupted by expiration of time on the uncontested Calendar, the pending question being consideration of amendments.

**RECURRENCE TO THE MORNING HOUR**

Rep. KELLY moved that the House recur to the Morning Hour, which was agreed to.

**HOUSE RESOLUTION**

On motion of Rep. GILLIARD, with unanimous consent, the following was taken up for immediate consideration:

H. 4994 -- Rep. Gilliard: A HOUSE RESOLUTION TO DECLARE MAY 2010 AS "WATER SAFETY AWARENESS MONTH".

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 4995 -- Rep. Branham: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR THE JOHNSONVILLE HIGH SCHOOL GIRLS TRACK TEAM OF FLORENCE COUNTY FOR A SUCCESSFUL SEASON, AND TO CONGRATULATE THEM FOR CAPTURING THE 2010 CLASS A STATE CHAMPIONSHIP TITLE.

The Resolution was adopted.

**HOUSE RESOLUTION**

On motion of Rep. BRANHAM, with unanimous consent, the following was taken up for immediate consideration:

H. 4996 -- Rep. Branham: A HOUSE RESOLUTION EXTENDING THE PRIVILEGE OF THE FLOOR OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES TO THE JOHNSONVILLE HIGH SCHOOL VARSITY GIRLS TRACK TEAM, COACHES, AND SCHOOL OFFICIALS, AT A DATE AND TIME TO BE DETERMINED BY THE SPEAKER, FOR THE PURPOSE OF BEING RECOGNIZED AND COMMENDED ON WINNING THE CLASS A TRACK STATE CHAMPIONSHIP.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 4997 -- Reps. Govan, Ott, Cobb-Hunter, Sellers, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE MELVIN SMOAK, SUPERINTENDENT OF ORANGEBURG CONSOLIDATED SCHOOL DISTRICT FIVE, UPON THE OCCASION OF HIS RETIREMENT, AND TO WISH HIM CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**HOUSE RESOLUTION**

The following was introduced:

H. 4998 -- Reps. Huggins, Ballentine, McLeod, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE MEMBERS OF THE CHAPIN HIGH SCHOOL BOYS TENNIS TEAM FOR ITS UNDEFEATED SEASON, AND TO CONGRATULATE THE PLAYERS AND COACHES FOR CAPTURING THE 2010 CLASS AAA STATE CHAMPIONSHIP TITLE.

The Resolution was adopted.

**HOUSE RESOLUTION**

On motion of Rep. HUGGINS, with unanimous consent, the following was taken up for immediate consideration:

H. 4999 -- Reps. Huggins, Bales, McLeod, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO EXTEND THE PRIVILEGE OF THE FLOOR OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES TO THE CHAPIN HIGH SCHOOL BOYS TENNIS TEAM, COACHES, AND SCHOOL OFFICIALS, AT A DATE AND TIME TO BE DETERMINED BY THE SPEAKER, FOR THE PURPOSE OF RECOGNIZING AND COMMENDING THEM ON THEIR UNDEFEATED SEASON AND FOR CAPTURING THE 2010 CLASS AAA STATE CHAMPIONSHIP TITLE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 5000 -- Reps. Weeks, G. M. Smith, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR DR. DOROTHY B. BISHOFF FOR HER WORK IN INSECT ENDOCRINOLOGY, AND TO CONGRATULATE HER FOR RECEIVING THE EXCELLENCE IN TEACHING AWARD FOR MORRIS COLLEGE FROM THE SOUTH CAROLINA INDEPENDENT COLLEGES AND UNIVERSITIES.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was taken up for immediate consideration:

S. 1453 -- Senators Grooms, McConnell and Leatherman: A CONCURRENT RESOLUTION TO EXPRESS THE APPRECIATION OF THE GENERAL ASSEMBLY FOR CARNIVAL'S COMMITMENT TO SOUTH CAROLINA AND THE PORT OF CHARLESTON AND TO DECLARE MAY 18, 2010, AS "CARNIVAL DAY" IN THE STATE OF SOUTH CAROLINA.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**CONCURRENT RESOLUTION**

The following was taken up for immediate consideration:

S. 1455 -- Senator Knotts: A CONCURRENT RESOLUTION TO FIX THURSDAY, MAY 27, 2010, AT 11:00 A.M. AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING A MEMBER OF THE BOARD OF TRUSTEES FOR THE UNIVERSITY OF SOUTH CAROLINA FROM THE 11TH JUDICIAL CIRCUIT TO SUCCEED A MEMBER WHOSE TERM EXPIRES IN 2010 OR WHOSE POSITION OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THIS OFFICE DURING THE JOINT SESSION.

The Concurrent Resolution was agreed to and ordered returned to the Senate with concurrence.

**S. 1154--AMENDED AND REQUESTS FOR DEBATE**

Debate was resumed on the following Bill, the pending question being the consideration of amendments:

S. 1154 -- Senators Malloy, Knotts, Campsen, McConnell, Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey, Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin, Leventis, Leatherman, Setzler, O'Dell, Hayes and Pinckney: A BILL TO ENACT THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010, RELATING TO CRIMINAL OFFENSES, CORRECTIONS, PROBATION, AND PAROLE PROVISIONS, SO AS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT RECOMMENDATIONS PROPOSED BY THE SENTENCING REFORM COMMISSION REPORT OF FEBRUARY 2010.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\MS\7840AHB10), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This bill may be cited as “The Omnibus Crime Reduction and Sentencing Reform Act of 2010”. It is the intent of the General Assembly to preserve public safety, reduce crime, and use correctional resources most effectively. Currently, the South Carolina correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes, or are returned to prison for violations of supervision requirements. It is, therefore, the purpose of this act to reduce recidivism, provide fair and effective sentencing options, employ evidence‑based practices for smarter use of correctional funding, and improve public safety.

PART I

Criminal Offenses Revisions

SECTION 2. It is the intent of the General Assembly that the provisions in PART I of this act shall provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism.

SECTION 3. Section 16‑11‑110 of the 1976 Code is amended to read:

“Section 16‑11‑110. (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, structure, or any property ~~specified in subsections (B) and (C)~~ whether the property of himself or another, which results, either directly or indirectly, in the death ~~or serious bodily injury to~~ of a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less than t~~en nor more than~~ thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures ~~the~~ a burning that results in damage to a dwelling house, ~~church or place of worship, a public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings,~~ building, structure, or any property whether the property of himself or another, which results, either directly or indirectly, in serious bodily injury to a person is guilty of the felony of arson in the second degree and, upon conviction, must be imprisoned not less than ~~five~~ three nor more than twenty‑five years.

(C) A person who wilfully and maliciously~~:~~

~~(1)~~ causes an explosion, sets fire to, burns, or causes ~~a burning which~~ to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, ~~or~~ structure ~~other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or~~, or any property,

~~(2)~~ ~~aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire;~~ whether the property of himself or another, which results, either directly or indirectly, in bodily injury to a person or damage to the property is guilty of the felony of arson in the third degree and, upon conviction, must be imprisoned ~~not less than one and~~ not more than ~~ten~~ fifteen years.

(D) For purposes of this section, ‘damage’ means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.”

SECTION 4. Section 16‑3‑210 of the 1976 Code is amended to read:

“Section 16‑3‑210.~~Any act of violence inflicted by a mob upon the body of another person which results in the death of the person shall constitute the crime of lynching in the first degree and shall be a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend the defendant to the mercy of the court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years at the discretion of the presiding judge.~~ (A) For purposes of this section, a ‘mob’ is defined as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

(B) Any act of violence inflicted by a mob upon the body of another person, which results in the death of the person, shall constitute the felony crime of assault and battery by mob in the first degree and, upon conviction, an offender shall be punished by imprisonment for not less than thirty years.

(C) Any act of violence inflicted by a mob upon the body of another person, which results in serious bodily injury to the person, shall constitute the felony crime of assault and battery by mob in the second degree and, upon conviction, an offender shall be punished by imprisonment for not less than three years nor more than twenty‑five years.

(D) Any act of violence inflicted by a mob upon the body of another person, which results in bodily injury to the person, shall constitute the misdemeanor crime of assault and battery by mob in the third degree and, upon conviction, an offender shall be punished by imprisonment for not more than one year.

(E) When any mob commits an act of violence, the sheriff of the county wherein the crime occurs and the solicitor of the circuit where the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

(F) The solicitor of any circuit has summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

(G) This article shall not be construed to relieve a member of any such mob from civil liability.”

SECTION 5. Sections 16‑3‑220, 16‑3‑230, 16‑3‑240, 16‑3‑250, 16‑3‑260, and 16‑3‑270 of the 1976 Code are repealed.

SECTION 6. A. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑29. A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder. A person who violates this section is guilty of a felony, and, upon conviction, must be imprisoned for not more than thirty years. A sentence imposed pursuant to this section may not be suspended nor may probation be granted.”

B. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑600.(A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) ‘Moderate bodily injury’ means physical injury requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia.

(3) ‘Private parts’ means the genital area or buttocks of a male or female or the breasts of a female.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than twenty years.

(3) Assault and battery of a high and aggravated nature is a lesser‑included offense of attempted murder, as defined in Section 16‑3‑29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of an adult, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

(3) Assault and battery in the first degree is a lesser‑included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted; or

(b) the act involves the nonconsensual touching of the private parts of an adult, either under or above clothing.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) Assault and battery in the second degree is a lesser‑included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(E)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) Assault and battery in the third degree is a lesser‑included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.”

C. Section 16‑3‑610 of the 1976 Code is amended to read:

“Section 16‑3‑610. If ~~any~~ a person ~~be~~ is convicted of ~~assault, assault and battery, assault or assault and battery with intent to kill~~ an offense pursuant to Section 16‑3‑29, 16‑3‑600, or manslaughter, and ~~it shall appear upon the trial that the assault, assault and battery, assault or assault and battery with intent to kill or manslaughter shall have been~~ the offense is committed with a deadly weapon of the character as specified in Section 16‑23‑460 carried or concealed upon the person of the defendant ~~so convicted~~, the ~~presiding~~ judge shall, in addition to the punishment provided by law for such ~~assault, assault and battery, assault or assault and battery with intent to kill or manslaughter~~ offense, ~~inflict further punishment upon~~ sentence the person ~~so convicted by confinement in the Penitentiary~~ to imprisonment for the misdemeanor offense for not less than three months nor more than twelve months, ~~with or without hard labor,~~ or a fine of not less than two hundred dollars, or both ~~fine and imprisonment, at the discretion of the judge~~.”

SECTION 7. A. Sections 16‑3‑612, 16‑3‑620, 16‑3‑630, and 16‑3‑635 of the 1976 Code are repealed.

B. The common law offenses of assault and battery with intent to kill, assault with intent to kill, assault and battery of a high and aggravated nature, simple assault and battery, assault of a high and aggravated nature, aggravated assault, and simple assault are abolished for offenses occurring on or after the effective date of this act.

C. Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.

SECTION 8. Section 22‑3‑560 of the 1976 Code, as last amended by Act 346 of 2008, is further amended to read:

“Section 22‑3‑560.~~(A)~~ Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both~~, all assaults and batteries and other~~ breaches of the peace ~~when the offense is neither an assault and battery against school personnel pursuant to Section 16‑3‑612 nor an assault and battery of a high and aggravated nature requiring, in their judgment or by law, greater punishment~~.

~~(B)~~ ~~Magistrates may punish by fine not exceeding one thousand dollars or imprisonment for a term not exceeding sixty days, or both, all assaults and batteries against sports officials and coaches when, in committing an assault and battery, the offender knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault and battery to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contests held at the athletic facility. For the purposes of this subsection, “sports official” means a person at an athletic contest who enforces the rules of the contest, such as an umpire, referee, scorekeeper, and “coach” means a person recognized as a coach by the sanctioning authority that conducted the athletic contest.~~”

SECTION 9. Section 17‑15‑30 of the 1976 Code, as last amended by Act 280 of 2008, is further amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, the court may, on the basis of available information, consider the nature and circumstances of the offense charged and the accused’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) The court shall consider:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(~~2~~3) all incident reports generated as a result of the offense charged, if available; and

(~~3~~4) whether the accused is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status.

(C) Prior to or at the time of the hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in subsection (C) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in subsection (C) does not constitute grounds for the postponement or delay of the person’s hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 10. Section 22‑5‑510 of the 1976 Code is amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) Prior to or at the time of the bond hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the person’s criminal record;

(2) any charges pending against the person;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining bail.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in subsection (C) is not available at the time of the bond hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in subsection (C) does not constitute grounds for the postponement or delay of the person’s bond hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 11. Section 16‑11‑312(C) of the 1976 Code is amended to read:

“(C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one‑third of the term of the sentence.”

SECTION 12. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It shall be unlawful:

(1) For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.

(B) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not ~~less than one hundred dollars nor~~ more than one thousand dollars or be imprisoned in the county jail for not ~~less than thirty days nor~~ more than ninety days.

(C) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section. If the person is a child as defined by Section 63‑19‑20, jurisdiction must remain vested in the Family Court.”

SECTION 13. Article 1, Chapter 25, Title 17 of the 1976 Code is amended by adding:

“Section 17‑25‑65. (A) Upon the State’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the State’s motion made more than one year after sentencing, the court may reduce a sentence if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing, and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision shall be filed by that circuit solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge of the circuit within five days of filing. The chief judge or a circuit court judge currently assigned to that county shall have jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 14. A. Section 56‑1‑440 of the 1976 Code is amended to read:

“Section 56‑1‑440. (A) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty‑five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty‑five days nor more than six months. However, a charge of driving a motor vehicle without a driver’s license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

B. Section 56‑3‑1970 of the 1976 Code, as last amended by Act 24 of 2009, is further amended to read:

“Section 56‑3‑1970.(A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56‑3‑1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56‑3‑1910, 56‑3‑1960, and 56‑3‑1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(D) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

SECTION 15. A. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑395. (A) The Department of Motor Vehicles shall establish a driver’s license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver’s license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than six months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes three hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a six‑month license upon payment of a thirty‑five dollar administrative fee and payment of fifteen percent of the reinstatement fees owed.

(B) During the period of the six‑month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver’s license.

(D) If all fees are not paid by the end of the six‑month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver’s license has been suspended pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.

(F) No person may participate in the payment program more than one time in any three‑year period.

(G) The payment program administrative fee of thirty‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses.”

B. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑396. (A) The Department of Motor Vehicles shall establish a driver’s license suspension amnesty period.

(B) The amnesty period must be for one week on an annual basis at the department’s discretion.

(C) During the amnesty period, a person whose driver’s license is suspended prior to the amnesty period may apply to the department to have qualifying suspensions cleared.

(D) If the person has met all conditions for reinstatement other than service of the suspension period, including payment of all applicable fees, the department must reinstate the person’s driver’s license.

(E) If the qualifying suspensions are cleared, but non‑qualifying suspensions remain to be served, the department must recalculate the remaining suspension start dates to begin as soon as feasible.

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.”

SECTION 16. A. Section 16‑11‑510(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, ~~or both, as permitted by law and without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

B. Section 16‑11‑520(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned~~, or both, as permitted by law and without presentment or indictment of the grand jury~~ not more than thirty days, or both.”

C. Section 16‑11‑523(C) of the 1976 Code, as added by Act 260 of 2008, is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~five~~ ~~hundred~~ one thousand dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~five~~ ten thousand dollars or more.”

D. Section 16‑13‑10(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ~~five~~ ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.”

E. Section 16‑13‑30 of the 1976 Code is amended to read:

“Section 16‑13‑30. (A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of ~~one~~ two thousand dollars or less, is petit larceny, a misdemeanor, triable in the ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than~~ ~~is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of ~~one~~ two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

(1) five years if the value of the personalty is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(2) ten years if the value of the personalty is ~~five~~ ten thousand dollars or more.”

F. Section 16‑13‑40 of the 1976 Code is amended to read:

“Section 16‑13‑40. (A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the instrument stolen or taken has a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of ~~five~~ ten thousand dollars or more.”

G. Section 16‑13‑50 of the 1976 Code is amended to read:

“Section 16‑13‑50. (A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty‑five hundred dollars, or both, if the value of the livestock is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the livestock is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27‑21‑10.”

H. Section 16‑13‑66 of the 1976 Code is amended to read:

“Section 16‑13‑66. (A) A person violating the provision of Section 16‑13‑65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, must be fined an amount not to exceed ~~five hundred~~ one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, an offense punishable under this subitem may be tried in ~~magistrate’s~~ magistrates or municipal court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) ~~Provided further, that if~~ If the value of such property stolen or damaged is less than ~~one~~ two hundred dollars, the case shall be tried in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and the punishment shall be ~~no more than is permitted by law without presentment or indictment by a grand jury~~ a fine of not more than one thousand dollars or imprisonment for not more than thirty days, or both.”

I. Section 16‑13‑70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.”

J. Section 16‑13‑80 of the 1976 Code is amended to read:

“Section 16‑13‑80. The larceny of a bicycle is a misdemeanor and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than ~~one~~ two thousand dollars, the case is triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.”

K. Section 16‑13‑110(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is ~~five~~ ten thousand dollars or more.”

L. Section 16‑13‑180 of the 1976 Code is amended to read:

“Section 16‑13‑180. (A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the theft of the property.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more.

(C) For the purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.”

M. Section 16‑13‑210 of the 1976 Code is amended to read:

“Section 16‑13‑210. (A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and imprisoned not more than five years if the amount of the embezzled funds is less than ~~five~~ ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two‑thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.”

N. Section 16‑13‑230(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is ~~five~~ ten thousand dollars or more.”

O. Section 16‑13‑240 of the 1976 Code is amended to read:

“Section 16‑13‑240. A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment of the grand jury~~ not more than thirty days.”

P. Section 16‑13‑260 of the 1976 Code is amended to read:

“Section 16‑13‑260. A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person’s name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

Q. Section 16‑13‑290 of the 1976 Code is amended to read:

“Section 16‑13‑290. It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than ~~two~~ four hundred dollars.

(2) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~one~~ two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of ~~two~~ four hundred dollars or less.”

R. Section 16‑13‑331 of the 1976 Code is amended to read:

“Section 16‑13‑331. Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, ~~willfully~~ wilfully conceals a book or other library or archive property, while still on the premises of such library or archive, or ~~willfully~~ wilfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and upon conviction shall be punished in accordance with the following: ~~(1)~~ by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than ~~fifty~~ one hundred dollars, the punishment shall be a fine of not more than ~~one~~ two hundred dollars or imprisonment for not more than thirty days. Proof of the ~~willful~~ wilful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.”

S. Section 16‑13‑420 of the 1976 Code is amended to read:

“Section 16‑13‑420. (A) A person having any ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property within seventy‑two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of ~~his~~ the lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court , notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the rented or leased item is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days ~~is permitted by law without presentment or indictment by the grand jury~~, or both.”

T. Section 16‑13‑430(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of ~~five~~ ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of food stamps fraudulently acquired or used is of a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both ~~is permitted by law without presentment or indictment by the grand jury~~.”

U. Section 16‑14‑80(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(a) if the value of the money, goods, services, and anything else of value, is ~~five hundred~~ one thousand dollars or less in any six‑month period;

(2) felony and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(b) if the value of the money, goods, services, or anything of value is more than ~~five hundred~~ one thousand dollars in any six‑month period.”

V. Section 16‑14‑100 of the 1976 Code is amended to read:

“Section 16‑14‑100. (a) A crime punishable under this subsection is a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and, upon conviction, the person must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.”

W. Section 16‑17‑600(C) of the 1976 Code, as last amended by Act 229 of 2004, is further amended to read:

“(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

(a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at ~~two~~ four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

(b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the theft of, destruction to, injury to, or loss of property is valued at less than ~~two~~ four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, ~~pursuant to the jurisdiction of magistrates as provided in Section 22‑3‑550 ,~~ and must be required to perform not more than two hundred fifty hours of community service.”

X. Section 16‑21‑80 of the 1976 Code is amended to read:

“Section 16‑21‑80. A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

(1) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the vehicle is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined~~,~~ not more than one thousand dollars, or imprisoned~~, not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both~~,~~;

(2) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is ~~five~~ ten thousand dollars or more.”

Y. Section 36‑9‑410(C) of the 1976 Code, as added by Act 265 of 2004, is amended to read:

“(C) If the value of the personal property subject to a perfected security interest is worth:

(1) ~~one~~ two thousand dollars or less, a person who violates the provisions of this section is guilty of a misdemeanor triable in the ~~magistrate’s~~ magistrates court or the municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days, or both;

(2) more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) ~~five~~ ten thousand dollars or more, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.”

Z. Section 38‑55‑170 of the 1976 Code is amended to read:

“Section 38‑55‑170. A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is ~~five~~ ten thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of the claim is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

A.A. Section 45‑1‑50(A) of the 1976 Code, as last amended by Act 81 of 1999, is further amended to read:

“(A) A person who:

(1) obtains food, lodging or other service, or accommodation at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant and intentionally absconds without paying for it; or

(2) while a guest at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant, intentionally defrauds the keeper in a transaction arising out of the relationship as guest, is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than six months, or both. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, an offense punishable under this subsection may be tried in magistrates or municipal court.”

B.B. Section 45‑2‑40 of the 1976 Code, as added by Act 446 of 1994, is amended to read:

“Section 45‑2‑40.(A) A person who on the premises or property of a lodging establishment:

(1) uses or possesses a controlled substance in violation of Chapter 53 of Title 44;

(2) consumes or possesses beer, wine, or alcoholic liquors in violation of Sections 63‑19‑2440 or ~~630‑19‑2450~~ 63‑19‑2450; is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(B) A person who on the premises or property of a lodging establishment maliciously and wilfully commits a violation of this chapter resulting in damage to a lodging establishment room or its furnishings is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount of injury or damage to the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount of injury or damage to the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of injury or damage to the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(C) A person who rents or leases a room in a lodging establishment for the purpose of allowing the room to be used by another to do any act enumerated in subsections (A) or (B) of this section is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(D) In a case arising under this section involving damage to a lodging establishment room or its furnishings, the court may order the person renting or leasing the lodging establishment room or the person causing such damage, or both:

(1) to pay restitution for any damages suffered by the owner or operator of the lodging establishment, which damages may include the lodging establishment’s loss of revenue resulting from the establishment’s inability to rent or lease the room during the period of time the lodging establishment room is being repaired; and

(2) to pay damages or restitution to any other person who is injured in person or property.

In a case arising under this subsection triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, a ~~magistrate~~ judge may order restitution not to exceed ~~one thousand dollars~~ the civil jurisdictional amount of magistrates court provided in 22‑3‑10(2).

In the case of a minor, the parents of the minor are liable for acts of the minor in violation of this section which cause damages to the lodging establishment room or furnishings or cause injury to persons or property.

(E) This section does not prohibit the prosecution of a person for the underlying violation which occurred on the premises or property of the lodging establishment.”

C.C. Section 46‑1‑20 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 46‑1‑20. A person who steals from the field any grain, cotton, or vegetables, whether severed from the freehold or not, is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the crop is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the crop is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the crop is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

D.D. Section 46‑1‑40 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 46‑1‑40. A person who steals tobacco plants, whether severed from the freehold or not, from any tobacco plant beds is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the tobacco plants is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the tobacco plants is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the tobacco plants is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

E.E. Section 46‑1‑60(B) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

F.F. Section 46‑1‑70(B) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

G.G. Section 49‑1‑50(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the lumber or timber is ~~five~~ ten thousand dollars or more.

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the lumber or timber is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars.

(3) misdemeanor triable in ~~magistrate’s~~ magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the lumber or timber is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

SECTION 17. Section 16‑13‑425 of the 1976 Code is repealed.

SECTION 18. A. Section 56‑1‑460(A) of the 1976 Code is amended to read:

“Section 56‑1‑460. (A)(1) Except as provided in ~~subitem~~ item (2), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for ~~not less than~~ up to ninety days or confined to a person’s place of residence pursuant to the Home Detention Act for not less than ninety days nor more than six months~~,~~. ~~no~~ No portion of ~~which~~ a term of imprisonment or confinement under home detention may be suspended by the trial judge. For purposes of this item, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, ~~and~~ 22‑3‑550, and 14‑25‑65, an offense punishable under this ~~subitem~~ item may be tried in ~~magistrate’s~~ magistrates or municipal court.

(e) (i) A person convicted of a first or second offense of this item, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to this item, may apply for a route restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the route restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university and that he lives further than one mile from his place of employment or place of education.

(ii) When the department issues a route restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver’s license pursuant to this item must report to the department immediately any change in his employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver’s license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route restricted license by the person issued that license is a violation of item (A)(1).

(2) A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56‑5‑2990 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

(d) No portion of the minimum sentence imposed under this ~~subitem~~ item may be suspended.”

B. Article 5, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑1105. (A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) ‘Habitual offender’ has the same meaning as in Section 56‑1‑1020.

(B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender’s license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver’s license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently.”

SECTION 19. Section 16‑5‑50 of the 1976 Code is amended to read:

“Section 16‑5‑50. Any person who shall (a) hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not ~~less than fifty nor~~ more than ~~one~~ three thousand dollars or imprisonment for not ~~less than three months nor~~ more than ~~one year~~ three years, or both, at the discretion of the court having jurisdiction.”

SECTION 20. Section 17‑25‑45 of the 1976 Code, as last amended by Act 72 of 2007, is further amended to read:

“Section 17‑25‑45. (A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has either:

(1) one or more prior convictions for:

(~~1~~a) a most serious offense; or

(~~2~~b) a federal or out‑of‑state conviction for an offense that would be classified as a most serious offense under this section; or

~~(3) any combination of the offenses listed in items (1) and (2) above~~

(2) two or more prior convictions for:

(a) a serious offense; or

(b) a federal or out‑of‑state conviction for an offense that would be classified as a serious offense under this section.

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

(1) a serious offense;

(2) a most serious offense;

(3) a federal or out‑of‑state offense that would be classified as a serious offense or most serious offense under this section; or

(4) any combination of the offenses listed in items (1), (2), and (3) above.

(C) As used in this section:

(1) ‘Most serious offense’ means:

16‑1‑40 Accessory, for any offense enumerated in this item

16‑1‑80 Attempt, for any offense enumerated in this item

16‑3‑10 Murder

16‑3‑29 Attempted Murder

~~16‑3‑30~~ ~~Killing by poison~~

~~16‑3‑40~~ ~~Killing by stabbing or thrusting~~

16‑3‑50 Voluntary manslaughter

16‑3‑85(A)(1) Homicide by child abuse

16‑3‑85(A)(2) Aiding and abetting homicide by child abuse

16‑3‑210 Lynching, First degree

16‑3‑210(B) Assault and battery by mob, First degree

~~16‑3‑430~~ ~~Killing in a duel~~

16‑3‑620 Assault and battery with intent to kill

16‑3‑652 Criminal sexual conduct, First degree

16‑3‑653 Criminal sexual conduct, Second degree

16‑3‑655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16‑3‑655(3)

16‑3‑656 Assault with intent to commit criminal sexual conduct, First and Second degree

16‑3‑910 Kidnapping

16‑3‑920 Conspiracy to commit kidnapping

16‑3‑1075 Carjacking

16‑11‑110(A) Arson, First degree

16‑11‑311 Burglary, First degree

16‑11‑330(A) Armed robbery

16‑11‑330(B) Attempted armed robbery

16‑11‑540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results

24‑13‑450 Taking of a hostage by an inmate

25‑7‑30 Giving information respecting national or state defense to foreign contacts during war

25‑7‑40 Gathering information for an enemy

43‑35‑85(F) Abuse or neglect of a vulnerable adult resulting in death

55‑1‑30(3) Unlawful removing or damaging of airport facility or equipment when death results

56‑5‑1030(B)(3) Interference with traffic‑control devices or railroad signs or signals prohibited when death results from violation

58‑17‑4090 Obstruction of railroad, death results.

(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16‑3‑210(C) Assault and battery by mob, Second degree

16‑3‑600(B) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

(3) ‘Conviction’ means any conviction, guilty plea, or plea of nolo contendere.

(D) Except as provided in this subsection or subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16-3-50, kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment.

(E) For the purpose of this section only, a person sentenced pursuant to this section may be paroled if:

(1) the Department of Corrections requests the Department of Probation, Parole, and Pardon Services to consider the person for parole; and

(2) the Department of Probation, Parole, and Pardon Services determines that due to the person’s health or age he is no longer a threat to society; and

(a) the person has served at least thirty years of the sentence imposed pursuant to this section and has reached at least sixty‑five years of age; or

(b) the person has served at least twenty years of the sentence imposed pursuant to this section and has reached at least seventy years of age; or

(c) the person is afflicted with a terminal illness where life expectancy is one year or less; or

(d) the person can produce evidence comprising the most extraordinary circumstances.

(F) For the purpose of determining a prior or previous conviction under this section and Section 17‑25‑50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication. There is no requirement that the sentence for the prior or previous conviction must have been served or completed before a sentence of life without parole can be imposed under this section.

(G) The decision to invoke sentencing under ~~Section 17‑25‑45(B)~~ this section is in the discretion of the solicitor. ~~The provisions of Section 17‑25‑45(A) shall be mandatory.~~

(H) Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given by the solicitor to the defendant and defendant’s counsel not less than ten days before trial.”

SECTION 21. Section 16‑3‑20(A) and (B) of the 1976 Code, as last amended by Act 278 of 2002, is further amended to read:

“(A) A person who is convicted of or pleads guilty to murder must be punished by death, ~~by imprisonment for life,~~ or by a mandatory minimum term of imprisonment for thirty years to life. If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14 of Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(B) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty‑four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pleaded guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of South Carolina or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.”

SECTION 22. Sections 16‑3‑30, 16‑3‑40, and 16‑3‑430 of the 1976 Code are repealed.

SECTION 23. Section 14‑25‑65 of the 1976 Code, as last amended by Act 78 of 1999, is further amended to read:

“Section 14‑25‑65. If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an amount not to exceed ~~five thousand dollars~~ the civil jurisdictional amount of magistrates court provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 24. Section 22‑3‑550(A) of the 1976 Code is amended to read:

“Section 22‑3‑550. (A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed ~~five thousand~~ ~~dollars~~ the civil jurisdictional amount provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 25. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑500. (A) It is unlawful for a person who has been convicted of a violent crime, as defined by Section 16‑1‑60, that is classified as a felony offense, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(D) The judge that hears the case involving the violent offense, as defined by Section 16‑1‑60, that is classified as a felony offense, shall make a specific finding on the record that the offense is a violent offense, as defined by Section 16‑1‑60, and is classified as a felony offense.”

SECTION 26. Section 16‑1‑60 of the 1976 Code, as last amended by Act 379 of 2006, is further amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10 ); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)); criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first and second degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B); kidnapping (Section 16‑3‑910); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); criminal domestic violence of a high and aggravated nature (Section 16‑25‑65); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); ~~accessory before the fact to commit any of the above offenses (Section 16‑1‑40); attempt to commit any of the above offenses (Section 16‑1‑80);~~ ~~and~~ taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑33‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); lewd act upon a child under sixteen (Section 16‑15‑140); sexual exploitation of a minor first Degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 27. Section 16‑23‑490(C) of the 1976 Code is amended to read:

“(C) Except as provided in this subsection, ~~The~~ the person sentenced under this section is not eligible during this five‑year period for parole, work release, or extended work release. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good‑time credits or work credits, but may earn credits during this period. The person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment.”

SECTION 28. Section 24‑13‑125(A) of the 1976 Code is amended to read:

“(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, or as provided in this subsection, a prisoner convicted of a ‘no parole offense’, as defined in Section 24‑13‑100, and sentenced to the custody of the Department of Corrections, including a prisoner serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20, is not eligible for work release until the prisoner has served not less than eighty percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment. Except as provided in this subsection, ~~Nothing~~ nothing in this section may be construed to allow a prisoner convicted of murder or a prisoner prohibited from participating in work release by another provision of law to be eligible for work release.”

SECTION 29. Section 24‑13‑650 of the 1976 Code is amended to read:

“Section 24‑13‑650. (A) No offender committed to incarceration for a violent offense as defined in Section 16‑1‑60 or a ‘no parole offense’ as defined in Section 24‑13‑100 may be released back into the community in which the offender committed the offense under the work release program, except in those cases wherein, where applicable, the victim of the crime for which the offender is charged or the relatives of the victim who have applied for notification under Article 15, Chapter 3, Title 16 if the victim has died, the law enforcement agency which employed the arresting officer at the time of the arrest, and the circuit solicitor all agree to recommend that the offender be allowed to participate in the work release program in the community where the offense was committed. The victim or the victim’s nearest living relative, the law enforcement agency, and the solicitor, as referenced above, must affirm in writing that the offender be allowed to return to the community in which the offense was committed to participate in the work release program.

(B) An offender committed to incarceration for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), may be released under the work release program back into the community in which the offender committed the offense, if the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, the person is within three years of release from imprisonment, and the provisions of subsection (A) are fulfilled.”

SECTION 30. Section 24‑3‑20(B)(2) of the 1976 Code is amended to read:

“(2) the rates of pay and other conditions of employment will not be less than those paid and provided for work of similar nature in the locality in which the work is to be performed.

The department shall notify victims registered pursuant to Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and sheriff of the county or the law enforcement agency of the jurisdiction where the offense occurred before releasing inmates on work release. However, the trial judge may waive his right to receive the notification contained in this section by notifying the department of this waiver in writing. The department has the authority to deny release based upon opinions received from these persons, if any, as to the suitability of the release.

A prisoner’s place of confinement may not be extended as permitted by this subsection ~~who~~ if the prisoner:

(a) is currently serving a sentence for or has a prior conviction for criminal sexual conduct in the first, second, or third degree; attempted criminal sexual conduct; assault with intent to commit criminal sexual conduct; criminal sexual conduct when the victim is his legal spouse; criminal sexual conduct with a minor; committing or attempting to commit a lewd act on a child; engaging a child for sexual performance; spousal sexual battery; ~~or a violent offense as defined in Section 16‑1‑60,~~ a harassment or stalking offense pursuant to Article 17, Chapter 3 of Title 16, or a burglary offense pursuant to Section 16‑11‑311 or 16‑11‑312(B)~~.~~ ; or

(b) is currently serving a sentence for a violent offense as defined in Section 16‑1‑60, except that a prisoner serving a sentence for kidnapping, pursuant to Section 16‑3‑910, voluntary manslaughter, pursuant to Section 16‑3‑50, armed robbery, pursuant to Section 16‑11‑330(A), attempted armed robbery, pursuant to Section 16‑11‑330(B), burglary in the second degree, pursuant to Section 16‑11‑312(B), or carjacking, pursuant to Section 16‑3‑1075 may be eligible to participate in the work release programs so long as the prisoner is within three years from the date of his release from incarceration, and the prisoner is not serving a sentence involving criminal sexual conduct or other violent crime, as classified under Section 16‑1‑60.

(3) A prisoner who is serving a sentence for a ‘no parole offense’ as defined in Section 24‑13‑100 and who is otherwise eligible for work release shall not have his place of confinement extended until he has served the minimum period of incarceration as set forth in Section 24‑13‑125.”

SECTION 31. Section 24‑19‑10 of the 1976 Code is amended to read:

“Section 24‑19‑10. As used herein:

(a) ‘Department’ means the Department of Corrections.

(b) ‘Division’ means the Youthful Offender Division.

(c) ‘Director’ means the Director of the Department of Corrections.

(d) ‘Youthful offender’ means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less~~, or~~;

(ii) seventeen but less than twenty‑five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(iv) seventeen but less than twenty‑one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing a lewd act upon a child pursuant to Section 16‑15‑140, and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty‑five years of age at the time of conviction for committing a lewd act upon a child pursuant to Section 16‑15‑140, and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 32. Section 22‑5‑920(B) of the 1976 Code, as last amend by Act 36 of 2009, is further amended to read:

“(B) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, after five years from the date of completion of his sentence, including probation and parole, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to an offense involving the operation of a motor vehicle, to a violation of Title 50 or the regulations promulgated under it for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses authorized, to an offense classified as a violent crime in Section 16‑1‑60, or to an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16‑25‑30. If the defendant has had no other conviction during the five‑year period following completion of his sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have his record expunged pursuant to the provisions of this section.”

SECTION 33. Section 24‑19‑110 of the 1976 Code, as last amended by an unnumbered Act of 2010 bearing ratification number R 140, is further amended by adding an appropriately lettered subsection to read:

“( ) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender. The division has the authority to deny conditional release and unconditional discharge based upon information received from the victim as to the suitability of the release.”

SECTION 34. Section 24‑19‑120 of the 1976 Code is amended to read:

“Section 24‑19‑120. (A) A youthful offender shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

(B) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender.”

SECTION 35. Section 14‑1‑213(A) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(A) In addition to all other assessments and surcharges required to be imposed by law, a ~~one‑hundred‑dollar~~ one hundred and fifty dollarsurcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.”

SECTION 36. Section 44‑53‑160(4) of the 1976 Code is amended to read:

“(4) If any substance is added, deleted, or rescheduled as a controlled substance under Federal law or regulation ~~and notice of the designation is given to the Department~~, the Department shall by rule, at its first regular or special meeting ~~recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly not less than thirty days~~ after publication in the Federal register of ~~a~~ the final order designating ~~a~~ the substance as a controlled substance or rescheduling or deleting ~~a~~ the substance, ~~unless the Department objects to the change. In that case, the Department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the Department’s recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be~~.

~~If the Department does not object to the change of schedule, it shall by rule, at its first regular or special meeting after the final order by the Bureau or its successor agency is published in the Federal register,~~ reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly~~; in such case, no hearing need be given unless requested by an interested party~~. This rule issued by the Department shall be in substance identical with the order published in the Federal register effecting the change in Federal status of the substance. The Department shall notify the General Assembly in writing of the change in federal law or regulation and of the corresponding change in South Carolina law.”

SECTION 37. Section 44‑53‑370 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑370. (a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than ~~fifteen~~ ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(c) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.

(d) A person who violates subsection (c) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) possession of more than: ~~ten grains~~ one gram of cocaine, one hundred milligrams of alpha‑ or beta‑eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty‑eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty‑ eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44‑53‑450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17‑22‑10 through 17‑22‑160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14‑1‑205. The assessment portion of the bail must be distributed as provided in Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

(1) ten pounds or more of marijuana is guilty of a felony which is known as ‘trafficking in marijuana’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;

3. for a third or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(2) ten grams or more of cocaine or any mixtures containing cocaine, as provided in Section 44‑53‑210(b)(4), is guilty of a felony which is known as ‘trafficking in cocaine’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten grams or more, but less than twenty‑eight grams:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(3) four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44‑53‑190 or 44‑53‑210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as ‘trafficking in illegal drugs’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty‑eight grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty‑eight grams or more, a mandatory term of imprisonment of not less than twenty‑five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(4) fifteen grams or more of methaqualone is guilty of a felony which is known as ‘trafficking in methaqualone’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) fifteen grams but less than one hundred fifty grams:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) fifteen kilograms or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as ‘trafficking in LSD’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(6) one gram or more of flunitrazepam is guilty of a felony which is known as ‘trafficking in flunitrazepam’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one gram but less than one hundred grams;

1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) five kilograms or more, a term of imprisonment of not less than twenty‑five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as ‘trafficking in gamma hydroxybutyric acid’ and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

(b) for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24‑13‑610, or supervised furlough, as provided in Section 24‑13‑710. Notwithstanding Section 44‑53‑420, a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one‑half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in Section 44‑53‑370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.

(8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4‑methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as ‘trafficking in MDMA or ecstasy’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars.

(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16‑3‑910;

(2) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

(3) criminal sexual conduct with a minor in the first or second degree, Section 16‑3‑655;

(4) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

(5) spousal sexual battery, Section 16‑3‑615;

(6) engaging a child for a sexual performance, Section 16‑3‑810;

(7) committing lewd act upon child under sixteen, Section 16‑15‑140;

(8) petit larceny, Section 16‑13‑30 (A); or

(9) grand larceny, Section 16‑13‑30 (B).

(g) A person who violates subsection (f) with respect to:

(1) a controlled substance classified in Schedule I (b) or (c) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentencein this item must not be suspended and probation must not be granted;

(2) any other controlled substance or gamma hydroxy butyrate is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty‑five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted.”

SECTION 38. Section 44‑53‑375 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑375. (A) A person possessing ~~or attempting to possess~~ less than one gram of methamphetamine or cocaine base, as defined in Section 44‑53‑110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44‑53‑370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than ~~fifteen~~ ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44‑53‑110, 44‑53‑210(d)(1), or 44‑53‑210(d)(2), is guilty of a felony which is known as ‘trafficking in methamphetamine or cocaine base’ and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty‑eight grams:

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(2) twenty‑eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains ~~twelve~~ nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as ‘trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ~~twelve~~ nine grams or more, but less than twenty‑eight grams:

(i) for a first offense, a term of imprisonment of not ~~less than three years nor~~ more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted,and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, *a*nd a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted,and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products:

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(F)~~Except for a first offense, as provided in subsection (A) of this section, sentences~~ Sentences for violation of the provisions of ~~this section~~ subsections (C) and (E) may not be suspended and probation may not be granted. A person convicted and sentenced under ~~this subsection~~ subsections (C) and (E) to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24‑13‑610, or supervised furlough as provided in Section 24‑13‑710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 63‑5‑70, if a child was present at any time during the unlawful manufacturing of methamphetamine.”

SECTION 39. Section 44‑53‑445 of the 1976 Code is amended to read:

“Section 44‑53‑445. (A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B) For a person to be convicted of an offense pursuant to subsection (A), the person must:

(1) have knowledge that that he is in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and

(2) actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(C) A person must not be convicted of an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

~~(B)(1)~~(D)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

~~(2)~~ ~~When a violation involves the distribution, sale, manufacture, or possession with intent to distribute crack cocaine, the person is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and imprisoned not less than ten nor more than fifteen years.~~

(~~3~~2) When a violation involves only the purchase of a controlled substance, ~~including crack cocaine,~~ the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(~~C~~E) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44‑53‑370 and 44‑53‑375 apply to criminal prosecutions under this section.”

SECTION 40. Section 44‑53‑450 of the 1976 Code, as last amended by Act 36 of 2009, is further amended to read:

“Section 44‑53‑450. ~~(a~~A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any State or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370 (c) and (d), or Section 44‑53‑375 (A) ~~except narcotic drugs classified in Schedule I (b) and (c) and narcotic drugs classified in Schedule II~~, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a State‑supported facility or a facility approved by the Commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

~~(b~~B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), ~~and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug,~~ the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 41. Section 44‑53‑470 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

“Section 44‑53‑470. (A) An offense is considered a second or subsequent offense if:

~~(1)~~ ~~for a possession offense pursuant to the provisions of this article, the offender has been convicted within the previous ten years of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs; and~~

~~(2)~~ ~~for all other offenses pursuant to the provisions of this article, the offender has at any time been convicted of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs.~~

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance, offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later.”

SECTION 42. Section 44‑53‑582 of the 1976 Code is amended to read:

“Section 44‑53‑582. All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation must be returned to the State or local agency or unit of government furnishing the monies upon a determination by the court that the monies were used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation. The court may order a defendant to return the monies to the state or local agency or unit of government at the time of sentencing.”

SECTION 43. Section 56‑1‑745(A) of the 1976 Code is amended to read:

“(A) The driver’s license of a person convicted of a controlled substance violation ~~involving hashish or marijuana~~ must be suspended for a period of six months. ~~The driver’s license of a person convicted of any other controlled substance violation must be suspended for a period of one year.~~ If the person does not have a driver’s license, the court shall order the Department of Motor Vehicles not to issue a driver’s license for six months after the person legally is eligible for the issuance of a driver’s license ~~if the offense involves hashish or marijuana. If the offense involves any other controlled substance, the court shall order the department not to issue a driver’s license for one year after the person legally is eligible for the issuance of a driver’s license~~. For each subsequent conviction under this section, the court shall order the driver’s license to be suspended for an additional six months ~~or one year, as the case may be~~. The additional period of suspension for a subsequent offense runs consecutively and does not commence until the expiration of the suspension for the prior offense.”

PART II

Release and Supervision Revisions

SECTION 44. It is the intent of the General Assembly that the provisions in PART II of this Act shall provide cost‑effective prison release and community supervision mechanisms and cost‑effective and incentive‑based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety.

SECTION 45. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑5. As used in this chapter:

(1) ‘Administrative monitoring’ means a form of monitoring by the department beyond the end of the term of supervision in which the only remaining condition of supervision not completed is the payment of financial obligations. Under administrative monitoring, the only condition of the monitoring shall be the requirement that reasonable progress be made towards the payment of financial obligations. The payment of monitoring mandated fees shall continue. When an offender is placed on administrative monitoring, he shall register with the department’s representative in his county, notify the department of his current address each quarter, and make payments on financial obligations owed, until the financial obligations are paid in full or a consent order of judgment is filed.

(2) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(3) ‘Department’ means the Department of Probation, Parole and Pardon Services.

(4) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

(5) ‘Financial obligations’ mean fines, fees, and restitution either ordered by the court or statutorily imposed.

(6) ‘Hearing Officer’ means an employee of the department who conducts preliminary hearings to determine probable cause on alleged violations committed by an individual under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law.”

SECTION 46. Section 24‑21‑10 of the 1976 Code is amended to read:

“Section 24‑21‑10.(A) The department ~~Department of Probation, Parole, and Pardon Services, hereafter referred to as the ‘department’,~~ is governed by ~~the~~ its director ~~of the department~~. The director must be appointed by the Governor with the advice and consent of the Senate. To qualify for appointment, the director must have a baccalaureate or more advanced degree from an institution of higher learning that has been accredited by a regional or national accrediting body, which is recognized by the Council for Higher Education Accreditation and must have at least ten years of training and experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work.

(B) The Board of Probation, Parole, and Pardon Services is composed of seven members. The terms of office of the members are for six years. Six of the seven members must be appointed from each of the congressional districts and one member must be appointed at large. The at‑large appointee shall have at least five years of work or volunteer experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work. Vacancies must be filled by gubernatorial appointment with the advice and consent of the Senate for the unexpired term. If a vacancy occurs during a recess of the Senate, the Governor may fill the vacancy by appointment for the unexpired term pending the consent of the Senate, provided the appointment is received for confirmation on the first day of the Senate’s next meeting following the vacancy. A chairman must be elected annually by a majority of the membership of the board. The chairman may serve consecutive terms.

(C) The Governor shall deliver an appointment within sixty days of the expiration of a term, if an individual is being reappointed, or within ninety days of the expiration of a term, if an individual is an initial appointee. If a board member who is being reappointed is not confirmed within sixty days of receipt of the appointment by the Senate, the appointment is considered rejected. For an initial appointee, if confirmation is not made within ninety days of receipt of the appointment by the Senate, the appointment is deemed rejected. The Senate may by resolution extend the period after which an appointment is considered rejected. If the failure of the Senate to confirm an appointee would result in the lack of a quorum of board membership, the seat for which confirmation is denied or rejected shall not be considered when determining if a quorum of board membership exists.

(D) Within ninety days of a parole board member’s appointment by the Governor and confirmation by the Senate, the board member must complete a comprehensive training course developed by the department using training components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training course must include classes regarding the following:

(1) the elements of the decision making process, through the use of evidence‑based practices for determining offender risk, needs and motivations to change, including the actuarial assessment tool that is used by the parole agent;

(2) security classifications as established by the Department of Corrections; 3) programming and disciplinary processes and the department’s supervision, case planning, and violation process;

(4) the dynamics of criminal victimization; and

(5) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety.

The department must promulgate regulations setting forth the minimum number of hours of training required for the board members and the specific requirements of the course that the members must complete.

(E)(1) Each parole board member is also required to complete a minimum of eight hours of training annually, which shall be provided for in the department’s annual budget. This annual training course must be developed using the training components consistent with those offered by the National Institute of Corrections or American Probation and Parole Association and must offer classes regarding:

(1) a review and analysis of the effectiveness of the assessment tool used by the parole agents;

(2) a review of the department’s progress toward public safety goals;

(3) the use of data in decision making; and

(4) any information regarding promising and evidence‑based practices offered in the corrections related and crime victim dynamics field.

The department must promulgate regulations setting forth the specific criteria for the course that the members must complete.

(2) If a parole board member does not fulfill the training as provided in this section, the governor, upon notification, must remove that member from the board unless the Governor grants the parole board member an extension to complete the training, based upon exceptional circumstances.

(F) The department must develop a plan that includes the following:

(1) establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence‑based practices and factors that contribute to criminal behavior, which the Parole Board shall use in making parole decisions, including additional objective criteria that may be used in parole decisions;

(2) establishment of procedures for the department on the use of the validated assessment tool to guide the department, Parole Board, and agents of the department in determining supervision management and strategies for all offenders under the department’s supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism; and

(3) establishment of goals for the department, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and performance safety performance indicators.

(G) The director shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the department must submit an annual report to the Sentencing Reform Oversight Committee on its performance for the previous fiscal year and plans for the upcoming year. The department must collect and report all relevant data in a uniform format of both board decisions and field services and must annually compile a summary of past practices and outcomes.”

SECTION 47. Section 24‑21‑13 of the 1976 Code is amended to read:

“Section 24‑21‑13.(A) It is the duty of the director to oversee, manage, and control the department. The director shall develop written policies and procedures for the following:

(1) the supervising of offenders on probation, parole, community supervision, and other offenders released from incarceration prior to the expiration of their sentence, which supervising shall be based on a structured decision‑making guide designed to enhance public safety, which uses evidence based practices and focuses on considerations of offenders’ criminal risk factors;

(2) the consideration of paroles and pardons and the supervision of offenders in the community supervision program, and other offenders released from incarceration prior to the expiration of their sentence. The requirements for an offender’s participation in the community supervision program and an offender’s progress toward completing the program are to be decided administratively by the Department of Probation, Parole, and Pardon Services. No inmate or future inmate shall have a ‘liberty interest’ or an ‘expectancy of release’ while in a community supervision program administered by the department;

(3) the operation of community‑based correctional services and treatment programs; and

(4) the operation of public work sentence programs for offenders as provided in item (1) of this subsection. This program also may be utilized as an alternative to technical revocations. The director shall establish priority programs for litter control along state and county highways. This must be included in the ‘public service work’ program.

(B) It is the duty of the board to consider cases for parole, pardon, and any other form of clemency provided for under law.”

SECTION 48. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑32.(A) For purposes of this section, ‘release date’ means the date determined by the South Carolina Department of Corrections on which an inmate is released from prison, based on the inmate’s sentence and all earned credits allowed by law.

(B) Notwithstanding the provisions of this chapter, an inmate, who is not required to participate in a community supervision program pursuant to Article 6, Chapter 21, Title 24, shall be placed on reentry supervision with the department before the expiration of the inmate’s released date. Inmates who have been incarcerated for a minimum of two years shall be released to reentry supervision one hundred and eighty days before their release date. For an inmate whose sentence includes probation, the period of reentry supervision is reduced by the term of probation.

(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence‑based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director.

(D) If the department determines that an inmate has violated a term or condition of reentry supervision sufficient to revoke the reentry supervision, a probation agent must initiate a proceeding before a department administrative hearing officer. The proceeding must be initiated pursuant to a warrant or a citation describing the violations of the reentry supervision. No inmate arrested for violation of a term or condition of reentry supervision may be released on bond; however, he shall be credited with time served as set forth in Section 24‑13‑40 toward his release date. If the administrative hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions set forth in the regulations or department guidelines, and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate’s reentry supervision and the inmate shall be incarcerated up to one hundred eighty days, but the maximum aggregate time that the inmate shall serve on reentry supervision or for revocation of the reentry supervision shall not exceed an amount of time equal to the length of incarceration imposed by the court for the offense that the inmate was serving at the time of his initial reentry supervision. The decision of the administrative hearing officer on the reentry supervision shall be final and there shall be no appeal of his decision.”

SECTION 49. Section 24‑21‑220 of the 1976 Code is amended to read:

“Section 24‑21‑220. The director is vested with the exclusive management and control of the department and is responsible for the management of the department and for the proper care, assessment, treatment, supervision, and management of offenders under its control. The director shall manage and control the department and it is the duty of the director to carry out the policies of the department. The director is responsible for scheduling board meetings, assuring that the proper cases and investigations are prepared for the board, maintaining the board’s official records, and performing other administrative duties relating to the board’s activities. The director must employ within his office such personnel as may be necessary to carry out his duties and responsibilities including the functions of probation, parole, and community supervision, community‑based programs, financial management, research and planning, staff development and training, and internal audit. The director shall make annual written reports to the board, the Governor, and the General Assembly providing statistical and other information pertinent to the department’s activities.”

SECTION 50. Section 24‑21‑280 of the 1976 Code is amended to read:

“Section 24‑21‑280. (A) A probation agent must investigate all cases referred to him for investigation by the judges or director and report in writing. He must furnish to each person released on probation, parole, or community supervision under his supervision a written statement of the conditions of probation, parole, or community supervision and must instruct him regarding them. He must keep informed concerning the conduct and condition of each person on probation, parole, or community supervision under his supervision by visiting, requiring reports, and in other ways, and must report in writing as often as the court or director may require. He must use practicable and suitable methods that are consistent with evidence‑based practices to aid and encourage persons on probation, parole, or community supervision to bring about improvement in their conduct and condition and to reduce the risk of recidivism for the offenders under his supervision. A probation agent must keep detailed records of his work, make reports in writing, and perform other duties as the director may require.

(B) A probation agent has, in the execution of his duties, the power to issue an arrest warrant or a citation charging a violation of conditions of supervision, the powers of arrest, and, to the extent necessary, the same right to execute process given by law to sheriffs. A probation agent has the power and authority to enforce the criminal laws of the State. In the performance of his duties of probation, parole, community supervision, and investigation, he is regarded as the official representative of the court, the department, and the board.

(C) A probation agent must conduct an actuarial assessment of offender risks and needs, including criminal risk factors and specific needs of each individual, under the supervision of the department, which shall be used to make objectively based decisions that are consistent with evidence‑based practices on the type of supervision and services necessary. The actuarial assessment tool shall include screening and comprehensive versions. The screening version shall be used as a triage tool to determine offenders who require the comprehensive version. The director shall also require each agent to receive annual training on evidence‑based practices and criminal risks factors and how to target these factors to reduce recidivism.

(D) A probation agent, in consultation with his supervisor, shall identify each individual under the supervision of the department, with a term of supervision of more than one year, and shall calculate and award compliance credits as provided in this section. Credits may be earned from the first day of supervision on a thirty‑day basis, but shall not be applied until after each thirty‑day period of supervision has been completed. Compliance credits may be denied for noncompliance on a thirty‑day basis as determined by the department. The denial of nonearned compliance credits is a final decision of the department and is not subject to appeal. An individual may earn up to twenty days of compliance credits for each thirty‑day period in which he has fulfilled all of the conditions of his supervision, has no new arrests, and has made all scheduled payments of his financial obligations.

(E) Any portion of the earned compliance credits are subject to be revoked by the department if an individual violates a condition of supervision during a subsequent thirty‑day period.

(F) The department shall provide annually to the Sentencing Reform Oversight Committee the number of offenders who qualify for compliance credits and the amount of credits each has earned within a fiscal year.”

SECTION 51. Section 24‑21‑230 of the 1976 Code is amended to read:

“Section 24‑21‑230. (A) The director must employ probation agents required for service in the State and clerical assistants as necessary. The probation agents must take and pass psychological and qualifying examinations as directed by the director. The director must ensure that each probation agent receives adequate training. Until the initial employment requirements are met, no person may take the oath of a probation agent nor exercise the authority granted to them.

(B) The director must employ hearing officers who conduct preliminary hearings to determine probable cause on violations committed by individuals under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The department shall promulgate regulations for the qualifications of the hearing officers and the procedures for the preliminary hearings. Until regulations are adopted, the qualifications and procedures shall be based on guidelines developed by the director.”

SECTION 52. Article 1, Chapter 21, Title 24 is amended by adding:

“Section 24‑21‑100. (A) Notwithstanding the provisions of Sections 24‑19‑120, 24‑21‑440, 24‑21‑560(B), or 24‑21‑670, when an individual has not fulfilled his obligations for payment of financial obligations by the end of his term of supervision, then the individual shall be placed under quarterly administrative monitoring, as defined in Section 24‑21‑5, by the department until such time as those financial obligations are paid in full or a consent order of judgment is filed. If the individual under administrative monitoring fails to make reasonable progress towards the payment of such financial obligations, as determined by the department, the department may petition the court to hold an individual in civil contempt for failure to pay the financial obligations. If the court finds the individual has the ability to pay but has not made reasonable progress towards payment, the court may hold the individual in civil contempt of court and may impose a term of confinement in the local detention center until payment of the financial obligations, but in no case to exceed ninety days of confinement. Following any term of confinement, the individual shall be returned to quarterly administrative monitoring by the department. If the individual under administrative monitoring does not have the ability to pay the financial obligations and has no reasonable likelihood of being able to pay in the future, the Department may submit a consent order of judgment to the court, which shall relieve the individual of any further administrative monitoring.

(B) An individual placed on administrative monitoring shall pay a regular monitoring fee towards offsetting the cost of his administrative monitoring for the period of time that he remains under monitoring. The regular monitoring fee must be determined by the department based upon the ability of the person to pay. The fee must not be more than ten dollars a month. All regular monitoring fees must be retained by the department, carried forward, and applied to the department’s operation.”

SECTION 53. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑110. (A) In response to a violation of the terms and conditions of any supervision program operated by the department, whether pursuant to statute or contract with another state agency, the probation agent may, with the concurrence of his supervisor and, as an alternative to issuing a warrant or citation, serve on the offender a notice of administrative sanctions. The agent must not serve a notice of administrative sanctions on an offender for violations of special conditions if a sentencing court provided that those violations would be heard by the court. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation.

(B) If the offender agrees in writing to the additional conditions set forth in the notice or order of administrative sanctions, the conditions must be implemented with swiftness and certainty. If the offender does not agree, or if after agreeing the offender fails to fulfill the additional conditions to the satisfaction of the probation agent and his supervisor, then the probation agent may commence revocation proceedings.

(C) In addition to the notice of administrative sanctions, a hearing officer with the department may, as an alternative to sending a case forward to the revoking authority, impose on the offender an order of administrative sanctions. The order may be made only after the hearing officer has made a finding of probable cause at a preliminary hearing that an offender has violated the terms and conditions of any supervision program operated by the department, whether pursuant to statute or a contract with another state agency. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation. The sanctions must be implemented with swiftness and certainty.

(D) The administrative sanctions shall be established by regulations of the department, as set forth by established administrative procedures. The department shall delineate in the regulations a listing of administrative sanctions for the most common types of supervision violations including, but not limited to: failure to report; failure to pay fines, fees, and restitution; failure to participate in a required program or service; failure to complete community service; and failure to refrain from the use of alcohol or controlled substances. The sanctions shall consider the severity of the current violation, the offender’s previous criminal record, the number and severity of previous supervision violations, the offender’s assessment, and the extent to which administrative sanctions were imposed for previous violations. The department, in determining the list of administrative sanctions to be served on an offender, shall ascertain the availability of community‑based programs and treatment options including, but not limited to: inpatient and outpatient substance abuse treatment facilities; day reporting centers; restitution centers; intensive supervisions; electronic monitoring; community service; programs to reduce criminal risk factors; and other community‑based options consistent with evidence‑based practices.

(E) The department shall provide annually to the Sentencing Reform Oversight Committee:

(1) the number of offenders who were placed on administrative sanctions during the prior fiscal year, and who were not returned to incarceration within that fiscal year;

(2) the number and percentage of offenders whose supervision programs were revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010; and

(3) the number and percentage of offenders who were convicted of a new offense and sentenced to a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010.”

SECTION 54. Section 24‑21‑490 of the 1976 Code is amended to read:

“Section 24‑21‑490.(A) The Department of Probation, Parole and Pardon Services shall collect and distribute restitution on a monthly basis from all offenders under probationary and intensive probationary supervision.

(B) Notwithstanding Section 14‑17‑725, the department shall assess a collection fee of twenty percent of each restitution program and deposit this collection fee into a separate account. The department shall maintain individual restitution accounts that reflect each transaction and the amount paid, the collection fee, and the unpaid balance of the account. A summary of these accounts must be reported to the Governor’s Office, the President of the Senate, the Speaker of the House, the Chairman of the House Judiciary Committee, and the Chairman of the Senate Corrections and Penology Committee every six months following the enactment of this section.

(C) The department may retain the collection fees described in subsection (B) and expend the fees for the purpose of collecting and distributing restitution. Unexpended funds at the end of each fiscal year may be retained by the department and carried forward for use for the same purpose by the department.

(D) For financial obligations collected by the department pursuant to administrative monitoring requirements, payments shall be distributed by the department proportionately to pay restitution and fees based on the ratio of each category to the total financial obligation owed. Fines shall continue to be paid and collected pursuant to the provisions of Chapter 17 of Title 14.”

SECTION 55. Article 7, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑715. (A) As contained in this section:

(1) ‘Terminally ill’ means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk.

(2) ‘Geriatric’ means an inmate who is seventy years of age or older and suffers from chronic infirmity, illness, or disease related to aging, which has progressed so the inmate is incapacitated as determined by a licensed physician to the extent that the inmate does not pose a public safety risk.

(3) ‘Permanently incapacitated’ means an inmate who no longer poses a public safety risk because of a medical condition that is not terminal but that renders him permanently and irreversibly incapacitated as determined by a licensed physician and which requires immediate and long term residential care.

(B) Notwithstanding another provision of law, only the full Parole Board, upon a petition filed by the Director of the Department of Corrections, may order the release of an inmate who is terminally ill, geriatric, permanently incapacitated, or any combination of these conditions.

(C) The parole order issued by the Parole Board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate’s supervision and conditions for his participation and removal.

(D) An inmate granted a parole pursuant to this section is under the supervision of the Department of Probation, Parole and Pardon Services. The inmate must reside in an approved residence and abide by all conditions ordered by the Parole Board. The department is responsible for supervising an inmate’s compliance with the conditions of the parole board’s order as well as monitoring the inmate in accordance with the department’s policies.

(E) The department shall retain jurisdiction for all matters relating to the parole granted pursuant to this section and conduct an annual review of the inmate’s status to ensure that he remains eligible for parole pursuant to this section. If the department determines that the inmate is no longer eligible to participate in the parole set forth in this section, a probation agent must issue a warrant or citation charging a violation of parole and the board shall proceed pursuant to the provisions of Section 24‑21‑680.”

SECTION 56. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 11

Office of Pretrial Intervention Coordinator

Diversion Program Data and Reporting

Section 17‑22‑1110. As used in this chapter:

(1) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(2) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

Section 17‑22‑1120. (A) In addition to the information collected and processed by the Office of Pretrial Intervention Coordinator within the Commission on Prosecution Coordination pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office of Pretrial Intervention Coordination shall be responsible for collecting data on all programs administered by a circuit solicitor, the Commission on Prosecution Coordination, or a court, which divert offenders from prosecution to an alternative program or treatment.

(B) This shall include programs administered by circuit solicitors, which are either statutorily mandated or established by judicial order, and shall include, but are not limited to: alcohol education programs; drug courts for adults or juveniles; traffic education programs; worthless checks units; pre‑trial intervention; mental health courts; or juvenile arbitration.

(C) Notwithstanding the provisions of Section 17‑22‑130, 17‑22‑360, 17‑22‑370, or 17‑22‑560, the Office of Pretrial Intervention Coordinator shall collect and make available for public inspection an annual report on the numbers of individuals who apply for a diversion program, the number of individuals who begin a diversion program or treatment, the number of individuals who successfully complete a program or treatment within a twelve‑month period, the number of individuals who do not successfully complete a program or treatment within the same twelve‑month period, but who are still participating in the program or treatment, the number of individuals who did not complete the program within the twelve‑month period and who have been prosecuted for the offense committed, and the number of individuals with fees fully or partially waived for indigence. The data collected and made available for public inspection shall be listed by each county, by each program or treatment, and the offense originally committed, but shall not contain any identifying information of the participant.

(D) A copy of the report shall be sent to the Sentencing Reform Oversight Committee for evaluation of the diversion programs and treatments being administered in the State by the circuit solicitors or a court, the effectiveness of each program, and to ascertain the need for additional programs, program modifications, or repeal of existing programs. In evaluating the programs and treatments, the Sentencing Reform Oversight Committee may request information on the evidence‑based practices used in each program or treatment to identify offender risks and needs, and the specific interventions employed in each program or treatment to identify criminal risk factors and reduce recidivism.”

SECTION 57. Section 24‑13‑2130 of the 1976 Code is amended to read:

“Section 24‑13‑2130. (A) The memorandum of understanding between the South Carolina Department of Corrections, Probation, Parole and Pardon Services, the Department of Vocational Rehabilitation, Employment Security Commission, Alston Wilkes Society, and other private sector entities shall establish the role of each agency in:

(1) ascertaining an inmate’s opportunities for employment after release from confinement and providing him with vocational and academic education and life skills assessments based on evidence‑based practices and criminal risk factors analysis as may be appropriate;

(2) developing skills enhancement programs for inmates, as appropriate;

(3) coordinating job referrals and related services to inmates prior to release from incarceration;

(4) encouraging participation by inmates in the services offered;

(5) developing and maintaining a statewide network of employment referrals for inmates at the time of their release from incarceration and aiding inmates in the securing of employment;

(6) identifying and facilitating other transitional services within both governmental and private sectors;

(7) surveying employment trends within the State and making proposals to the Department of Corrections regarding potential vocational training activities.

(B) Further, the Department of Corrections and the Department of Probation, Parole and Pardon Services are directed to work with the Department of Motor Vehicles to develop and implement a plan for providing inmates who are being released from a correctional facility with a valid photo identification card. To the extent that funds are available from an individual inmate’s account, the Department of Corrections shall transfer five dollars to the Department of Motor Vehicles to cover the cost of issuing the photo identification card. The Department of Motor Vehicles shall use existing resources and technology to produce the photo identification card.”

SECTION 58. Section 24‑21‑645 of the 1976 Code, as last amended by an unnumbered Act of 2010 bearing ratification number R 140, is further amended to read:

“Section 24‑21‑645. (A) The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two‑thirds of the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16‑1‑60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

(B) The conditions of parole must include the requirement that the parolee must permit the search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, and any of the parolee’s possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

However, the conditions of parole for a parolee who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the parolee agree to be subject to search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, or any of the parolee’s possessions.

(C) By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

(D) Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16‑1‑60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16‑25‑90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This ~~section~~ subsection applies retroactively to a prisoner who has had a parole hearing pursuant to Section 16‑25‑90 prior to the effective date of this act.”

SECTION 59. Section 16‑1‑130 of the 1976 Code, as added by Act 106 of 2005, is amended to read:

“Section 16‑1‑130. (A) A person may not be considered for a diversion program, including, but not limited to, a drug court program or a mental health court, if the:

(1) person’s current charge is for a violent offense as defined in Section 16‑1‑60 or a stalking offense pursuant to Article 17, Chapter 3, Title 16;

(2) person has a prior conviction for a violent crime as defined in Section 16‑1‑60, or a harassment or stalking offense pursuant to Article 17, Chapter 3, Title 16;

(3) person is subject to a restraining order pursuant to the provisions of Article 17, Chapter 3, Title 16 or a valid order of protection pursuant to the provisions of Chapter 4, Title 20;

(4) person is currently on parole or probation for ~~any offense~~ a violent crime as defined in Section 16‑1‑60; or

(5) consent of the victim has not been obtained unless reasonable attempts have been made to contact the victim and the victim is either nonresponsive or cannot be located after a reasonable search.

(B) The provisions of this section do not apply to a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor.”

PART III

Oversight Established

SECTION 60. It is the intent of the General Assembly that the provisions in PART III provide oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

SECTION 61. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑74.(A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Office of State Budget shall assist in preparing the fiscal impact statement.

(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Office of State Budget. The Office of State Budget shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Office of State Budget requests an extension of time. The Office of State Budget shall not unreasonably delay the delivery of a fiscal impact statement.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Office of State Budget and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the Office of State Budget in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Office of State Budget in a timely fashion.

(G) In preparing fiscal impact statements, the Office of State Budget shall consider and evaluate information as submitted by state agencies and political subdivisions. The Office of State Budget shall provide to the requesting Senate or House of Representatives committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the Office of State Budget.

(H) The Office of State Budget may request information from nongovernmental agencies and organizations to assist in preparing the fiscal impact statement.”

SECTION 62. Title 24 of the 1976 Code is amended by adding:

“Chapter 28

Sentencing Reform Oversight Committee

Section 24‑28‑10. There is hereby established a committee to be known as the Sentencing Reform Oversight Committee, hereinafter called the oversight committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 24‑28‑20. (A) The oversight committee shall be composed of seven members, two of whom shall be members of the Senate, including the Chair of the Judiciary Committee or his designee; two of whom shall be members of the House of Representatives, including the Chair of the House Judiciary Committee or his designee; one of whom shall be appointed by the Chair of the Senate Judiciary Committee from the general public at large; one of whom shall be appointed by the Chair of the House Judiciary Committee from the general public at large; and one of whom shall be appointed by the Governor. Provided, however, that in making appointments to the oversight committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent of all segments of the population of the State. The members of the general public appointed by the chairs of the Judiciary Committees must be representative of all citizens of this State and must not be members of the General Assembly.

(B) The oversight committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of four members.

(C) The oversight committee terminates five years after its first meeting, unless the General Assembly, by joint resolution, continues the oversight committee for a specified period of time.

Section 24‑28‑30. The oversight committee has the following powers and duties:

(1) to review the implementation of the recommendations made in the Sentencing Reform Commission report of February 2010 including, but not limited to:

(a) the plan required from the Department of Probation, Parole and Pardon Services on the Parole Board training and other goals identified in Section 24‑21‑10;

(b) the report from the Department of Probation, Parole and Pardon Services on its goals and development of assessment tools consistent with evidence‑based practices;

(c) the report from the Office of Pretrial Intervention Coordinator in the Commission on Prosecution Coordination on diversion programs required by the provisions of Article 11, Chapter 22, Title 17; and

(d) the report from the Department of Probation, Parole and Pardon Services on:

(i) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who have earned compliance credits; and

(ii) the number and percentage of probationers and parolees whose supervision has been revoked for violations of conditions or for convictions of new offenses;

(2) to request data similar to the information contained in the report required by Section 17‑22‑1120 from private organizations whose programs are operated through a court and that divert individuals from prosecution, incarceration, or confinement, such as diversion from incarceration for failure to pay child support, and whose programs are sanctioned by, coordinated with, or funded by federal, state, or local governmental agencies;

(3)(a) to annually calculate:

(i) any state expenditures that have been avoided by reductions in the revocation rate as calculated by the Department of Probation, Parole and Pardon Services and reported under Sections 24‑21‑450 and 24‑21‑680;

(ii) any state expenditures that have been avoided by reductions in the new felony offense conviction rate as calculated by the Department of Probation, Parole and Pardon Services and reported under Sections 24‑21‑450 and 24‑21‑680.

(b) to develop rules and regulations for calculating the savings in item (3)(a), which shall account at a minimum for the variable costs averted, such as food and medical expenses, and also consider fixed expenditures that are avoided if larger numbers of potential inmates are avoided.

(c) on or before December 1 of each year, beginning in 2011, to report the calculations made pursuant to item (3)(a) to the President of the Senate, the Speaker of the House of Representatives, the chief justice of the South Carolina Supreme Court, and the Governor. The report shall also recommend whether to appropriate up to thirty‑five percent of any state expenditures that are avoided as calculated in item (3)(a) to the Department of Probation, Parole and Pardon Services.

(d) with respect to the recommended appropriations in item (c), none of the calculated savings shall be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the Department of Probation, Parole and Pardon Services who are convicted of a new felony offense as calculated in subitem (3)(a)(ii).

(e) any funds appropriated pursuant to the recommendations in item (c) shall be used to supplement, not replace, any other state appropriations to the Department of Probation, Parole and Pardon Services.

(f) funds received through appropriations pursuant to this item shall be used by the Department of Probation, Parole and Pardon Services for the following purposes:

(i) implementation of evidence‑based practices;

(ii) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or

(iii) grants to nonprofit victim services organizations to partner with the Department of Probation, Parole and Pardon Services and courts to assist victims and increase the amount of restitution collected from offenders;

(4) to submit to the General Assembly, on an annual basis, the oversight committee’s evaluation of the implementation of the recommendations of the Sentencing Reform Commission report of February 2010;

(5) to make reports and recommendations to the General Assembly on matters relating to the powers and duties set forth in this section, including recommendations on transfers of funding based on the success or failure of implementation of the recommendations; and

(6) to undertake such additional studies or evaluations as the oversight committee considers necessary to provide sentencing reform information and analysis.

Section 24‑28‑40. (A) The oversight committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The oversight committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 24‑28‑50. (A) The oversight committee must use clerical and professional employees of the General Assembly for its staff, who must be made available to the oversight committee.

(B) The oversight committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the oversight committee.

(C) The oversight committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Sentencing Reform Commission report of February 2010.”

PART IV

SECTION 63. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of sentencing reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 64. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 65. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 66. The provisions of PART I and PART II take effect on January 1, 2011, for offenses occurring on or after that date, except that the provisions of SECTION 15 for implementation of a driver’s license reinstatement payment plan and the provisions of SECTION 18 for implementation of route restricted licenses shall become effective January 1, 2011, or six months after the signature of the Governor, whichever event occurs later in time. Regulations required pursuant to this act shall be submitted to the General Assembly no later than January 11, 2011, or six months after enactment, whichever event occurs later in time. All other provisions become effective upon signature of the Governor. Cases and appeals arising or pending under the law as it existed prior to the effective date of this act are saved. /

Renumber sections to conform.

Amend title to conform.

Rep. KELLY spoke in favor of the amendment.

The amendment was then adopted.

Rep. KELLY proposed the following Amendment No. 2 (COUNCIL\MS\7843AHB10), which was adopted:

Amend the bill, as and if amended, Section 44‑53‑375(F), as contained in SECTION 38, page 1154‑64, by deleting on lines 32 and 34 / (C) and (E) / and inserting / (C) or (E) /

Amend the bill further, by deleting Section 24‑28‑20(A), as contained in SECTION 61, pages 1154-87 and 1154-88, and inserting:

/ (A) The oversight committee shall be composed of seven members, two of whom shall be members of the Senate, both appointed by the Chair of the Senate Judiciary Committee, and one being the Chair of the Judiciary Committee or his designee; two of whom shall be members of the House of Representatives, both appointed by the Chair of the House Judiciary Committee, and one being the Chair of the House Judiciary Committee or his designee; one of whom shall be appointed by the Chair of the Senate Judiciary Committee from the general public at large; one of whom shall be appointed by the Chair of the House Judiciary Committee from the general public at large; and one of whom shall be appointed by the Governor. Provided, however, that in making appointments to the oversight committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent of all segments of the population of the State. The members of the general public appointed by the chairs of the Judiciary Committees must be representative of all citizens of this State and must not be members of the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Rep. KELLY explained the amendment.

The amendment was then adopted.

Rep. KELLY proposed the following Amendment No. 3 (COUNCIL\MS\7851AHB10), which was adopted:

Amend the bill, as and if amended, by deleting SECTION 66 in its entirety, pages 1154-91 and 1154-92, and inserting:

/ Section 66. The provisions of Section 15 for implementation of a driver’s license reinstatement payment plan and the provisions of Section 18 for implementation of route restricted licenses shall become effective January 1, 2011, or six months after the signature of the Governor, whichever event occurs later in time. The remaining provisions of Part I become effective upon signature of the Governor. The provisions of Part II take effect on January 1, 2011, for offenses occurring on or after that date. Regulations required pursuant to this act shall be submitted to the General Assembly no later than January 11, 2011, or six months after enactment, whichever event occurs later in time. All other provisions become effective upon signature of the Governor. Cases and appeals arising or pending under the law as it existed prior to the effective date of this act are saved. /

Renumber sections to conform.

Amend title to conform.

Rep. KELLY explained the amendment.

The amendment was then adopted.

Reps. HORNE and A. D. YOUNG proposed the following Amendment No. 4 (COUNCIL\7854AHB10KRL):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. Section 1‑7‑330 of the 1976 Code is amended to read:

“Section 1‑7‑330. The solicitors shall attend the courts of general sessions for their respective circuits. Preparation of the dockets for general sessions courts shall be exclusively vested in the circuit ~~solicitor~~ court. The ~~and the solicitor~~ chief administrative judge for circuit court shall determine the order in which cases on the docket are called for trial. ~~Provided,~~ However, ~~that~~ no later than seven days ~~prior to~~ before the beginning of each term of general sessions court, the ~~solicitor~~ chief administrative judge in each circuit shall prepare and publish a docket setting forth the cases to be called for trial during the term.” /

Renumber sections to conform.

Amend title to conform.

Rep. HORNE explained the amendment.

Rep. KELLY moved to table the amendment.

Rep. A. D. YOUNG demanded the yeas and nays which were taken, resulting as follows:

Yeas 31; Nays 67

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allison | Anthony | Bannister |
| Bingham | Bowen | Cooper |
| Delleney | Forrester | Frye |
| Gambrell | Hayes | Hiott |
| Huggins | Kelly | Littlejohn |
| Lowe | Lucas | Miller |
| Millwood | Parker | Sandifer |
| Simrill | Skelton | D. C. Smith |
| J. R. Smith | Spires | Toole |
| Vick | White | Whitmire |
| T. R. Young |  |  |

**Total--31**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Bales | Barfield | Bedingfield |
| Bowers | Brady | Branham |
| H. B. Brown | R. L. Brown | Cato |
| Chalk | Clemmons | Cobb-Hunter |
| Cole | Crawford | Daning |
| Dillard | Edge | Erickson |
| Funderburk | Gilliard | Hamilton |
| Hardwick | Harrison | Hart |
| Harvin | Hodges | Horne |
| Hosey | Hutto | Jefferson |
| Kennedy | Kirsh | Knight |
| Limehouse | Loftis | Long |
| Mack | McEachern | McLeod |
| Merrill | Mitchell | D. C. Moss |
| V. S. Moss | Nanney | J. H. Neal |
| Neilson | Norman | Owens |
| M. A. Pitts | Rutherford | Sellers |
| G. M. Smith | G. R. Smith | J. E. Smith |
| Sottile | Stewart | Stringer |
| Umphlett | Weeks | Whipper |
| Williams | Willis | Wylie |
| A. D. Young |  |  |

**Total--67**

So, the House refused to table the amendment.

The question then recurred to the adoption of the amendment.

Reps. SIMRILL, BANNISTER, HIOTT, HAYES, OWENS, MILLWOOD, PARKER, FORRESTER, KNIGHT, WYLIE, KELLY, SPIRES, R. L. BROWN and CRAWFORD requested debate on the Bill.

**S. 1137--DEBATE ADJOURNED**

Rep. KELLY moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 1137 -- Senators Fair and L. Martin: A BILL TO AMEND SECTION 44-53-398, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MONITORING THE SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE, SO AS TO ALSO MONITOR PHENYLPROPANOLAMINE AND THE SALE AND PURCHASE OF THESE PRODUCTS, TO MAKE IT ILLEGAL TO PURCHASE THESE PRODUCTS, TO PROVIDE THAT INFORMATION GATHERED FROM THE PURCHASER AT THE TIME OF THE SALE OF THESE PRODUCTS MUST BE ENTERED IN AN ELECTRONIC LOG, RATHER THAN A WRITTEN LOG, TO PROVIDE THAT THE INFORMATION MUST BE TRANSMITTED TO A CENTRAL DATA COLLECTION SYSTEM THAT WILL SUBMIT THIS INFORMATION TO SLED WHICH WILL MAINTAIN THIS INFORMATION TO ASSIST LAW ENFORCEMENT IN MONITORING THESE SALES AND PURCHASES, AND TO PROVIDE THAT A RETAILER OF THESE PRODUCTS MAY APPLY TO THE BOARD OF PHARMACY FOR AN EXEMPTION FROM THE ELECTRONIC LOG REQUIREMENT; AND BY ADDING CHAPTER 14 TO TITLE 23 SO AS TO PROVIDE THAT THE STATE LAW ENFORCEMENT DIVISION SHALL SERVE AS THE REPOSITORY FOR INFORMATION THE CENTRAL DATA COLLECTION GATHERS AND TRANSFERS TO SLED PERTAINING TO THE SALE AND PURCHASE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE.

**ORDERED TO THIRD READING**

The following Bills were taken up, read the second time, and ordered to a third reading:

S. 1379 -- Senators Peeler, Campbell and O'Dell: A BILL TO AMEND SECTION 63-11-500 OF THE 1976 CODE, RELATING TO CHILDREN'S SERVICES AGENCIES, TO HONOR THE MEMORY OF CASS ELIAS MCCARTER BY NAMING THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM AS THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM.

Rep. WHITE explained the Bill.

S. 1417 -- Senators Setzler, Knotts, Cromer and Courson: A BILL TO AMEND SECTION 7-27-365 OF THE 1976 CODE, RELATING TO THE REGISTRATION AND ELECTIONS COMMISSION FOR LEXINGTON COUNTY, TO CHANGE THE NUMBER OF ITS MEMBERS FROM SEVEN TO NINE.

S. 1340 -- Senator Cromer: A BILL TO AMEND SECTION 50-1-5, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN TITLE 50, SO AS TO DEFINE CERTAIN WILDLIFE, FISH, AND PLANT SPECIES; TO AMEND SECTION 50-1-30, AS AMENDED, RELATING TO BIRD, GAME ANIMALS, AND FISH CLASSIFICATIONS RECOGNIZED IN TITLE 50, SO AS TO REVISE THESE CLASSIFICATIONS; BY ADDING SECTION 50-1-50 SO AS TO DEFINE INDIVIDUAL RIVERS, CREEKS, LAKES, BAYS, SOUNDS, HARBORS, AND RESERVOIRS REFERENCED IN TITLE 50; TO AMEND SECTION 50-5-1500, RELATING TO ANADROMOUS AND CATADROMOUS FISHERIES IN FRESHWATERS AND SALT WATERS, SO AS TO DELETE PROVISIONS RELATING TO LICENSES FOR TAKING SHAD, HERRING, OR STURGEON AND PENALTIES FOR VIOLATIONS; BY ADDING SECTION 50-5-1556 SO AS TO PROVIDE THAT A COMMERCIAL FISHERMAN WHO SELLS SHAD, HERRING, OR EELS MUST SELL TO A WHOLESALE SEAFOOD DEALER OR LICENSED BAIT DEALER OR BE LICENSED AS SUCH; TO AMEND SECTION 50-9-30, RELATING TO RESIDENCY REQUIREMENTS FOR OBTAINING RECREATIONAL OR COMMERCIAL LICENSES, SO AS TO FURTHER SPECIFY THESE REQUIREMENTS; TO AMEND SECTION 50-9-80, RELATING TO REQUIREMENTS FOR ISSUANCE OF DUPLICATE LICENSES, SO AS TO FURTHER SPECIFY THESE REQUIREMENTS; BY ADDING ARTICLE 4 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE REQUIREMENTS FOR FRESHWATER COMMERCIAL FISHING LICENSES AND BAIT DEALER LICENSES AND TO PROVIDE LICENSURE REQUIREMENTS FOR TAKING SHAD, HERRING, OR EELS FOR COMMERCIAL PURPOSES; BY ADDING SECTION 50-9-545 SO AS TO PROVIDE LICENSURE REQUIREMENTS WHEN TAKING SHAD, HERRING, OR EELS FOR RECREATIONAL PURPOSES; BY ADDING SECTION 50-9-610 SO AS TO PROVIDE TAG AND PERMIT REQUIREMENTS WHEN USING CERTAIN DEVICES TO TAKE NONGAME FRESHWATER FISH; BY ADDING SECTION 50-13-1615 SO AS TO REQUIRE A PERSON SELLING OR POSSESSING FOR SALE FRESHWATER NONGAME FISH TO HAVE CERTAIN DOCUMENTATION VERIFYING THE ORIGIN OF THE FISH; BY ADDING SECTION 50-19-250 SO AS TO PROHIBIT NIGHT FISHING IN BRIDGE LAKE IN DORCHESTER COUNTY AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; BY ADDING SECTION 50-19-251 SO AS TO PROVIDE FOR CERTAIN FISHING AND RECREATIONAL ACTIVITIES ON SLADE LAKE AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; BY ADDING SECTION 50-19-1190 SO AS TO ESTABLISH A FISH SANCTUARY IN MARION COUNTY AND TO PROVIDE CRIMINAL PENALTIES FOR FISHING OR ENTERING UPON THE SANCTUARY; AND TO REPEAL SECTIONS 50-1-100, 50-13-1130, 50-13-1135, 50-13-1150, 50-13-1155, 50-13-1160, 50-19-1910, 50-19-1920, 50-19-1930, ARTICLE 39, CHAPTER 19, TITLE 50, 50-19-2620, AND 50-19-2630 ALL RELATING TO VARIOUS FISHING REGULATIONS AND LICENSURE REQUIREMENTS.

Rep. UMPHLETT explained the Bill.

**S. 836--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 836 -- Senator Cromer: A BILL TO AMEND SECTION 51-13-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RULES AND REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, SO AS TO PROHIBIT CERTAIN ACTIVITIES WHILE ON PARK PROPERTY.

Rep. M. A. PITTS proposed the following Amendment No. 1 (COUNCIL\SWB\8120CM10), which was adopted:

Amend the bill, as and if amended, Section 51-13-80(A)(7) as contained on page 2, line 22, by adding after / park / :

/ , which does not apply to a person licensed to carry a concealed weapon /

Renumber sections to conform.

Amend title to conform.

Rep. M. A. PITTS explained the amendment.

The amendment was then adopted.

Rep. FORRESTER explained the Bill.

The Bill, as amended, was read the second time and ordered to third reading, by a division vote of 61-0.

**S. 974--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 974 -- Senator Campsen: A BILL TO AMEND SECTION 50-9-20 OF THE 1976 CODE, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, TO PROVIDE THAT ANNUAL HUNTING AND FISHING LICENSES SHALL BE VALID FOR ONE YEAR FROM THE DATE OF ISSUANCE AND TO PROVIDE THAT THREE-YEAR HUNTING AND FISHING LICENSES SHALL BE VALID FOR THREE YEARS FROM THE DATE OF ISSUANCE; BY ADDING SECTION 50-9-560, TO PROVIDE THAT THE DEPARTMENT MAY ISSUE THREE-YEAR COMBINATION LICENSES, SPORTSMAN LICENSES, JUNIOR SPORTSMAN LICENSES, BIG GAME PERMITS, AND WILDLIFE MANAGEMENT AREA PERMITS; TO AMEND SECTION 50-9-920, RELATING TO REVENUE FROM THE SALE OF LIFETIME LICENSES, TO ESTABLISH THE THREE-YEAR HUNTING AND FISHING LICENSE FUND, TO PROVIDE THAT THREE-YEAR LICENSE FEES ARE DEPOSITED IN THE FUND, TO PROVIDE THAT ONE THIRD OF THE FUND MUST BE DISTRIBUTED TO THE GAME PROTECTION FUND, TO ESTABLISH THE THREE-YEAR WILDLIFE MANAGEMENT AREA PERMIT FUND, TO PROVIDE THAT THREE-YEAR WILDLIFE MANAGEMENT AREA PERMIT FEES ARE DEPOSITED IN THE FUND, TO PROVIDE THAT ONE-THIRD OF THE FUND MUST BE DISTRIBUTED TO THE WILDLIFE ENDOWMENT FUND; AND TO MAKE CONFORMING AMENDMENTS.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GGS\22616SD10), which was adopted:

Amend the bill, as and if amended, by striking Section 50-9-510 of the 1976 Code, as contained in SECTION 8 beginning on page 13 and inserting to read:

/ Section 50‑9‑510. (A) For the privilege of hunting:

(1) a resident shall purchase:

(a) an annual county hunting license, which is valid only in the licensee’s county of residence, for five dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual statewide hunting license for twelve dollars, one dollar of which the issuing sales vendor may retain;

(c) a three year statewide hunting license for thirty‑six dollars, three dollars of which the issuing sales vendor may retain; or

(d) a lifetime statewide hunting license for three hundred dollars at designated licensing locations;

(2) a resident who meets the qualifications as an apprentice hunter shall purchase an annual statewide apprentice hunting license for twelve dollars, one dollar of which the issuing sales vendor may retain;

(3) a nonresident shall purchase:

(a) a three day temporary statewide hunting license for forty dollars, one dollar of which the issuing sales vendor may retain;

(b) a ten day temporary statewide hunting license for seventy‑five dollars, two dollars of which the issuing sales vendor may retain; or

(c) an annual statewide hunting license for one hundred twenty‑five dollars, two dollars of which the issuing sales vendor may retain;

(4) a nonresident who meets the qualifications as an apprentice hunter shall purchase an annual statewide apprentice hunting license for one hundred twenty‑five dollars, two dollars of which the issuing sales vendor may retain.

(B) For the privilege of hunting big game including bear, deer, and wild turkey:

(1) a resident shall purchase in addition to the required hunting license:

(a) an annual big game permit, in addition to the required hunting license, for six dollars, one dollar of which the issuing sales vendor may retain; or

(b) a three year big game permit for eighteen dollars, three dollars of which the issuing sales vendor may retain; however, the three year permit is only available to a person:

(i) purchasing a three year hunting license;

(ii) holding a three year hunting license in the first year of issue; or

(iii) holding a lifetime hunting license;

(2) a nonresident shall purchase in addition to the required hunting license, a big game permit for one hundred dollars, two dollars of which the issuing sales vendor may retain.

(C)(1) On wildlife management areas, in addition to the required hunting license, a resident shall purchase:

(a) an annual wildlife management area permit for thirty dollars and fifty cents, one dollar of which the issuing sales vendor may retain; or

(b) a three year wildlife management area permit for ninety‑one dollars and fifty cents, three dollars of which the issuing sales vendor may retain; however, the three year permit is only available to a person:

(i) purchasing a three year hunting license ;

(ii) holding a three year hunting license in its first year;

(iii) holding a lifetime hunting license.or

(iv) holding a lifetime combination license.

(2) On wildlife management areas, the department may issue residents temporary wildlife management area permits from the department’s designated licensing locations for department specified hunting events for five dollars and fifty cents.

(3) On wildlife management areas lands, in addition to the required hunting license, a nonresident shall purchase a wildlife management area permit for seventy‑six dollars, one dollar of which the issuing sales vendor may retain.

(D) For the privilege of hunting migratory game birds, in addition to the required hunting license:

(1) a resident must obtain an annual migratory game bird permit at no cost;

(2) a nonresident must obtain an annual migratory game bird permit at no cost;

(E) For the privilege of hunting migratory waterfowl, in addition to the required hunting license and permits:

(1) a resident shall purchase a migratory waterfowl permit for five dollars and fifty cents, one dollar of which the issuing sales vendor may retain;

(2) a nonresident shall purchase a migratory waterfowl permit for five dollars and fifty cents, one dollar of which the issuing sales vendor may retain.

(F) For the privilege of hunting only the authorized released species on a licensed shooting preserve, in lieu of a hunting license, an individual may purchase an annual statewide shooting preserve license for eight dollars and fifty cents, one dollar of which the issuing sales vendor may retain. /

Amend the bill further, as and if amended, by striking subsection (E) of Section 50-9-525 of the 1976 Code, as contained in SECTION 8 on page 17 and inserting to read:

/ Section 50‑9‑525. (E)(1) A disability combination license includes the statewide privileges of hunting ~~small game~~, hunting big game, hunting migratory waterfowl, hunting on wildlife management area lands, freshwater fishing, and saltwater fishing.

(2) A disability fishing license includes the privileges of freshwater fishing and saltwater fishing. /

Renumber sections to conform.

Amend title to conform.

Rep. UMPHLETT explained the amendment.

The amendment was then adopted.

The question then recurred to the passage of the Bill.

Rep. KENNEDY demanded the yeas and nays which were taken, resulting as follows:

Yeas 97; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Allison |
| Anderson | Anthony | Bales |
| Bannister | Barfield | Bedingfield |
| Bingham | Bowen | Bowers |
| Brady | Branham | G. A. Brown |
| H. B. Brown | R. L. Brown | Cato |
| Chalk | Clemmons | Clyburn |
| Cobb-Hunter | Cole | Crawford |
| Delleney | Dillard | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Gilliard | Hamilton |
| Hardwick | Harrison | Hart |
| Harvin | Hayes | Hiott |
| Hodges | Horne | Hosey |
| Huggins | Hutto | Jefferson |
| Kelly | Kennedy | King |
| Kirsh | Knight | Limehouse |
| Loftis | Long | Lowe |
| Lucas | Mack | McEachern |
| McLeod | Merrill | Miller |
| Millwood | Mitchell | D. C. Moss |
| V. S. Moss | Nanney | J. H. Neal |
| J. M. Neal | Neilson | Norman |
| Owens | Parker | Pinson |
| M. A. Pitts | Sandifer | Sellers |
| Simrill | D. C. Smith | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stewart | Stringer | Toole |
| Umphlett | Vick | Whipper |
| White | Whitmire | Williams |
| Willis | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--97**

Those who voted in the negative are:

**Total--0**

So, the Bill, as amended, was read the second time and ordered to third reading.

**S. 1130--ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1130 -- Senator Grooms: A BILL TO AMEND SECTION 50-15-65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ALLIGATOR MANAGEMENT PROGRAM AND CONDITIONS UNDER WHICH ALLIGATORS MAY BE HUNTED OR TAKEN, SO AS TO PROHIBIT A DEPREDATION PERMIT HOLDER TO SELL, BARTER, OR TRADE THE PRIVILEGE TO TAKE AN ALLIGATOR; TO AMEND SECTION 50-9-20, AS AMENDED, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, PERMITS, STAMPS, AND TAGS, SO AS TO FURTHER SPECIFY THESE DURATIONAL REQUIREMENTS; TO AMEND SECTION 50-9-30, RELATING TO THE REQUIREMENTS FOR OBTAINING A RESIDENT HUNTING OR FISHING LICENSE, SO AS TO FURTHER SPECIFY RESIDENCY REQUIREMENTS; TO AMEND SECTION 50-9-920, RELATING TO THE DEPOSITING OF REVENUE GENERATED BY THE SALE OF LICENSES INTO CERTAIN FUNDS, SO AS TO CHANGE THE NAME OF THE GAME PROTECTION FUND TO THE FISH AND WILDLIFE PROTECTION FUND AND TO PROVIDE THAT REVENUE GENERATED FROM APPLICATION FEES, PERMITS, AND TAGS FOR THE PRIVILEGE OF TAKING ALLIGATORS MUST BE USED TO SUPPORT THE ALLIGATOR MANAGEMENT PROGRAM; AND BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE APPLICATION REQUIREMENTS AND FEES FOR THE PRIVILEGE OF TAKING ALLIGATORS.

Rep. UMPHLETT explained the Bill.

The yeas and nays were taken resulting as follows:

Yeas 85; Nays 4

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anderson |
| Anthony | Bales | Bannister |
| Barfield | Bingham | Bowen |
| Bowers | Brady | Branham |
| G. A. Brown | H. B. Brown | Chalk |
| Clemmons | Clyburn | Cole |
| Crawford | Daning | Delleney |
| Edge | Erickson | Forrester |
| Frye | Funderburk | Gambrell |
| Gilliard | Hamilton | Harrison |
| Hart | Harvin | Hayes |
| Hiott | Hodges | Horne |
| Hosey | Huggins | Hutto |
| Kelly | King | Kirsh |
| Knight | Littlejohn | Lowe |
| Lucas | Mack | McEachern |
| McLeod | Merrill | Miller |
| Millwood | Mitchell | D. C. Moss |
| V. S. Moss | Nanney | J. H. Neal |
| Norman | Owens | Parker |
| Pinson | Sandifer | Simrill |
| Skelton | D. C. Smith | G. M. Smith |
| G. R. Smith | J. E. Smith | J. R. Smith |
| Sottile | Spires | Stavrinakis |
| Stringer | Toole | Umphlett |
| Vick | Weeks | Whipper |
| White | Whitmire | Williams |
| Willis | Wylie | A. D. Young |
| T. R. Young |  |  |

**Total--85**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Bedingfield | Cobb-Hunter | Howard |
| Kennedy |  |  |

**Total--4**

So, the Bill was read the second time and ordered to third reading.

**S. 1224--DEBATE ADJOURNED**

Rep. COBB-HUNTER moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 1224 -- Senator Thomas: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT MICHELLE'S LAW BY ADDING SECTIONS 38-71-355 AND 38-71-785 SO AS TO REQUIRE HEALTH INSURANCE ISSUERS TO PERMIT A DEPENDENT CHILD ON A MEDICALLY NECESSARY LEAVE OF ABSENCE FROM A POSTSECONDARY EDUCATIONAL INSTITUTION TO CONTINUE DEPENDENT COVERAGE AND TO PROVIDE FOR THE REQUIREMENTS RELATED TO THAT COVERAGE; TO AMEND SECTION 38-71-850, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR GROUP HEALTH INSURANCE COVERAGE AND SPECIAL ENROLLMENT IN GROUP HEALTH INSURANCE COVERAGE, BOTH UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM AND TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009 TO PROVIDE FOR SPECIAL ENROLLMENT OF AN EMPLOYEE OR AN EMPLOYEE'S DEPENDENT IN THE CASE OF TERMINATION OF MEDICAID COVERAGE OR COVERAGE UNDER A STATE CHILDREN'S HEALTH INSURANCE PROGRAM OR THE INDIVIDUAL BECOMING ELIGIBLE FOR ASSISTANCE IN THE PURCHASE OF EMPLOYMENT-BASED COVERAGE; TO AMEND SECTION 38-74-10, AS AMENDED, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR THE SOUTH CAROLINA HEALTH INSURANCE POOL, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; TO AMEND SECTIONS 38-90-40, AS AMENDED, 38-90-45, AND 38-90-50, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THAT THE DIRECTOR OF INSURANCE MAY CONSIDER THE NET AMOUNT OF RISK RETAINED FOR AN INDIVIDUAL RISK WHEN ARRIVING AT A FINDING RELATING TO ADDITIONAL CAPITAL OR NET ASSETS REQUIREMENTS; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTS REQUIRED TO BE SUBMITTED BY A CAPTIVE INSURANCE COMPANY TO THE DIRECTOR, SO AS TO REQUIRE AN ASSOCIATION CAPTIVE INSURANCE COMPANY AND INDUSTRIAL INSURED GROUP TO SUBMIT ITS REPORT IN THE MANNER REQUIRED BY SECTION 38-13-80; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF A CAPTIVE INSURANCE COMPANY, SO AS TO PERMIT THE DIRECTOR TO GRANT ACCESS TO, USE, AND MAKE PUBLIC CERTAIN INFORMATION DISCOVERED OR DEVELOPED DURING THE COURSE OF AN EXAMINATION; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO CAPTIVE INSURANCE COMPANIES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO APPLICABLE STATUTES ALSO APPLY TO CAPTIVE INSURANCE COMPANIES AND TO PROVIDE A LISTING OF THOSE PROVISIONS OF TITLE 38 THAT APPLY TO CERTAIN CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-430, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO SPECIAL PURPOSE FINANCIAL CAPTIVES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO APPLICABLE STATUTES ALSO APPLY TO SPECIAL PURPOSE FINANCIAL CAPTIVES; AND TO AMEND CHAPTER 93, TITLE 38, RELATING TO THE PRIVACY OF GENETIC INFORMATION, SO AS TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 TO PROHIBIT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION, PROVIDE FOR THE REQUIREMENTS RELATING TO THE COLLECTION OF GENETIC INFORMATION, AND TO PROVIDE FOR THE SCOPE OF THE CHAPTER.

**S. 910--DEBATE ADJOURNED**

Rep. WHITE moved to adjourn debate upon the following Bill until Wednesday, May 19, which was adopted:

S. 910 -- Senator Land: A BILL TO AMEND SECTION 6-21-185 OF THE 1976 CODE, RELATING TO A SPECIAL PURPOSE DISTRICT MORTGAGE TO SECURE CERTAIN BONDS OR LOANS, TO REMOVE LIMITATIONS FROM THE AUTHORITY OF SUCH DISTRICT TO MORTGAGE ITS PROPERTY UNDER THE REVENUE BOND ACT FOR UTILITIES; TO ADD SECTION 6-17-95 TO AUTHORIZE A SPECIAL PURPOSE DISTRICT PROVIDING HOSPITAL, NURSING HOME, OR CARE FACILITIES TO BORROW MONEY IN A MANNER THAT IS CONSISTENT WITH SECTION 44-7-60; TO ADD SECTION 6-11-101 TO CLARIFY THE POWERS OF HOSPITAL DISTRICTS.

**S. 1134--DEBATE ADJOURNED**

The following Bill was taken up:

S. 1134 -- Senators Peeler and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 59 SO AS TO ENACT THE "SOUTH CAROLINA EDUCATION BILL OF RIGHTS FOR CHILDREN IN FOSTER CARE ACT" TO PROVIDE THAT SCHOOL DISTRICTS SHALL TAKE CERTAIN MEASURES TO HELP ENSURE THAT THE EDUCATION NEEDS OF CHILDREN IN FOSTER CARE ARE MET BY ASSISTING WITH ENROLLMENT, SCHOOL RECORDS AND CREDIT TRANSFERS, ACCESS TO RESOURCES AND ACTIVITIES, AND EXCUSED ABSENCE MAKE-UP REQUIREMENTS; TO PROVIDE THAT SCHOOL DISTRICTS SHALL PROVIDE ACCESS TO AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF SOCIAL SERVICES FOR SCHOOL RECORDS OF CHILDREN IN FOSTER CARE; AND TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PROVIDE AN EDUCATIONAL ADVOCATE FOR CHILDREN IN FOSTER CARE.

Reps. ERICKSON and OWENS proposed the following Amendment No. 1 (COUNCIL\AGM\18071BH10):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION at the end to read:

/ SECTION \_\_. Section 59‑1‑425 of the 1976 Code, as added by Act 260 of 2006, is amended to read:

“Section 59‑1‑425. (A) ~~Each~~ A local school district board of trustees of the State ~~shall have~~ has the authority to establish an annual school calendar for teachers, staff, and students. The statutory school term ~~is one hundred ninety days annually and shall consist~~ consists of a minimum of one hundred eighty days of instruction covering at least nine calendar months or the equivalent one thousand one hundred seventy instructional hours. However, beginning with the 2007‑2008 school year the opening date for students must not be before the third Monday in August, except for schools operating on a year‑round modified school calendar. A local school district may decide how best to structure the instructional day and how many days of instruction comprise the school year. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among schools in the district. A local school district shall schedule ten additional days or the equivalent sixty-five hours, three days or the equivalent nineteen and one half hours of which must be used for collegial professional development based upon the educational standards ~~as required by~~ provided in Section 59‑18‑300. The professional development shall address, at a minimum, academic achievement standards including strengthening teachers’ knowledge in their content area, teaching techniques, and assessment. No more than two days or the equivalent thirteen hours may be used for preparation of opening of schools, and the remaining five days or the equivalent thirty-two and one half hours may be used for teacher planning, academic plans, and parent conferences. ~~The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.~~

(B) Notwithstanding ~~any other provisions~~ another provision of law ~~to the contrary~~, ~~all~~ school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. ~~All~~ A school ~~districts~~ district shall designate annually at least three days or the equivalent nineteen and one half instructional hours within ~~their~~ its school ~~calendars~~ calendar to be used ~~as make‑up days~~ to make up missed time in the event of these occurrences. If ~~those~~ the designated days or times have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four‑by‑four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades ~~7~~ seven through ~~12~~ twelve may be taught on Saturday at the direction of the local school board. If a local school board authorizes make‑up ~~days~~ time on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

(C) The General Assembly by law may waive the requirements of making up missed days or time or, by law, may authorize the school board of trustees to forgive up to three days or the equivalent nineteen and one half instructional hours missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. A waiver granted by the local board of trustees of the requirement for making up missed days or time also must be authorized through a majority vote of the local school board.

(D) If a school is closed early due to snow, extreme weather conditions, or other disruptions, the day or equivalent number six and one half instructional hours may count towards the required minimum to the extent allowed by State Board of Education policy.

(E) The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch.

(F) Elementary and secondary schools may reduce the length of the instructional day to not less than three hours for not more than three days each school year for staff development, teacher conferences, or for the purpose of administering end-of-semester and end-of-year examinations.

(G) Priority during the instructional day must be given to teaching and learning tasks. Class interruptions must be limited only to emergencies. Volunteer blood drives as determined by the principal may be conducted at times ~~which would~~ that do not interfere with classroom instruction such as study period, lunch period, and before and after school.

(H) The State Board of Education may waive the school opening date requirement pursuant to subsection (A) of this section on a showing of good cause or for an educational purpose. For the purposes of this section:

(1)’Good cause’ means that schools in a district have been closed eight days per year during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

(2) ‘Educational purpose’ means a district establishes a need to adopt a different calendar for a:

(a) specific school to accommodate a special program offered generally to the student body of that school,

(b) school that primarily serves a special population of students, or

(c) defined program within a school.

The state board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the state board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening date set forth in this subsection. Waiver requests for educational purposes may not be used to accommodate system‑wide class scheduling preferences. Nothing in this subsection prohibits a district from offering supplemental or additional educational programs or activities outside of the calendar adopted under this section.” /

Renumber sections to conform.

Amend title to conform.

Rep. ERICKSON explained the amendment.

Rep. ERICKSON moved to adjourn debate on the Bill, which was agreed to.

Further proceedings were interrupted by expiration of time on the uncontested Calendar.

**RECURRENCE TO THE MORNING HOUR**

Rep. UMPHLETT moved that the House recur to the Morning Hour, which was agreed to.

**S. 1134--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1134 -- Senators Peeler and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 59 SO AS TO ENACT THE "SOUTH CAROLINA EDUCATION BILL OF RIGHTS FOR CHILDREN IN FOSTER CARE ACT" TO PROVIDE THAT SCHOOL DISTRICTS SHALL TAKE CERTAIN MEASURES TO HELP ENSURE THAT THE EDUCATION NEEDS OF CHILDREN IN FOSTER CARE ARE MET BY ASSISTING WITH ENROLLMENT, SCHOOL RECORDS AND CREDIT TRANSFERS, ACCESS TO RESOURCES AND ACTIVITIES, AND EXCUSED ABSENCE MAKE-UP REQUIREMENTS; TO PROVIDE THAT SCHOOL DISTRICTS SHALL PROVIDE ACCESS TO AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF SOCIAL SERVICES FOR SCHOOL RECORDS OF CHILDREN IN FOSTER CARE; AND TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PROVIDE AN EDUCATIONAL ADVOCATE FOR CHILDREN IN FOSTER CARE.

Reps. ERICKSON and OWENS proposed the following Amendment No. 1 (COUNCIL\AGM\18071BH10), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION at the end to read:

/ SECTION \_\_. Section 59‑1‑425 of the 1976 Code, as added by Act 260 of 2006, is amended to read:

“Section 59‑1‑425. (A) ~~Each~~ A local school district board of trustees of the State ~~shall have~~ has the authority to establish an annual school calendar for teachers, staff, and students. The statutory school term ~~is one hundred ninety days annually and shall consist~~ consists of a minimum of one hundred eighty days of instruction covering at least nine calendar months or the equivalent one thousand one hundred seventy instructional hours. However, beginning with the 2007‑2008 school year the opening date for students must not be before the third Monday in August, except for schools operating on a year‑round modified school calendar. A local school district may decide how best to structure the instructional day and how many days of instruction comprise the school year. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among schools in the district. A local school district shall schedule ten additional days or the equivalent sixty-five hours, three days or the equivalent nineteen and one half hours of which must be used for collegial professional development based upon the educational standards ~~as required by~~ provided in Section 59‑18‑300. The professional development shall address, at a minimum, academic achievement standards including strengthening teachers’ knowledge in their content area, teaching techniques, and assessment. No more than two days or the equivalent thirteen hours may be used for preparation of opening of schools, and the remaining five days or the equivalent thirty-two and one half hours may be used for teacher planning, academic plans, and parent conferences. ~~The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.~~

(B) Notwithstanding ~~any other provisions~~ another provision of law ~~to the contrary~~, ~~all~~ school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. ~~All~~ A school ~~districts~~ district shall designate annually at least three days or the equivalent nineteen and one half instructional hours within ~~their~~ its school ~~calendars~~ calendar to be used ~~as make‑up days~~ to make up missed time in the event of these occurrences. If ~~those~~ the designated days or times have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four‑by‑four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades ~~7~~ seven through ~~12~~ twelve may be taught on Saturday at the direction of the local school board. If a local school board authorizes make‑up ~~days~~ time on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

(C) The General Assembly by law may waive the requirements of making up missed days or time or, by law, may authorize the school board of trustees to forgive up to three days or the equivalent nineteen and one half instructional hours missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. A waiver granted by the local board of trustees of the requirement for making up missed days or time also must be authorized through a majority vote of the local school board.

(D) If a school is closed early due to snow, extreme weather conditions, or other disruptions, the day or equivalent number six and one half instructional hours may count towards the required minimum to the extent allowed by State Board of Education policy.

(E) The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch.

(F) Elementary and secondary schools may reduce the length of the instructional day to not less than three hours for not more than three days each school year for staff development, teacher conferences, or for the purpose of administering end‑of‑semester and end‑of‑year examinations.

(G) Priority during the instructional day must be given to teaching and learning tasks. Class interruptions must be limited only to emergencies. Volunteer blood drives as determined by the principal may be conducted at times ~~which would~~ that do not interfere with classroom instruction such as study period, lunch period, and before and after school.

(H) The State Board of Education may waive the school opening date requirement pursuant to subsection (A) of this section on a showing of good cause or for an educational purpose. For the purposes of this section:

(1)’Good cause’ means that schools in a district have been closed eight days per year during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

(2) ‘Educational purpose’ means a district establishes a need to adopt a different calendar for a:

(a) specific school to accommodate a special program offered generally to the student body of that school,

(b) school that primarily serves a special population of students, or

(c) defined program within a school.

The state board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the state board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening date set forth in this subsection. Waiver requests for educational purposes may not be used to accommodate system‑wide class scheduling preferences. Nothing in this subsection prohibits a district from offering supplemental or additional educational programs or activities outside of the calendar adopted under this section.” /

Renumber sections to conform.

Amend title to conform.

Rep. ERICKSON spoke in favor of the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 1296--DEBATE ADJOURNED**

The following Bill was taken up:

S. 1296 -- Senator S. Martin: A BILL TO AMEND SECTION 50-11-710 OF THE 1976 CODE, RELATING TO NIGHT HUNTING, TO PROVIDE THAT COYOTES MAY BE HUNTED AT NIGHT, TO PROVIDE EXCEPTIONS, AND TO PROVIDE PENALTIES.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\GGS\22621SD10):

Amend the bill, as and if amended, by striking Section 50-11-710(A)(2) of the 1976 Code, as contained in SECTION 1, beginning on line 30 of page 1 and inserting:

/ (2) coyotes and armadillos may be hunted at night with an artificial light that is carried on the hunter’s person attached to a helmet or hat, or part of a belt system worn by the hunter. Coyotes and armadillos may be hunted with a rifle or sidearm no larger than .22 caliber rimfire, a shotgun with a shot size no larger than a BB, or a sidearm of any caliber that has iron sites and a barrel length not exceeding nine inches. Any weapon used to hunt coyotes may not be equipped with a butt‑stock, scope, laser site, or light emitting or light enhancing device. It is unlawful to have in one’s possession any shot size larger than a BB while legally hunting coyotes and armadillos at night with a shotgun, and coyotes and armadillos may not be hunted at night from a vehicle, unless specifically permitted by the department. A person who violates this item is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both. /

Renumber sections to conform.

Amend title to conform.

Rep. UMPHLETT explained the amendment.

Rep. UMPHLETT moved to adjourn debate on the Bill until Wednesday, May 19, which was agreed to.

**S. 1294--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 1294 -- Senator Peeler: A BILL TO AMEND SECTION 50-11-2540 OF THE 1976 CODE, RELATING TO THE TRAPPING SEASON OF FURBEARING ANIMALS, TO PROVIDE THAT IT IS LAWFUL TO TRAP COYOTES FROM NOVEMBER FIRST OF EACH YEAR TO MARCH FIRST OF THE SUCCEEDING YEAR.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\BBM\9779SD10):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 50‑11‑2540 of the 1976 Code is amended to read:

“Section 50‑11‑2540. (A) It is lawful to trap furbearing animals for commercial purposes from ~~January~~ December first to March first of each year. ~~The trapping season may not exceed sixty‑one days each year under any circumstances.~~ It is unlawful to trap any other times unless authorized by the department. It is lawful to take furbearing animals by other lawful means during the general open hunting seasons established therefor.

(B) There is no closed season for hunting or taking coyotes with weapons.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. UMPHLETT moved to adjourn debate on the amendment, which was agreed to.

Reps. FRYE, M. A. PITTS, OTT and DUNCAN proposed the following Amendment No. 5 (COUNCIL\AGM\18077BH10), which was adopted:

Amend the committee report, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 50‑11‑2540 of the 1976 Code is amended to read:

“Section 50‑11‑2540. (A) It is lawful to trap furbearing animals for commercial purposes from January first to March first of each year. The trapping season may not exceed sixty‑one days each year under any circumstances. It is unlawful to trap any other times unless authorized by the department. It is lawful to take furbearing animals by other lawful means during the general open hunting seasons established therefor.

(B) There is no closed season for hunting or taking coyotes with weapons.

(C) It is lawful to trap coyotes pursuant to a depredation permit year round and offer them for sale on a year round basis.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. FRYE explained the amendment.

The amendment was then adopted.

The Agriculture, Natural Resources and Environmental Affairs Committee proposed the following Amendment No. 1 (COUNCIL\BBM\9779SD10), which was tabled:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 50‑11‑2540 of the 1976 Code is amended to read:

“Section 50‑11‑2540. (A) It is lawful to trap furbearing animals for commercial purposes from ~~January~~ December first to March first of each year. ~~The trapping season may not exceed sixty‑one days each year under any circumstances.~~ It is unlawful to trap any other times unless authorized by the department. It is lawful to take furbearing animals by other lawful means during the general open hunting seasons established therefor.

(B) There is no closed season for hunting or taking coyotes with weapons.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. UMPHLETT moved to table the amendment, which was agreed to.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 1051--REQUESTS FOR DEBATE**

The following Bill was taken up:

S. 1051 -- Senator Davis: A BILL TO AMEND SECTION 48-39-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RESTRICTIONS, EXCEPTIONS, AND SPECIAL PERMITS CONCERNING CONSTRUCTION AND RECONSTRUCTION SEAWARD OF THE BASELINE OR BETWEEN THE BASELINE AND THE SET BACK LINE, SO AS TO REVISE THE DESCRIPTION OF A PRIVATE ISLAND WITH AN ATLANTIC SHORELINE THAT IS EXEMPT FROM THE PROVISIONS OF THIS SECTION AND THE FORTY-YEAR RETREAT POLICY.

Reps. SANDIFER, CRAWFORD, DANING, SKELTON, BALES, WEEKS, WHITMIRE, GAMBRELL, WHITE, LONG, KIRSH and CHALK requested debate on the Bill.

**S. 783--AMENDED AND ORDERED TO THIRD READING**

The following Bill was taken up:

S. 783 -- Senator McConnell: A BILL TO AMEND SECTION 51-13-720, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE GOVERNING BOARD OF THE PATRIOTS POINT DEVELOPMENT AUTHORITY, SO AS TO PROVIDE FOR THREE ADDITIONAL MEMBERS OF THE BOARD AND THE MANNER OF THEIR TERMS AND APPOINTMENT.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\BBM\9777BH10), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 51‑13‑720 of the 1976 Code is amended to read:

“Section 51‑13‑720. (A) Members of the authority must be appointed by the Governor as follows: one upon the joint recommendation of the Chairman of the House Ways and Means Committee and the Speaker of the House, one upon the joint recommendation of the Chairman of the Senate Finance Committee and the President *Pro Tempore* of the Senate, and three to be appointed by the Governor. The Governor shall appoint the chairman. The terms of the members are for four years and until their successors are appointed and qualify. Members may succeed themselves. Vacancies must be filled in the same manner of the original appointment for the remainder of the unexpired term.

(B) In addition to the members of the board provided in subsection (A), there shall be three additional members of the board appointed by the Governor, one appointed upon recommendation of the President *Pro Tempore* of the Senate, one appointed upon recommendation of the Speaker of the House of Representatives, and one appointed upon recommendation of the State Adjutant General. These three members shall serve for four years and until their successors are appointed and qualify, and vacancies must be filled in the manner of original appointment for the remainder of the unexpired term.

(C) The General Assembly shall appoint a six member joint commission, three from the House of Representatives to be appointed by the Speaker of the House and three from the Senate to be appointed by the President *Pro Tempore*. The joint commission has authority to approve the Patriots Point master plan and any funding associated with the master plan. Each commission member serves a term of four years.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. J. E. SMITH explained the amendment.

The amendment was then adopted.

The Bill, as amended, was read the second time and ordered to third reading.

**S. 1348--AMENDED AND DEBATE ADJOURNED**

The following Bill was taken up:

S. 1348 -- Senator Campsen: A BILL TO AMEND CHAPTER 16, TITLE 12 OF THE 1976 CODE, RELATING TO THE ESTATE TAX, BY ADDING SECTION 12-16-1960 TO PROVIDE THAT THE WILL OR TRUST OF A DECEDENT WHO DIES IN 2010 THAT CONTAINS CERTAIN FORMULAE SHALL BE DEEMED TO REFER TO THE FEDERAL ESTATE TAX LAW AS IT APPLIED ON DECEMBER 31, 2009.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\BBM\9778HTC10), which was adopted:

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. The personal representative, trustee, or any affected beneficiary under the will, trust, or other instrument of a will, trust, or other instrument of a decedent who dies after December 31, 2009, and before January 1, 2011, may bring a proceeding to determine whether the decedent intended that formulae under the instrument be construed with respect to the law as it existed after December 31, 2009. The proceeding must be commenced within twelve months following the death of the decedent. /

Renumber sections to conform.

Amend title to conform.

Rep. DELLENEY explained the amendment.

The amendment was then adopted.

Rep. HARRISON moved to adjourn debate on the Bill until Wednesday, May 19, which was agreed to.

**S. 104--REQUESTS FOR DEBATE**

The following Bill was taken up:

S. 104 -- Senators Verdin and Campsen: A BILL TO AMEND TITLE 46 OF THE 1976 CODE, RELATING TO AGRICULTURE, BY ADDING CHAPTER 53, TO LIMIT THE LIABILITY THAT AN AGRITOURISM PROFESSIONAL MAY INCUR DUE TO AN INJURY OR DEATH SUFFERED BY A PARTICIPANT IN AN AGRITOURISM ACTIVITY, TO PROVIDE THAT AN AGRITOURISM PROFESSIONAL MUST POST A WARNING NOTICE AT THE AGRITOURISM FACILITY, TO PROVIDE THAT WARNING NOTICES MUST BE INCLUDED IN CONTRACTS THE AGRITOURISM PROFESSIONAL ENTERS INTO WITH PARTICIPANTS, AND TO PROVIDE THAT THE AGRITOURISM PROFESSIONAL'S LIABILITY IS NOT LIMITED IF THE PROPER WARNING NOTICES ARE NOT PROVIDED TO PARTICIPANTS.

The Judiciary Committee proposed the following Amendment No. 1 (COUNCIL\MS\7852AHB10):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 46 of the 1976 Code is amended by adding:

“Chapter 53

Agritourism Activity Liability

Section 46‑53‑10. As used in this chapter:

(1) ‘Agritourism activity’ means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to participate in rural activities.

(2) ‘Agritourism professional’ means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

(3) ‘Inherent risks of an agritourism activity’ means those dangers or conditions that are inherent to an agritourism activity, including hazards related to surface and subsurface conditions, natural conditions of land, vegetation, and water at the agritourism location, the behavior of wild or domestic animals, except dogs, and ordinary dangers associated with structures or equipment commonly used in farming and ranching operations. Inherent risks of an agritourism activity also includes a participant that acts in a negligent manner that causes or contributes to an injury to or the death of the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity. Inherent risk does not include any wilful, wanton, or reckless act or omission by the agritourism professional or any defect to land, structures, or equipment commonly used in farming and ranching operations that the agritourism professional knew or should have known existed.

(4) ‘Participant’ means any person, other than the agritourism professional, who engages in an agritourism activity.

(5) ‘Person’ means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit.

(6) ‘Rural activity’ means wildlife management, farming and ranching, and associated historic, scientific research, cultural, harvest‑your‑own, and natural activities and attractions.

Section 46‑53‑20. An agritourism professional is not liable for an injury to or the death of a participant resulting from an inherent risk of an agritourism activity, and no participant or participant’s representative may make a claim against, maintain an action against, or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting from an inherent risk of an agritourism activity unless the agritourism professional:

(1) intentionally injured or caused the death of the participant or committed an act or omission that constitutes willful, wanton, or reckless disregard for the safety of the participant and that act or omission caused the injury or death; or

(2) owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries or death because of a dangerous latent condition which was known or should have been known to the agritourism professional.

Section 46‑53‑30. In an action for damages against an agritourism professional for an injury to or death of a participant, the agritourism professional may plead assumption of the risk of an agritourism activity as an affirmative defense.

Section 46‑53‑40. Any limitation on legal liability afforded by this chapter to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

Section 46‑53‑50. (A) Every agritourism professional must post and maintain at least one sign that contains a warning notice. The sign must be clearly visible and placed at the entrance of the agritourism activity or another conspicuous location on or near where agritourism activities are conducted. Each letter on the sign must be a minimum of one inch in height.

(B) Every written contract entered into with a participant by an agritourism professional for professional services, instruction, or rental of equipment related to an agritourism activity, must have a printed warning notice in or affixed to the contract. The warning notice must be clearly legible, and the words must be in boldface, twelve‑point type.

(C) The warning notices required in this section must contain the following statement:

‘WARNING !

Under South Carolina law, an agritourism professional is not liable for an injury to or the death of a participant in an agritourism activity resulting from an inherent risk associated with the agritourism activity. (Chapter 31, Title 46, Code of Laws of South Carolina, 1976).’

(E) Failure to comply with the requirements in this section concerning warning signs and notices prevents an agritourism professional from pleading assumption of the risk of an agritourism activity as provided in Section 46‑31‑30 and invoking the privileges of immunity provided in Section 46‑31‑20.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect September 1, 2010, and shall only apply to causes of action arising after that date. /

Renumber sections to conform.

Amend title to conform.

Rep. DELLENEY explained the amendment.

Reps. STAVRINAKIS, MERRILL, DANING, GAMBRELL, AGNEW, WHITE, SKELTON, PARKER, ERICKSON, EDGE, SANDIFER, M. A. PITTS and FRYE requested debate on the Bill.

Rep. SELLERS moved that the House do now adjourn, which was agreed to.

**RETURNED WITH CONCURRENCE**

The Senate returned to the House with concurrence the following:

H. 4982 -- Reps. Huggins, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR SCOTTY GRIFFIN FOR HIS DISTINGUISHED SERVICE AS PRESIDENT OF ST. ANDREWS ROTARY CLUB OF COLUMBIA FOR 2009-2010.

**ADJOURNMENT**

At 4:47 p.m. the House, in accordance with the motion of Rep. HORNE, adjourned in memory of Barbara Blanton of Summerville, to meet at 10:00 a.m. tomorrow.

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