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**H. 3376**

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Summary: Conditional release

**HISTORY OF LEGISLATIVE ACTIONS**

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 12/8/2022 House Referred to Committee on **Judiciary**

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 1/10/2023 House Referred to Committee on **Judiciary** (House Journal‑page 152)

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3376_20221208.docx)

A bill

TO AMEND THE SOUTH CAROLINA code of laws BY ADDING ARTICLE 4 TO CHAPTER 13, TITLE 24 SO AS TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MAY CONDITIONALLY RELEASE INMATEs WHO are SERVING SENTENCEs FOR THE UNLAWFUL POSSESSION, MANUFACTURE, SALE, OR DISTRIBUTION OF CONTROLLED SUBSTANCEs, AND OFFER THE INMATEs THE OPPORTUNITY TO ENROLL IN CHEMICAL DEPENDENCY TREATMENT PROGRAMs.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 24 of the S.C. Code is amended by adding:

Article 4

Conditional Release

 Section 24‑13‑310. (A) The Director of the Department of Corrections may release an inmate committed to the department’s custody upon a petition by the inmate before his scheduled supervised release date or target release date if he:

 (1) is serving a sentence for the unlawful possession, manufacture, sale, or distribution of a controlled substance;

 (2) committed the crime as a result of a controlled substance addiction;

 (3) has served at least thirty‑six months or one‑half of his term of imprisonment, whichever is less;

 (4) successfully has completed a chemical dependency treatment program of the type described in this section while in prison;

 (5) has not previously been conditionally released under this section; and

 (6) has not within the past ten years been convicted of a violent crime.

 (B) The director shall offer an inmate meeting the criteria contained in subsection (A), the opportunity to begin a suitable chemical dependency treatment program of the type described in this section within one hundred sixty days after the inmate’s term of imprisonment begins or as soon after this period as possible.

 (C) The chemical dependency treatment program must:

 (1) contain a highly structured daily schedule for the inmate;

 (2) contain individualized educational programs designed to improve the basic educational skills of the inmate and to provide vocational training, if appropriate;

 (3) contain programs designed to promote the inmate’s self‑worth and the inmate’s acceptance of responsibility for the consequences of his decisions;

 (4) be licensed by the Department of Health and Environmental Control and designed to serve the inmate population; and

 (5) require that the inmate submit to a chemical use assessment and that he receives the appropriate level of treatment as indicated by the assessment.

 (D) The director shall expel from the chemical dependency treatment program an inmate who:

 (1) commits a material violation of or repeatedly fails to follow the rules of the program;

 (2) commits a criminal offense while in the program; or

 (3) presents a risk to other inmates based on the inmate’s behavior or attitude.

 (E) To be eligible for release under this section, an inmate shall sign a written contract with the director agreeing to comply with the requirements of this section and the conditions imposed by the director. The contract must specifically refer to the term of imprisonment extension contained in subsection (F). In addition, the inmate shall agree to submit to random drug and alcohol tests and electronic or home monitoring as determined by the director or the inmate’s supervising agent. The director may impose additional requirements on the inmate that are necessary to carry out the goals of this section.

 (F) When an inmate fails to complete successfully the chemical dependency treatment program under this section, the director shall add the time that the inmate was participating in the program to the inmate’s term of imprisonment. However, the inmate’s term of imprisonment may not be extended beyond his sentence.

 (G) The director may deny conditional release to an inmate under this section if he determines that the inmate’s release may pose a danger to the public or an individual. The director shall consider whether the inmate was involved in criminal gang activity during the inmate’s prison term. The director also shall consider the inmate’s custody classification and level of risk of violence and the availability of appropriate community supervision for the inmate. Conditional release granted under this section continues until the inmate’s sentence expires, unless release is rescinded under subsection (H). The director may not grant conditional release unless a release plan is in place for the inmate that addresses, at a minimum, plans for aftercare, community‑based chemical dependency treatment, gaining employment, and securing housing.

 (H) The conditions of release granted under this section are governed by the statutes and rules governing supervised release by law, except that release may be rescinded without hearing by the director if the director determines that continuation of the conditional release poses a danger to the public or to an individual. If the director rescinds an inmate’s conditional release, the inmate must be returned to prison and shall serve the remaining portion of his sentence.

 (I) An inmate who is serving both a sentence for an offense described in subsection (A) and an offense not described in subsection (A) is not eligible for release under this section unless the inmate has completed his full term of imprisonment for the other offense.

 (J) Upon receiving an inmate’s petition for release, the director shall notify the prosecuting authority responsible for the inmate’s conviction and the sentencing court. The director shall give the authority and court a reasonable opportunity to comment on the inmate’s potential release. If the authority or court elects to comment, the comments must specify the reasons for the authority or court’s position.

SECTION 2. This act takes effect upon approval by the Governor.

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