**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4470**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J. Moore and King

Document Path: LC-0131HA23.docx

Introduced in the House on May 10, 2023

Currently residing in the House Committee on **Judiciary**

Summary: Omnibus More Justice Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/10/2023 House Introduced and read first time ([House Journal‑page 44](h:\hj\20230510.docx))

5/10/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 44](h:\hj\20230510.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4470&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[05/10/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4470_20230510.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 32 TO TITLE 14 SO AS TO ESTABLISH THE “JUDICIAL CRIMINAL INFORMATION TECHNOLOGY COMMITTEE”; BY ADDING ARTICLE 9 TO CHAPTER 23, TITLE 16 entitled “background checks for firearm sales and transfers” SO AS TO ESTABLISH REQUIREMENTS FOR BACKGROUND CHECKS FOR FIREARM SALES AND TRANSFERS; BY ADDING CHAPTER 32 TO TITLE 17 entitled “asset forfeiture and private property protection act” SO AS TO PROVIDE FOR PROCEDURES AND REQUIREMENTS REGARDING ASSET FORFEITURE AND PROTECTION OF PRIVATE PROPERTY IN CERTAIN CIRCUMSTANCES; BY ADDING SECTION 17‑15‑270 SO AS TO REQUIRE THAT A PERSON WHO IS ARRESTED AT A MENTAL HEALTH INSTITUTION OR FACILITY FROM WHICH THE PERSON RECEIVES TREATMENT MUST UNDERGO A MENTAL HEALTH EVALUATION BEFORE A BOND HEARING; BY AMENDING SECTION 17‑15‑55, RELATING TO THE RECONSIDERATION BY THE CIRCUIT COURT OF BOND SET BY THE SUMMARY COURT, SO AS TO PROVIDE THAT IF A PERSON RECEIVES A SUBSEQUENT BOND AFTER BEING RELEASED ON BOND FOR A PREVIOUS VIOLENT OFFENSE OR FELONY OFFENSE INVOLVING A FIREARM, THE BONDSMAN MUST CERTIFY THAT ALL FEES ASSOCIATED WITH THE BOND WERE PAID IN FULL AT THE TIME OF THE BONDING, AND TO PROVIDE THAT IF A PERSON RECEIVES A BOND AFTER TWO PRIOR BONDS SET FOR SEPARATE VIOLENT OR FELONY OFFENSES INVOLVING A FIREARM, THAT BOND MAY NOT BE POSTED BY A BOND SURETY; BY AMENDING SECTION 17‑15‑30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR A PRIOR OFFENSE WHEN SETTING BOND; BY AMENDING SECTION 22‑5‑510, RELATING TO BAIL AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE MAGISTRATE, SO AS TO PROVIDE THAT A MAGISTRATE MUST CONSIDER WHETHER A PERSON IS OUT ON BOND FOR ANOTHER PRIOR OFFENSE WHEN SETTING A BOND; BY ADDING SECTION 23‑1‑255 SO AS TO PROVIDE IT IS UNLAWFUL FOR LAW ENFORCEMENT OFFICERS TO USE EXCESSIVE FORCE WHEN DETAINING OR ARRESTING PERSONS, TO PROVIDE A PENALTY, TO PROVIDE THE PROCEDURE FOR INVESTIGATING THE DEATH OF PERSONS BY THE USE OF EXCESSIVE FORCE, AND TO DEFINE CERTAIN TERMS; BY ADDING SECTION 23‑1‑260 SO AS TO PROVIDE LAW ENFORCEMENT AGENCIES MAY NOT ACQUIRE OR PURCHASE CERTAIN MILITARY ITEMS; BY ADDING SECTION 23‑1‑270 SO AS TO REQUIRE STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO ADOPT AND MAINTAIN A WRITTEN POLICY REGARDING THE USE OF TASER DEVICES OR STUN GUNS THAT MEETS OR EXCEEDS THE MODEL POLICY TO BE DEVELOPED BY THE SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL, TO REQUIRE LAW ENFORCEMENT OFFICERS TO DOCUMENT EACH USE OF A TASER DEVICE OR STUN GUN, TO REQUIRE EACH STATE AND LOCAL LAW ENFORCEMENT AGENCY TO SUBMIT AN ANNUAL REPORT TO THE DIRECTOR OF THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY TO POST THE ANNUAL REPORTS REGARDING TASER DEVICE OR STUN GUN USAGE ON ITS INTERNET WEBSITE, AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL TO DEVELOP AND PROMULGATE A MODEL POLICY PROVIDING GUIDELINES ON THE USE OF TASER DEVICES OR STUN GUNS BY LAW ENFORCEMENT OFFICERS; AND BY AMENDING SECTION 23‑23‑20, RELATING TO THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY, SO AS TO AUTHORIZE ITS DIRECTOR TO DETERMINE THE LOCATION OF A TRAINING FACILITY.

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

SECTION 1. Title 14 of the S.C. Code is amended by adding:

CHAPTER 32

Judicial Criminal Information Technology Committee

Section 14‑32‑10. There is hereby established a committee to be known as the “Judicial Criminal Information Technology Committee”, which must exercise the powers and fulfill the duties described in this chapter.

Section 14‑32‑20. (A) The committee shall be composed of the following:

(1) a member of the Senate, appointed by the Chair of the Senate Judiciary Committee;

(2) a member of the House of Representatives, appointed by the Chair of the House Judiciary Committee;

(3) the Chief Justice of the Supreme Court, who shall serve ex officio;

(4) one member who is a judge of the State, appointed by the Chief Justice of the Supreme Court;

(5) one member who is a clerk of court, appointed by the Chief Justice of the Supreme Court;

(6) one member who is a circuit solicitor, appointed by the Attorney General;

(7) one member who is a circuit public defender, appointed by the Chief Justice of the Supreme Court; and

(8) one member who is a sheriff or municipal chief of police, appointed by the Governor;

(B) The members who are appointed shall serve for period of three years and may be reappointed.

(C) The 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 five members.

Section 14‑32‑30. The committee has the following powers and duties:

(1) to review the current state of law enforcement information technology and reporting including, but not limited to, the timeframe and accuracy of the filing of reports, fingerprints and related offender information, and evidence discovery to prosecutors, courts, and to the South Carolina Law Enforcement Division criminal information database;

(2) to review the current state of judicial information technology including, but not limited to, the technology and funding needs of state and local court systems, the technology and funding needs of state and local law enforcement agencies, and the current efficiency, timeliness, and accuracy of filings;

(3) to recommend the implementation of an accurate and secure centralized court reporting system for all courts in the State and to explore funding options, and recommend legislation, rules, or regulations to enhance the overall efficiency of the judicial system and criminal reporting by law enforcement. An initial report must be given to the Chairmen of the House and Senate Judiciary Committees by December 15, 2024, detailing the current status of agency needs, funding requirements, and recommendations and findings of the committee;

(4) to recommend to the Supreme Court changes to the court rules to effectuate the adoption of a centralized court reporting system and the implementation with, and the full compliance of, reporting deadlines.

Section 14‑32‑40. (A) The 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 must 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 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 14‑32‑50. (A) The committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the committee.

(B) The committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations report.

SECTION 2. Chapter 23, Title 16 of the S.C. Code is amended by adding:

Article 9

Background Checks for Firearm Sales and Transfers

Section 16‑23‑910. As used in this article:

(1) “Firearm” means a weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

(2) “Licensed dealer” means the holder of any federal firearms license under 18 U.S.C. Section 923(a).

(3) “Transfer” means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

(4) “Transferee” means a person who receives or intends to receive a firearm in a sale or transfer.

Section 16‑23‑920. For any sale or transfer of a firearm for which a licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check, a licensed gun dealer may not deliver a firearm to any transferee unless the NICS provides the licensed dealer with a unique identification number or five days have elapsed from the date the licensed dealer contacted the NICS and the NICS has not notified the licensed dealer that a sale or transfer to such person would violate state or federal law.

Section 16‑23‑930. A person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than one thousand dollars, or both.

SECTION 3. Title 17 of the S.C. Code is amended by adding:

CHAPTER 32

Asset Forfeiture and Private Property Protection

Section 17‑32‑10. This chapter may be cited as the “Asset Forfeiture and Private Property Protection Act”.

Section 17‑32‑20. As used in this chapter:

(1) “Contraband” means goods that are unlawful to import, export, or possess.

(2) “Conveyance” means a device used for transportation, including a motor vehicle, trailer, snowmobile, airplane, vessel, and any equipment attached to it. This term does not include property that is stolen or taken in violation of the law.

(3) “Instrumentality” means property otherwise lawful to possess that is used in a criminal offense, including a tool, firearm, conveyance, computer, computer software, telecommunications device, money, and other means of exchange.

(4) “Law enforcement agency” has the same meaning as in Section 17‑28‑20(8).

(5) “Law subject to forfeiture” means a state criminal law that is a felony and explicitly includes forfeiture as punishment or sanction for the offense.

Section 17‑32‑30. (A) Property used in or derived from the violation of a law is subject to forfeiture only if the violation is:

(1) of a law subject to forfeiture; and

(2) established by proof of a criminal conviction.

(B) The State shall establish that seized property is forfeitable pursuant to the provisions of Section 17‑32‑40(A).

(C) There is no civil asset forfeiture.

Section 17‑32‑40. (A) If a person is convicted of violating a law subject to forfeiture, the court shall order the person to forfeit:

(1) proceeds and property derived directly from the commission of the crime;

(2) proceeds and property directly traceable to proceeds and property derived directly from the commission of the crime; and

(3) instrumentalities used in the commission of the crime.

(B) The only property subject to forfeiture is:

(1) land, buildings, containers, conveyances, equipment, materials, products, money, securities, and negotiable instruments; and

(2) ammunition, firearms, and ammunition and firearm accessories used in the furtherance of, or in the commission of, or obtained from the proceeds of a violation of a law subject to forfeiture.

(C) The State may petition the court to order the defendant to submit substitute property owned fully by the defendant up to the value of unreachable property if the State proves, by a preponderance of the evidence, that the defendant intentionally transferred, sold, or deposited property with a third party to avoid the court’s jurisdiction. The State may not seek additional remedies including, but not limited to, a personal money judgment.

(D) A defendant is not jointly and severally liable for forfeiture awards owed by other defendants. When ownership is unclear, a court may order each defendant to forfeit property on a pro rata basis proportional to the proceeds that each defendant personally received.

Section 17‑32‑50. (A) A law enforcement agency may not transfer a criminal investigation or proceeding to the federal government with the sole intention to circumvent state forfeiture law.

(B) For a law enforcement agency to transfer a criminal investigation or proceeding that includes forfeiture to the federal government, a state court shall affirmatively find that the:

(1) suspected criminal activity giving rise to the forfeiture is interstate in nature and sufficiently complex to justify the transfer; or

(2) seized property is forfeitable only as a violation of federal law.

(C) The law enforcement agency shall report all transfers to the federal government of an investigation or criminal proceeding that involves forfeiture per the reporting requirements in Sections 17‑32‑80 and 17‑32‑200.

Section 17‑32‑60. (A)(1) Property subject to forfeiture must be identified by the State in an indictment issued by a grand jury or by information in the court in a related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a violation of a law subject to forfeiture.

(2) The indictment or information must:

(a) specify the time and place of the violation;

(b) identify the property; and

(c) describe its use in the commission of the crime or derivation from the commission of the crime.

(3) The State, with the consent of the court and a defendant with an interest in the property, may file an ancillary charge alleging that property is subject to forfeiture at any time prior to trial.

Section 17‑32‑70. (A) The State may petition the court to issue an ex parte preliminary order to seize or secure property for which forfeiture is sought and to provide for its custody.

(B) Property subject to forfeiture may be seized without a court order if the:

(1) seizure is incident to a lawful arrest or a lawful search;

(2) property subject to seizure is the subject of a prior judgment in favor of the State; or

(3) State has probable cause to believe that delay occasioned by the necessity to obtain process would result in the removal or destruction of property and the property is forfeitable pursuant to Section 17‑32‑40.

(C) When property is seized, the law enforcement officer who seizes the property shall give an itemized receipt to the person in possession of the property. If the property is not with a person or the person is absent from the premises, the law enforcement officer may leave a receipt in the place where the property was found.

Section 17‑32‑80. (A) The State acquires provisional title at the time of seizure, which authorizes the State to hold and protect the property. Title to the property vests with the State when a final forfeiture verdict is returned in favor of the State and relates the verdict back to the time when the State acquired provisional title. This title is still subject to third party claims pursuant to the provisions of this chapter.

(B) The State shall use reasonable diligence to secure seized property and prevent waste.

(C) The State entity in custody of seized property that is subject to forfeiture shall maintain a record of:

(1) the exact kind, quantity, and form of the property;

(2) the date and from whom it received the property;

(3) the violation of law that subjected the property to seizure;

(4) the liens against the seized property;

(5) the make, model, and serial number of each seized firearm;

(6) to whom and when the notice of forfeiture was given;

(7) to whom the property was delivered; and

(8) the date and manner of destruction or disposition of the property.

The records required pursuant to this subsection are subject to the provisions of Chapter 4, Title 30, the Freedom of Information Act.

Section 17‑32‑90. (A) If the owner of the seized property seeks its possession before trial, the owner may post bond or give substitute property in an amount equal to the fair market value of the seized property at the time bond is determined. This does not apply to property reasonably held for investigatory purposes.

(B) After the owner has posted bond or given substitute property, the State shall return the seized property within three business days. The forfeiture action may proceed against the bond or substitute property as if it were the seized property.

Section 17‑32‑100. A person who has an interest in seized property may file a petition for remission or mitigation for the forfeiture action with the Attorney General of South Carolina before the entry of a court order disposing of the forfeiture action. The Attorney General shall remit or mitigate the forfeiture on terms and conditions the Attorney General deems reasonable if he finds that:

(1) the petitioner did not intend to violate the law; or

(2) extenuating circumstances justify the remission or mitigation of the forfeiture.

Section 17‑32‑110. (A) Following the seizure of property pursuant to the provisions of this chapter, a defendant or third party has the right to a pretrial hearing to determine the validity of the seizure.

(B) The claimant, at any time prior to sixty days before trial of the related criminal violation, may claim the right to possession of property by motion to the court to issue a writ of replevin.

(C) The claimant shall file a motion establishing the validity of the alleged right, title, or interest in the property. The court shall hear the motion no more than thirty days after the motion is filed. The State shall file an answer showing probable cause for the seizure or cross‑motions at least ten days before the hearing.

(D) The court shall grant the motion if it finds that:

(1) it is likely the final judgment will be that the State must return the property to the claimant; or

(2) the property is the only reasonable means for a defendant to pay for legal representation in the forfeiture or criminal proceeding.

(E) The court may order the State to give security for satisfaction of any judgment, including damages, that may be rendered in the action or order other relief as may be just in lieu of ordering the issuance of the writ.

Section 17‑32‑120. (A) The trial of the alleged crime and the trial related to the forfeiture of property must be held in a single proceeding unless the defendant moves to separate the trial.

(B) The defendant may waive the right to a trial by jury related to the forfeiture of property while preserving the right to trial by jury of the alleged crime. If the jury finds a defendant guilty of the related criminal offense and the defendant did not waive the right to trial by jury related to the forfeiture, the court shall instruct and submit the issue of forfeiture to the jury. The court may use interrogatories to address the forfeiture issue.

(C) If the court separates the jury trial:

(1) the court shall first instruct and submit to the jury the issue of guilt or innocence and shall restrict arguments to that issue; and

(2) each party may introduce evidence in the forfeiture phase that was not introduced in the criminal phase.

Section 17‑32‑130.  (A) Following a finding of fact against him, the owner of the property may petition the court to determine whether the forfeiture is unconstitutionally excessive under the South Carolina or United States Constitution. The owner of the property has the burden of establishing that the forfeiture is grossly disproportional to the seriousness of the offense by a preponderance of the evidence at a hearing conducted by the court without a jury.

(B) The court shall consider all relevant factors when determining the constitutionality of a forfeiture including, but not limited to:

(1) the seriousness of the offense and its impact on the community, including the duration of the activity and the harm caused by the person whose property is subject to forfeiture;

(2) the extent to which the person whose property is subject to forfeiture participated in the offense;

(3) the extent to which the property was used in the commission of the offense;

(4) the sentence imposed for committing the crime subject to forfeiture; and

(5) whether the offense was attempted or completed.

(C) The court shall consider all relevant factors, except the value of the property to the State, when determining the value of the property subject to forfeiture including, but not limited to, the:

(1) fair market value of the property;

(2) value of the property to the person, including hardship to the owner if the property is forfeited; and

(3) hardship from the loss of the property to family members or others if the property is forfeited.

Section 17‑32‑140. A bona fide security interest in property is not subject to forfeiture unless the person claiming the security interest had actual knowledge that the property was subject to forfeiture at the time the property was seized or restrained. The party claiming the security interest bears the burden of establishing the validity of the interest by a preponderance of the evidence.

Section 17‑32‑150. (A) A person who has not been charged in the indictment but has an interest in the property subject to forfeiture may not intervene after the criminal trial has begun. Following the entry of a guilty plea in the court or a verdict of forfeiture of property, the State shall exercise reasonable diligence to identify a person with a potential interest in the property and make reasonable efforts to give notice to potential claimants. The State shall provide notice by publication in a newspaper most likely to give notice to potential claimants and provide written notice of its intent to dispose of property to a person known or alleged to have an interest in the property exempted from forfeiture under this chapter, including a person making claims for:

(1) court‑ordered child support;

(2) employment‑related compensation; and

(3) payment of unsecured debts.

(B) A third party asserting a legal interest in the property may petition the court for a hearing to adjudicate the validity of the interest in the property within sixty days of the date of the notice. The request for hearing shall:

(1) be signed by the petitioner under penalty of perjury;

(2) state the nature and extent of the petitioner’s right, title or interest in the property;

(3) the time and circumstances of the petitioner’s acquisition of the right, title, or interest; and

(4) any additional facts supporting the petitioner’s claim and the relief sought.

(C) Upon the filing of a petition, the court must schedule the hearing no later than six months after the sentencing of any defendant convicted upon the same indictment. The court must issue or amend a final order of forfeiture after a hearing if the court determines that the petitioner:

(1) has a legal right, title, or interest in the property that renders the order of forfeiture invalid in whole or in part because it was vested in the petitioner rather than the defendant or was superior to the defendant’s right, title, or interest at the time the property was seized or restrained; or

(2) is a bona fide purchaser for value of the right, title, or interest in the property and was without cause to believe that the property was subject to forfeiture at the time of purchase. The State has the burden of proof with respect to the issue of whether the petition was without cause to believe the property was subject to forfeiture at the time of purchase.

Section 17‑32‑160. (A) The property of an innocent partial or joint owner may not be forfeited under any forfeiture statute. A person who has a partial or joint interest in property subject to forfeiture at the time the illegal conduct occurred and claims to be an innocent partial or joint owner has a prima facie case that they have a legal right, title, or interest in the property seized or restrained.

(B) The State must prove by a preponderance of the evidence that the innocent owner had actual knowledge of the underlying crime giving rise to the forfeiture or was wilfully blind to its commission. If the State fails to meet its burden, the court shall find that the person was not a party to the crime and is an innocent partial or joint owner. If the State meets its burden, the innocent owner may reestablish innocent owner status by showing that they took reasonable steps to prohibit, abate, or terminate the illegal use of the property by a preponderance of the evidence. The innocent owner may show that they did all that could reasonably be expected by demonstrating that they:

(1) gave timely notice to an appropriate law enforcement agency of information that led the person to know that conduct giving rise to forfeiture would occur or had occurred; or

(2) revoked or made a good faith attempt to revoke permission for those engaging in illegal conduct to use the property or took other reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of property.

The innocent owner is not required to take steps that they reasonably believe would subject them to physical danger.

(C)(1) A person who acquired an ownership interest in property after the commission of a crime giving rise to forfeiture occurred and claims to be an innocent partial or joint owner must establish a prima facie case that they have a legal right in the property seized. The State must prove by a preponderance of the evidence that the person had actual knowledge that the property was subject to forfeiture or was wilfully blind to the commission of the crime yet subjected the property to forfeiture in order to proceed with the forfeiture.

(2) The court shall limit the value of an interest in real property for which innocent ownership has been recognized to the value necessary to maintain reasonable shelter in the community for the person and all dependents residing with the person. An otherwise valid innocent owner claim may not be denied on the grounds that the person gave nothing of value in exchange for the property if:

(a) the property is the person’s primary residence;

(b) depriving the person of the property would deprive the person of the means to maintain reasonable shelter in the community for the person and all dependents residing with the person;

(c) the property is not, and is not traceable to, the proceeds of any criminal offense; and

(d) the person acquired the interest in the property through marriage, divorce, legal separation, or the person was the spouse or legal dependent of someone whose death resulted in the transfer of the property through inheritance or probate.

(D) If the court determines that an innocent joint or partial owner has an interest in seized property, the court shall enter an appropriate order reflecting the innocent owner’s preference for:

(1) severing the property;

(2) transferring the property to the State with a provision that the State compensate the innocent owner to the extent of their interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

(3) permitting the innocent owner to retain the property subject to a lien in favor of the State to the extent of the forfeitable interest in the property.

Section 17‑32‑170.  (A) The State shall return property to the owner within a reasonable period of time not to exceed three business days after a court finds that:

(1) the owner had a bona fide security interest;

(2) the owner was an innocent owner;

(3) charges against the owner were dismissed; or

(4) the owner was found not guilty of the criminal charge that is the basis for the forfeiture action.

(B) If property returned pursuant to subsection (A) has been damaged, the owner may make a claim in small claims court for the damages to the seized property against the agency that seized the property.

(C) The State is responsible for any storage fees and related costs applicable to property returned under subsection (A).

Section 17‑32‑180.  (A) If a trier of fact finds that property is to be forfeited, the court shall order the State to:

(1) return stolen property to its owner;

(2) sell firearms, ammunition and firearm accessories to licensed firearm dealers in a commercially reasonable manner; and

(3) sell other property in a commercially reasonable manner.

(B) The law enforcement agency that seized the property may not retain it for its own use or sell it directly to any employee of the agency, family member of an employee, or to another law enforcement agency.

Section 17‑32‑190. (A) Proceeds seized and proceeds from the sale of forfeited assets only may be distributed pursuant to a court order. The court shall order the funds be used to pay, in order of priority, for the following purposes:

(1) storage and sale expenses;

(2) satisfaction of valid liens against the property;

(3) restitution ordered to the victim of the criminal offense;

(4) reimbursement of investigation costs excluding salaries that the law enforcement agency incurred in the seizure of the assets subject to the forfeiture action;

(5) court‑ordered child support obligations;

(6) claims for compensation by the defendant’s employees; and

(7) claims for compensation by defendant’s unsecured creditors.

(B) All remaining funds must be forwarded to the Office of the State Treasurer for deposit into the general fund.

(C) A law enforcement agency may not directly or indirectly transfer seized or forfeited property to a federal law enforcement authority or other federal agency unless the:

(1) value of the seized or forfeited property exceeds fifty thousand dollars, excluding the potential value of controlled substances; and

(2) law enforcement agency determines that the criminal conduct that gave rise to the seizure is interstate in nature and sufficiently complex to justify the transfer of the property; or

(3) seized or forfeited property only may be forfeited under federal law.

Section 17‑32‑200. (A) Every law enforcement agency in this State shall compile and file a report with the Office of the Attorney General on no less than an annual basis listing the following information on each individual seizure and forfeiture completed under state and federal forfeiture law including, but not limited to, the:

(1) date the property was seized;

(2) type of property seized, including details such as the year, make and model of a conveyance;

(3) alleged crime associated with the seizure of the property and outcome of the related criminal action;

(4) venue of the forfeiture case and whether the property owner was represented by counsel;

(5) market value of the property seized;

(6) net amount received from the forfeiture, the gross amount received from the forfeiture and the total administrative and other expenses deducted;

(7) date and manner of the disposition of the property; and

(8) data on how the funds were spent.

(B) The Office of the Attorney General shall develop a standard form, filing process, and establish deadlines for the submission of forfeiture data and shall publish the reports when it publishes agency accountability reports.

(C) A law enforcement agency that fails to submit a report is in violation of this chapter and may have funds withheld until the agency is found in compliance with the provisions of this section.

Section 17‑32‑210. The provisions of this chapter provide the exclusive process governing forfeiture of property in this State, and if there is a conflict between the provisions of this chapter and another provision of law, the provision of this chapter control. However, the provisions of this chapter do not apply to property considered “contraband” as defined in Section 17‑32‑20(1).

SECTION 4. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section 17‑15‑270. (A) Notwithstanding another provision of law, prior to a bond hearing, a person who is receiving mental health services or treatment at, or is a resident of, a mental health institution or facility who is arrested at such institution or facility must undergo a mental health evaluation performed by the local mental health department to determine if the person has the mental capacity to proceed with the hearing. This mental health evaluation must be scheduled within ten days of arrest. Once scheduled, the mental health professional who performed the evaluation must issue, within forty‑eight hours, a report to the arresting law enforcement agency and the bond court with jurisdiction over the offense charged. In addition, the arresting law enforcement agency must make reasonable efforts to determine if the person has a guardian or person with power of attorney who must be notified of the arrest and the mental health evaluation before the bond hearing may be held. For purposes of this subsection, “reasonable efforts” means consulting with the appropriate mental health institution or facility and asking the person arrested, if he has the mental capacity to respond.

(B) The provisions of this section may not be construed to limit the person’s right to a bond hearing; however, if the person lacks the mental capacity to participate in the bond hearing, the hearing may be postponed by the court until such time as the person is determined to have the mental capacity to participate. The person, his attorney, guardian, or power of attorney, if any, may request subsequent mental health evaluations and one must be conducted within ten days of each request and proceed according to the provisions of this section.

(C) In no event may a person suffering from mental incapacitation, based on the mental health evaluation required by the provisions of this section, be subjected to physical force in order to appear in person at a bond hearing.

SECTION 5.A. Section 17‑15‑55 of the S.C. Code is amended to read:

Section 17‑15‑55. (A)(1) The circuit courts, at their discretion, may review and reconsider bond for general sessions offenses set by summary court judges. Also, the circuit courts may consider motions regarding reconsideration of bond for general sessions offenses set by summary court judges upon motions filed with the clerks of court. Hearings on these motions must be scheduled. The rules of evidence do not apply to bond hearings.

(2) After a circuit court judge has heard and ruled upon a defendant's motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court only upon the defendant's prima facie showing of a material change in circumstances which relate to the factors provided in Section 17‑15‑30, and which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances. Information regarding the defendant's guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor's consent.

(B)(1) Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. The motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any.

(2) After a circuit court judge has heard and ruled upon the state's motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state's prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances.

(3) If the state's motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within forty‑eight hours of receiving service of the state's motion or as soon as practical. The chief judge shall order the solicitor to notify the defense counsel of record and bond surety of the time and date of the hearing, and the solicitor shall provide proof reasonable efforts were made to affect the notice. Upon notice by the State, the defense counsel of record and bond surety shall make reasonable efforts to notify the defendant of the emergency hearing. The court may proceed with the hearing despite the absence of the defendant or bond surety. The court may not proceed with the hearing if the defense counsel of record is not present. If an emergency bond hearing is held without the presence of the defendant and bond is revoked, the judge having heard the matter may conduct the hearing on the defendant's motion to reconsider the revocation. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.

(C) If a person commits a violent crime offense, as defined in Section 16‑1‑60, or any felony offense involving a firearm which was committed when the person was already out on bond for a previous violent crime offense or any felony offense involving a firearm and the subsequent violent crime offense did not arise out of the same series of events as the previous violent crimeoffense, then:

(1) the bond hearing for the subsequent violent crime offense or any felony offense involving a firearm must be held in the circuit court within thirty days.;

(2) if the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. Notwithstanding the provisions of Section 17‑15‑15, any bond set a violent offense or felony offense involving a firearm committed when the person was already out on bond for a previous violation offense or felony offense involving a firearm must be deposited to the court in cash of its equivalent in full, regardless of if the bond was posted by the defendant, his representative, or by a bond surety. If the secondary bond is posted by a bond surety, the surety must certify to the court that all costs and fees required by the contract or agreement with the defendant were paid in full at the time of the bonding and that no future payments, fees, or interest are due from the defendant. A failure by defendant to make payments or to pay fees or interest to a bond surety after the release from custody for any contract or agreement made in violation of this subsection shall not be enforceable in any court;

(3) if the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, the court shall not set a bond for the instant offense and must revoke all previously set bonds.;

(D)(4) if a person commits a violent crimeoffense, as defined in Section 16‑1‑60, or a felony offense involving a firearm which was committed when the person was already out on bond for a previous violent crime offense or felony offense involving a firearm, and the subsequent violent crime offense did not arise out of the same series of events as the previous violent crime offense, then the arresting law enforcement agency must transmit notice of the second arrest, implicating this subsection (C), to the solicitor of the circuit in which the crime offense was committed and the administrative chief judge of the circuit in which the crime offense was committed. The prosecuting agency must notify any victims of the initial or subsequent crimes offenses pursuant to Chapter 3, Title 16 of any bond hearings.

(D) If a person commits a violent offense, as defined in Section 16‑1‑60, or a felony offense involving a firearm which was committed when the person was already out on bond for two or more previous, separate violent offenses or felony offenses involving a firearm for which separate bonds were set, and the subsequent offense did not arise out of the same series of events as the two or more previous, separate offenses, and the court determines that under the totality of the circumstances the previous bonds should not be revoked and another bond should be set, any bond set by the court must be deposited in full and may not be posted by any bond surety company, unless this person is not tried within ninety days, the charge must revert back to a surety bond.

(E) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten thirty days from the date bond is first set on a charge by the summary court or the date of the grand jury indictment, whichever occurs first, to determine if bond should be revoked.

B. Section 17‑15‑30(B) of the S.C. Code is amended to read:

(B) A court shall must consider:

(1) a person's criminal record;

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

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

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and

(6) whether the charged person is currently out on bond for another offense.

C. Section 22‑5‑510(D) and (E) of the S.C. Code is amended to read:

(D) A court shall must consider:

(1) a person's criminal record;

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

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

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and

(6) whether the charged person is currently out on bond for another offense.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall must provide the court with the following information:

(1) the person's criminal record;

(2) any charges pending against the person 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.

SECTION 6. Chapter 1, Title 23 of the S.C. Code is amended by adding:

Section 23‑1‑255. (A) A law enforcement officer may not use greater restraint than is necessary when detaining a person or unreasonable force when making an arrest.

(B) A person who violates this section is guilty of use of excessive force, a felony, and, upon conviction, must be imprisoned for not more than thirty years. Charges pursuant to this section only must be brought by an investigative agency.

(C) In the event that the use of excessive force results in the death of a person, the law enforcement agency investigating the death may not be the employer of the officer accused of use of excessive force.

(D) For purposes of this section:

(1) “Use of excessive force” means the application of force including, but not limited to, in a manner that applies extended or continued pressure to the throat or windpipe, a maneuver that restricts blood or oxygen flow to the brain, or a carotid artery restraint that prevents or hinders breathing or reduces the intake of air by an individual.

(2) “Law enforcement officer” means an officer, deputy, employee, or agent of a state or local law enforcement agency, or an officer, employee, or agent of a state or local detention facility.

SECTION 7. Chapter 1, Title 23 of the S.C. Code is amended by adding:

Section 23‑1‑260. (A) A state or local law enforcement agency may not acquire or purchase the following items:

(1) weaponized unmanned aerial vehicles;

(2) aircraft that are configured for combat or are combat‑coded and do not have an established flight application;

(3) grenades or similar explosives or grenade launchers from a surplus program operated by the federal government;

(4) armored‑multiwheeled vehicles that are mine‑resistant, ambush‑protected, and configured for combat, also known as MRAPs, from a surplus program operated y the federal government;

(5) bayonets;

(6) firearms of .50 caliber or higher;

(7) ammunition of .50 caliber or higher; or

(8) weaponized tracked armored vehicles.

(B) Nothing in this section restricts a law enforcement agency from acquiring or purchasing an armored high mobility multipurpose‑wheeled vehicle, also known as an HMMWV, or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure must be disposed of at the conclusion of any investigation or otherwise provided by law.

(C) A law enforcement agency that previously has acquired any item contained in subsection (A) is prohibited from using the item unless the agency has received a waiver to use the item from SLED. Any waiver request made to SLED must be limited to special weapons and tactics unit or other equivalent unit use only. SLED may grant a waiver upon a showing of good cause by the requesting agency, that the continued use of the item that is the subject of the waiver request has a bona fide public safety purpose.

Any agency that has filed a waiver request with SLED may continue to use a prohibited item while the waiver request is pending. If the waiver request is denied, the agency that filed the waiver request shall no longer use the prohibited item.

(D) Nothing in this section prohibits the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property that is not specifically prohibited pursuant to subsection (A) from the federal government.

SECTION 8. Chapter 1, Title 23 of the S.C. Code is amended by adding:

Section 23‑1‑270. (A)(1) Each state or local law enforcement agency that equips or authorizes its officers to use a taser device or stun gun shall:

(a) not later than January 1, 2024, adopt and maintain a written policy regarding the use of taser devices or stun guns that meets or exceeds the model policy developed by the South Carolina Law Enforcement Training Council pursuant to subsection (C);

(b) require law enforcement officers to document each use of a taser device or stun gun in use‑of‑force reports;

(c) not later than January fifteenth following each calendar year in which a taser device or stun gun is used, prepare an annual report using the form developed and promulgated by the South Carolina Law Enforcement Training Council pursuant to subsection (C) that details the use of taser devices or stun guns by law enforcement officers employed by the agency and includes:

(i) data downloaded from the taser devices or stun guns after their use;

(ii) data compiled from the use of force reports; and

(iii) statistics on each use of a taser device or stun gun, including, but not limited to:

(AA) the race and gender of each person on whom the taser device or stun gun was used, provided the identification of these characteristics must be based on the observation and perception of the police officer that used the taser device or stun gun;

(BB) the number of times the taser device or stun gun was activated and used on the person;

(CC) the injury, if any, suffered by the person against whom the taser device or stun gun was used; and

(DD) if the taser device or stun gun that was used had different usage modes, the mode used; and

(d) not later than January 1, 2025, and annually thereafter, submit the report to the Director of the South Carolina Criminal Justice Academy.

(2) Not later than January 1, 2025, and annually thereafter, a state or local law enforcement agency that does not equip or authorize its law enforcement officers to use a taser device or stun gun shall submit a report to the Director of the South Carolina Criminal Justice Academy stating that the agency does not equip or authorize its officers to use a taser device or stun gun.

(B) The Director of the South Carolina Criminal Justice Academy shall post the annual reports submitted pursuant to subsection (A)(1) on its Internet website.

(C) Not later than January 1, 2024, the South Carolina Law Enforcement Training Council shall develop and promulgate:

(1) a model policy that provides guidelines on the use of a taser device or stun gun by a law enforcement officer; and

(2) a standardized form for reporting the use of taser devices or stun guns pursuant to subsection (A)(1).

SECTION 9. Section 23‑23‑20 of the S.C. Code is amended to read:

Section 23‑23‑20. (A) There is hereby created the South Carolina Criminal Justice Academy which shall provide facilities and training for all officers from state, county, and local law enforcement agencies and for other designated persons in the criminal justice system. Correctional officers and other personnel employed or appointed by the South Carolina Department of Corrections may be trained by the academy. Administration of the academy must be vested in a director who is responsible for selection of instructors, course content, maintenance of physical facilities, recordkeeping, supervision of personnel, scheduling of classes, enforcement of minimum standards for certification, and other matters as may be agreed upon by the council. The director must be hired by and responsible to the council. Basic and advance training must be provided at the training facility.

(B) The director is authorized to determine the location of any additional training facility for mandatory training or other types of training.

SECTION 10. 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 11. If any section, subsection, 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, 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 12. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑