

SOUTH CAROLINA 2010 SESSION LAWS
REGULAR SESSION

Additions and deletions are not identified in this document.

Act 273

S.B. No. 1154

CRIMES--HEALTH--PROBATION OR PAROLE AND PARDON

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010”; TO AMEND SECTION 16-11-110, AS AMENDED, RELATING TO ARSON, SO AS TO RESTRUCTURE THE VARIOUS DEGREES OF ARSON AND THE PENALTIES; TO AMEND SECTION 16-3-210, RELATING TO LYNCHING IN THE FIRST DEGREE, SO AS TO RESTRUCTURE THE OFFENSE INTO VARYING DEGREES OF ASSAULT AND BATTERY BY MOB AND PROVIDE PENALTIES; TO REPEAL SECTIONS 16-3-220, 16-3-230, 16-3-240, 16-3-250, 16-3-260, AND 16-3-270, ALL RELATING TO LYNCHING AND MOB VIOLENCE; BY ADDING SECTION 16-3-29 SO AS TO CREATE THE OFFENSE OF ATTEMPTED MURDER AND PROVIDE A PENALTY; BY ADDING SECTION 16-3-600 SO AS TO DEFINE NECESSARY TERMS, CREATE VARIOUS LEVELS AND DEGREES OF ASSAULT AND BATTERY OFFENSES, AND TO PROVIDE PENALTIES; TO AMEND SECTION 16-3-610, RELATING TO ASSAULT WITH A CONCEALED WEAPON, SO AS TO REFERENCE THE NEW OFFENSES OF ATTEMPTED MURDER AND ASSAULT AND BATTERY AND MAKE TECHNICAL CHANGES; TO REPEAL SECTIONS 16-3-612, 16-3-620, 16-3-630, AND 16-3-635, ALL DEALING WITH VARIOUS ASSAULT AND BATTERY OFFENSES; TO REPEAL CERTAIN COMMON LAW ASSAULT AND BATTERY OFFENSES; TO AMEND SECTION 22-3-560, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES IN MAGISTRATES COURT AND ASSAULT AND BATTERY AGAINST SPORTS OFFICIALS AND COACHES, SO AS TO REMOVE THE SPECIFIC REFERENCES TO ASSAULT AND BATTERY OFFENSES; TO AMEND SECTION 17-15-30, AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE ON BAIL, SO AS TO REQUIRE CERTAIN INFORMATION BE PROVIDED TO THE COURT BEFORE A BAIL OR BOND HEARING BY LAW ENFORCEMENT; TO AMEND SECTION 22-5-510, RELATING TO BAIL AND BOND HEARINGS IN MAGISTRATES COURT, SO AS TO REQUIRE CERTAIN INFORMATION BE PROVIDED TO THE COURT BEFORE A BAIL OR BOND HEARING BY LAW ENFORCEMENT; TO AMEND SECTION 16-11-312, RELATING TO BURGLARY IN THE SECOND DEGREE, SO AS TO CREATE TWO TIERS OF BURGLARY IN THE SECOND DEGREE AND PROVIDE A PENALTY FOR THE FIRST; TO AMEND SECTION 16-17-420, RELATING TO DISTURBING SCHOOLS, SO AS TO VEST JURISDICTION WITH THE SUMMARY COURTS UNLESS THE PERSON IS A CHILD; BY ADDING SECTION 17-25-65 SO AS TO PROVIDE FOR REDUCTION IN A DEFENDANT'S SENTENCE IF HE PROVIDES SUBSTANTIAL ASSISTANCE TO THE STATE, TO PROVIDE A TIME FRAME FOR THE ASSISTANCE TO BE RENDERED, AND PROCEDURES THAT MUST BE FOLLOWED; TO AMEND SECTION 56-1-440, RELATING TO PENALTIES FOR DRIVING WITHOUT A LICENSE, AND SECTION 56-3-1970, AS AMENDED, RELATING TO UNLAWFUL PARKING IN A HANDICAPPED SPACE, BOTH SO AS TO VEST THE SUMMARY COURTS WITH JURISDICTION OVER THE OFFENSES; BY ADDING SECTION 56-1-395 SO AS TO DIRECT THE DEPARTMENT OF MOTOR VEHICLES TO ESTABLISH A DRIVER'S LICENSE REINSTATEMENT FEE PAYMENT PROGRAM AND ESTABLISH POLICIES AND PROCEDURES FOR THE PROGRAM; BY ADDING SECTION 56-1-396 TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO ESTABLISH A DRIVER'S LICENSE

SUSPENSION AMNESTY PERIOD EACH YEAR AND TO ESTABLISH POLICIES AND PROCEDURES FOR THE PERIOD; TO AMEND SECTION 16-11-510, RELATING TO MALICIOUS INJURY TO ANIMALS AND OTHER PERSONAL PROPERTY, SECTION 16-11-520, RELATING TO MALICIOUS INJURY TO CERTAIN REAL PROPERTY, SECTION 16-11-523, RELATING TO OBTAINING NON-FERROUS METALS UNLAWFULLY, SECTION 16-13-10, RELATING TO FORGERY, SECTION 16-13-30, RELATING TO PETIT AND GRAND LARCENY, SECTION 16-13-40, RELATING TO STEALING OF BONDS AND SIMILAR MATTERS, SECTION 16-13-50, RELATING TO STEALING OF LIVESTOCK, SECTION 16-13-66, RELATING TO PENALTIES FOR STEALING OR DAMAGING AQUACULTURE PRODUCTS OR FACILITIES, SECTION 16-13-70, RELATING TO STEALING OF VESSELS AND EQUIPMENT, SECTION 16-13-80, RELATING TO STEALING OF BICYCLES, SECTION 16-13-110, RELATING TO SHOPLIFTING, SECTION 16-13-180, RELATING TO RECEIVING STOLEN GOODS, SECTION 16-13-210, RELATING TO EMBEZZLEMENT OF PUBLIC FUNDS, SECTION 16-13-230, RELATING TO BREACH OF TRUST WITH FRAUDULENT INTENT, SECTION 16-13-240, RELATING TO OBTAINING SIGNATURE OR PROPERTY BY FALSE PRETENSES, SECTION 16-13-260, RELATING TO OBTAINING PROPERTY UNDER FALSE TOKENS OR LETTERS, SECTION 16-13-290, RELATING TO SECURING PROPERTY BY FRAUDULENT IMPERSONATION OF AN OFFICER, SECTION 16-13-331, RELATING TO UNAUTHORIZED REMOVAL OF LIBRARY PROPERTY, SECTION 16-13-420, RELATING TO FAILURE TO RETURN RENTED OBJECTS, SECTION 16-13-430, RELATING TO FRAUDULENT ACQUISITION OR USE OF FOOD STAMPS, SECTION 16-14-80, RELATING TO RECEIVING GOODS AND SERVICES FRAUDULENTLY OBTAINED, SECTION 16-14-100, RELATING TO PENALTIES FOR VIOLATION OF THE FINANCIAL TRANSACTION CARD CRIME ACT, SECTION 16-17-600, AS AMENDED, RELATING TO THE UNLAWFUL DESTRUCTION OR DESECRATION OF HUMAN REMAINS, SECTION 16-21-80, RELATING TO RECEIVING, POSSESSING, OR SELLING A STOLEN VEHICLE, SECTION 36-9-410, RELATING TO UNLAWFUL SALE OR DISPOSAL OF PERSONAL PROPERTY SUBJECT TO A SECURITY INTEREST, SECTION 38-55-170, RELATING TO PRESENTING FALSE CLAIMS FOR PAYMENT, SECTION 45-1-50, AS AMENDED, RELATING TO DEFRAUDING A KEEPER OF A HOTEL, CAMPGROUND, OR RESTAURANT, SECTION 45-2-40, RELATING TO VIOLATIONS COMMITTED ON THE PREMISES OF LODGING ESTABLISHMENTS, SECTION 46-1-20, AS AMENDED, RELATING TO STEALING CROPS, SECTION 46-1-40, AS AMENDED, RELATING TO STEALING TOBACCO PLANTS, SECTION 46-1-60, AS AMENDED, RELATING TO STEALING PRODUCE, SECTION 46-1-70, AS AMENDED, RELATING TO FACTORS OR COMMISSION MERCHANTS FAILING TO ACCOUNT FOR PRODUCE, AND SECTION 49-1-50, RELATING TO THE UNLAWFUL PURCHASE OR SALE OF DRIFTED LUMBER OR TIMBER, ALL SO AS TO RESTRUCTURE THE FINES AND PLACE JURISDICTION OVER THE LOWEST LEVEL OFFENSES IN MAGISTRATES OR MUNICIPAL COURTS; TO REPEAL SECTION 16-13-425 RELATING TO THE UNLAWFUL FAILURE TO RETURN RENTED VIDEOS; TO AMEND SECTION 56-1-460, RELATING TO PENALTIES FOR DRIVING UNDER SUSPENSION, SO AS TO RESTRUCTURE THE PENALTIES, TO PROVIDE FOR THE POSSIBILITY OF HOME DETENTION, AND TO PROVIDE PROCEDURES FOR OBTAINING A ROUTE RESTRICTED DRIVER'S LICENSE UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 56-1-1105 SO AS TO CREATE A HABITUAL OFFENDER OFFENSE FOR THOSE PERSONS WHO REPEATEDLY VIOLATE THE DRIVING UNDER SUSPENSION LAWS AND TO PROVIDE PENALTIES FOR THE TWO LEVELS CREATED; TO AMEND SECTION 16-5-50, RELATING TO THE PENALTY FOR HINDERING OFFICERS OR RESCUING PRISONERS, SO AS TO REVISE THE PENALTY; TO AMEND SECTION 17-25-45, AS AMENDED, RELATING TO TWO/THREE STRIKES LAW FOR REPEAT SERIOUS AND MOST SERIOUS OFFENDERS, SO AS TO ADD OFFENSES TO BOTH DELINEATED LISTS, PROVIDE EXCEPTIONS TO THE WORK RELEASE PROHIBITIONS UNDER CERTAIN CIRCUMSTANCES, AND DELETE THE REQUIREMENT THAT THE INVOCATION OF THE TWO/THREE STRIKES PROVISIONS ARE MANDATORY; TO AMEND SECTION 16-3-20, AS AMENDED, RELATING TO MURDER, SO AS TO RESTRUCTURE THE PENALTY TO DEATH OR A MANDATORY MINIMUM OF THIRTY YEARS TO LIFE; TO REPEAL SECTIONS 16-3-30, 16-3-40, AND 16-3-430 RELATING TO KILLING BY POISON, KILLING BY STABBING OR THRUSTING, AND KILLING IN A DUEL, RESPECTIVELY;

TO AMEND SECTION 14-25-65, AS AMENDED, RELATING TO MUNICIPAL COURT JURISDICTION, SO AS TO PROVIDE THE MUNICIPAL COURT HAS THE CIVIL JURISDICTION OF THE MAGISTRATES COURT; TO AMEND SECTION 22-3-550, RELATING TO MAGISTRATES COURT JURISDICTION, SO AS TO REFERENCE THE CIVIL JURISDICTIONAL AMOUNT IN SECTION 22-3-10; BY ADDING SECTION 16-23-500 SO AS TO CREATE THE OFFENSE OF UNLAWFUL POSSESSION OF A FIREARM OR AMMUNITION BY A PERSON CONVICTED OF A VIOLENT OFFENSE, TO PROVIDE A PENALTY, AND TO PROVIDE FOR CONFISCATION OF THE FIREARM OR AMMUNITION; TO AMEND SECTION 16-1-60, AS AMENDED, RELATING TO THE DEFINITION OF VIOLENT CRIMES, SO AS TO ADD A NUMBER OF ADDITIONAL OFFENSES TO THE DELINEATED LIST; TO AMEND SECTION 16-23-490, RELATING TO ADDITIONAL PUNISHMENT FOR THE POSSESSION OF A KNIFE OR FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, SECTION 24-13-125, RELATING TO ELIGIBILITY FOR WORK RELEASE, SECTION 24-13-650, RELATING TO THE PROHIBITION AGAINST RELEASE OF AN OFFENDER INTO A COMMUNITY IN WHICH HE COMMITTED A VIOLENT CRIME, AND SECTION 24-3-20, RELATING TO CUSTODY OF CONVICTED PERSONS AND PARTICIPATION IN WORK RELEASE PROGRAMS, ALL SO AS TO ALLOW PARTICIPATION IN WORK RELEASE PROGRAMS BY CERTAIN OFFENDERS UNDER CERTAIN CONDITIONS AND CIRCUMSTANCES; TO AMEND SECTIONS 24-19-10, 22-5-920, AS AMENDED, 24-19-110, AS AMENDED, AND 24-19-120, ALL RELATING TO THE TREATMENT OF YOUTHFUL OFFENDERS, SO AS TO AMEND THE DEFINITION OF THE TERM "YOUTHFUL OFFENDER", TO CLARIFY THE TERM, AND TO PROVIDE FOR THE NOTIFICATION OF VICTIMS BEFORE A YOUTHFUL OFFENDER MAY BE CONDITIONALLY RELEASED, RESPECTIVELY; TO AMEND SECTION 14-1-213, RELATING TO THE SURCHARGE ON DRUG OFFENSES, SO AS TO INCREASE THE SURCHARGE FROM ONE HUNDRED TO ONE HUNDRED FIFTY DOLLARS; TO AMEND SECTION 44-53-160, RELATING TO THE MANNER IN WHICH CHANGES TO THE SCHEDULE OF CONTROLLED SUBSTANCES ARE MADE, SO AS TO CHANGE THE METHOD OF NOTIFYING THE GENERAL ASSEMBLY WHEN A CONTROLLED SUBSTANCE IS ADDED, DELETED, OR RESCHEDULED; TO AMEND SECTIONS 44-53-370 AND 44-53-375, BOTH AS AMENDED, BOTH RELATING TO POSSESSION, MANUFACTURE, AND TRAFFICKING IN CERTAIN DRUG OFFENSES, BOTH SO AS TO ALLOW PERSONS CONVICTED OF CERTAIN DRUG OFFENSES TO HAVE THEIR SENTENCE SUSPENDED OR PROBATION GRANTED AND ALLOW THEM TO PARTICIPATE IN CERTAIN WORK AND EARLY RELEASE PROGRAMS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 44-53-445, RELATING TO DISTRIBUTION OF CONTROLLED SUBSTANCES WITHIN A CERTAIN PROXIMITY OF A SCHOOL, SO AS TO RESTRUCTURE THE OFFENSE TO REQUIRE KNOWLEDGE OF THE PROXIMITY TO A SCHOOL, AMONG OTHER THINGS; TO AMEND SECTION 44-53-450, AS AMENDED, RELATING TO CONDITIONAL DISCHARGE AND EXPUNGEMENT OF CERTAIN DRUG OFFENSES, SO AS TO INCLUDE CERTAIN DRUG OFFENSES IN SECTION 44-53-375 IN THE PURVIEW OF THE STATUTE, PROVIDE A FEE FOR EXPUNGEMENT, AND PROVIDE THAT THE FUNDS COLLECTED BE PROVIDED FOR DRUG TREATMENT COURT PROGRAMS; TO AMEND SECTION 44-53-470, AS AMENDED, RELATING TO THE DEFINITION OF "SECOND OR SUBSEQUENT OFFENSE" FOR PURPOSES OF CONTROLLED SUBSTANCE LAWS, SO AS TO PROVIDE A NEW STRUCTURE OF DETERMINING WHAT CONSTITUTES A SECOND OR SUBSEQUENT OFFENSE; TO AMEND SECTION 44-53-582, RELATING TO THE RETURN OF MONIES USED TO PURCHASE CONTROLLED SUBSTANCES, SO AS TO PROVIDE THAT THE COURT MAY ORDER THE DEFENDANT TO RETURN MONIES USED BY LAW ENFORCEMENT TO PURCHASE CONTROLLED SUBSTANCES DURING AN INVESTIGATION; TO AMEND SECTION 56-1-745, RELATING TO DRIVER'S LICENSE SUSPENSIONS FOLLOWING CONVICTION FOR CONTROLLED SUBSTANCE VIOLATIONS, SO AS TO RESTRUCTURE THE TIME PERIOD OF SUSPENSION TO PROVIDE FOR A SUSPENSION OF SIX MONTHS FOR ALL CONTROLLED SUBSTANCE VIOLATIONS; BY ADDING SECTION 24-21-5 SO AS TO DEFINE NECESSARY TERMS; TO AMEND SECTION 24-21-10, RELATING TO THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO PROVIDE QUALIFICATIONS FOR BOARD MEMBERS, COMPREHENSIVE TRAINING, AND REQUIRE THE DEPARTMENT TO DEVELOP A PROCESS FOR ADOPTING AN

ASSESSMENT TOOL; TO AMEND SECTION 24-21-13, RELATING TO POLICIES AND PROCEDURES THAT MUST BE FOLLOWED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES AND THE BOARD, SO AS TO INCLUDE THE USE OF A STRUCTURED DECISION-MAKING GUIDE AND ADD TREATMENT PROGRAMS; BY ADDING SECTION 24-21-32 SO AS TO PROVIDE FOR REENTRY SUPERVISION FOR INMATES NOT SENTENCED TO COMMUNITY SUPERVISION AND TO PROVIDE POLICIES AND PROCEDURES FOR THE NEW REENTRY SUPERVISION; TO AMEND SECTION 24-21-220, RELATING TO POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO INCLUDE ASSESSMENT IN THE DELINEATED LIST; TO AMEND SECTION 24-21-280, RELATING TO DUTIES AND POWERS OF PROBATION AGENTS, SO AS TO INCORPORATE THE REQUIRED USE OF EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM, REQUIRE ACTUARIAL ASSESSMENT OF CERTAIN CRIMINAL RISK FACTORS, AND TO ALLOW CERTAIN EARNED COMPLIANCE CREDITS; TO AMEND SECTION 24-21-230, RELATING TO EMPLOYMENT AND TRAINING OF PROBATION AGENTS AND OTHER STAFF, SO AS TO REQUIRE THE EMPLOYMENT OF HEARING OFFICERS AND THEIR DUTIES; BY ADDING SECTION 24-21-100 SO AS TO CREATE ADMINISTRATIVE MONITORING WHEN FINANCIAL OBLIGATIONS HAVE NOT BEEN MET BY THE END OF THE TERM OF SUPERVISION AND TO PROVIDE PROCEDURES FOR ADMINISTRATIVE MONITORING; BY ADDING SECTION 24-21-110 SO AS TO PROVIDE FOR ADMINISTRATIVE SANCTIONS FOR VIOLATORS OF SPECIAL CONDITIONS AND TO PROVIDE FOR A PROCEDURE TO ADMINISTER THESE ADMINISTRATIVE SANCTIONS; TO AMEND SECTION 24-21-490, RELATING TO COLLECTION AND DISTRIBUTION OF RESTITUTION, SO AS TO PROVIDE FOR THE DISTRIBUTION OF FINANCIAL OBLIGATIONS COLLECTED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES; BY ADDING SECTION 24-21-715 SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE FOR PAROLE FOR THE TERMINALLY ILL, GERIATRIC, OR PERMANENTLY DISABLED INMATE, AND TO PROVIDE PROCEDURES FOR PAROLE ON THESE GROUNDS; BY ADDING ARTICLE 11 TO CHAPTER 22, TITLE 17 SO AS TO DEFINE NECESSARY TERMS, CREATE THE OFFICE OF PRETRIAL COORDINATOR, AND REQUIRE CERTAIN DATA AND REPORTING OF DIVERSION PROGRAMS; TO AMEND SECTION 24-13-2130, RELATING TO MEMORANDUM OF UNDERSTANDING BETWEEN VARIOUS CORRECTIONAL AND EMPLOYMENT AND JOB SKILLS AGENCIES, SO AS TO INCLUDE THE REQUIREMENT THAT LIFE SKILLS ASSESSMENTS BE BASED ON EVIDENCE-BASED PRACTICES AND CRIMINAL RISK FACTOR ANALYSIS AND TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE A PHOTO IDENTIFICATION CARD FOR INMATES WHO ARE RELEASED FROM A CORRECTIONAL FACILITY; TO AMEND SECTION 24-21-645, RELATING TO PAROLE, SO AS TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 16-1-130, RELATING TO PERSONS NOT ELIGIBLE FOR DIVERSION PROGRAMS, SO AS TO ALLOW PERSONS CURRENTLY ON PAROLE OR PROBATION TO PARTICIPATE AS LONG AS THEY ARE NOT ON PAROLE OR PROBATION FOR A VIOLENT OFFENSE AND TO CLARIFY THAT CONSENT OF THE VICTIM IS NOT NECESSARY IF REASONABLE ATTEMPTS TO CONTACT THE VICTIM HAVE BEEN MADE UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 2-7-74 SO AS TO DEFINE THE TERM "STATEMENT OF ESTIMATED FISCAL IMPACT" AND TO REQUIRE STATEMENTS OF ESTIMATED FISCAL IMPACT UNDER CERTAIN PARAMETERS FOR LEGISLATION WHICH CREATES OR AMENDS A CRIMINAL OFFENSE; AND BY ADDING CHAPTER 28 TO TITLE 24 SO AS TO CREATE THE SENTENCING REFORM OVERSIGHT COMMITTEE AND PROVIDE FOR THE MEMBERSHIP AND DUTIES OF THE COMMITTEE.

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

Act citation

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

General Assembly's intent, Part I

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.

Arson

SECTION 3. Section 16–11–110 of the 1976 Code, as last amended by Act 224 of 2002, is further amended to read:

<< SC ST § 16–11–110 >>

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 whether the property of himself or another, which results, either directly or indirectly, in the death of a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less 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 a burning that results in damage to a dwelling house, 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 three nor more than twenty-five years.

(C) 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, 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 more than 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.

Lynching/assault and battery by mob

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

<< SC ST § 16–3–210 >>

Section 16-3-210. (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 where 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.

Repealed sections

<< Repealed: SC ST §§ 16-3-220, 16-3-230, 16-3-240, 16-3-250, 16-3-260, 16-3-270 >>

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.

Attempted murder, assault and battery offenses, assault with concealed weapon

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

<< SC ST § 16-3-29 >>

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:

<< SC ST § 16-3-600 >>

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:

<< SC ST § 16-3-610 >>

Section 16-3-610. If a person is convicted of an offense pursuant to Section 16-3-29, 16-3-600, or manslaughter, and 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, the judge shall, in addition to the punishment provided by law for such offense, sentence the person to imprisonment for the misdemeanor offense for not less than three months nor more than twelve months, or a fine of not less than two hundred dollars, or both.

Repealed sections, common law assault and battery offenses repealed

<< Repealed: SC ST §§ 16-3-612, 16-3-620, 16-3-630, 16-3-635 >>

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.

Breaches of peace

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

<< SC ST § 22–3–560 >>

Section 22–3–560. Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both, all breaches of the peace.

Bail, disclosure of certain information

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

<< SC ST § 17–15–30 >>

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

Bail, disclosure of certain information

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

<< SC ST § 22–5–510 >>

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.

Burglary in the second degree

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

<< SC ST § 16-11-312 >>

(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.

Disturbing schools, summary court jurisdiction

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

<< SC ST § 16-17-420 >>

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 more than one thousand dollars or be imprisoned in the county jail for not 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.

Substantial assistance to the State, reduction of defendant's sentence

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

<< SC ST § 17-25-65 >>

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.

Driving without a license, illegally parking in handicapped space, summary court jurisdiction

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

<< SC ST § 56-1-440 >>

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:

<< SC ST § 56-3-1970 >>

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.

Driver's license reinstatement fee payment program, amnesty period annually

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

<< SC ST § 56-1-395 >>

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:

<< SC ST § 56-1-396 >>

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 nonqualifying 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.

Various criminal offenses, penalties revised

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

<< SC ST § 16-11-510 >>

(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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 injury to the property or the property loss is worth 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.

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

<< SC ST § 16-11-520 >>

(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 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 two thousand dollars but less than ten

thousand dollars;

(3) 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 injury to the property or the property loss is worth 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.

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

<< SC ST § 16-11-523 >>

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

(1) misdemeanor under the jurisdiction of 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 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 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 two thousand dollars but less than 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 ten thousand dollars or more.

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

<< SC ST § 16-13-10 >>

(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 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 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:

<< SC ST § 16-13-30 >>

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 two thousand dollars or less, is petit larceny, a misdemeanor, triable in the 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 thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of 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 two thousand dollars but less than ten thousand dollars;
- (2) ten years if the value of the personalty is ten thousand dollars or more.

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

<< SC ST § 16-13-40 >>

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 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 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;

(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 two thousand dollars but less than 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 ten thousand dollars or more.

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

<< SC ST § 16-13-50 >>

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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the livestock is 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.

(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:

<< SC ST § 16-13-66 >>

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 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 item may be tried in 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) If the value of such property stolen or damaged is less than two hundred dollars, the case shall be tried in 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 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:

<< SC ST § 16-13-70 >>

(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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the property is 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.

(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:

<< SC ST § 16-13-80 >>

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 two thousand dollars, the case is 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, and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days.

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

<< SC ST § 16-13-110 >>

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

(1) 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, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is 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 two thousand dollars but less than ten thousand dollars;

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

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

<< SC ST § 16-13-180 >>

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 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 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;

(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 two thousand dollars but less than 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 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:

<< SC ST § 16–13–210 >>

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 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 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:

<< SC ST § 16–13–230 >>

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

(1) 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 amount is 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;

(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 two thousand dollars but less than 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 ten thousand dollars or more.

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

<< SC ST § 16-13-240 >>

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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the property is 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.

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

<< SC ST § 16-13-260 >>

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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the property is 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.

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

<< SC ST § 16-13-290 >>

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 four hundred dollars.

(2) 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, and, upon conviction, must be fined not more than two hundred dollars or im-

prisoned not more than thirty days if the property or thing obtained has a value of four hundred dollars or less.

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

<< SC ST § 16–13–331 >>

Section 16–13–331. Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, wilfully conceals a book or other library or archive property, while still on the premises of such library or archive, or 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: 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 one hundred dollars, the punishment shall be a fine of not more than two hundred dollars or imprisonment for not more than thirty days. Proof of the 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:

<< SC ST § 16–13–420 >>

Section 16–13–420. (A) A person having any 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 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 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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the rented or leased item is 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.

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

<< SC ST § 16–13–430 >>

(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 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 two thousand dollars but less than 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 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 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.

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

<< SC ST § 16-14-80 >>

(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 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 one thousand dollars in any six-month period.

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

<< SC ST § 16-14-100 >>

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 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:

<< SC ST § 16-17-600 >>

(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 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 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, 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:

<< SC ST § 16-21-80 >>

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 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 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;

(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 two thousand dollars but less than 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 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:

<< SC ST § 36-9-410 >>

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

(1) two thousand dollars or less, a person who violates the provisions of this section is guilty of a misdemeanor triable in the 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 one thousand dollars or imprisoned not more than thirty days, or both;

(2) more than two thousand dollars but less than 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) 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:

<< SC ST § 38–55–170 >>

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 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 two thousand dollars but less than 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 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 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.

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

<< SC ST § 45–1–50 >>

(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 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:

<< SC ST § 45–2–40 >>

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, Title 44;
- (2) consumes or possesses beer, wine, or alcoholic liquors in violation of Section 63–19–2440 or 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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 amount of injury or damage to the property is 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.

(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 subsection (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 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 magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, a judge may order restitution not to exceed the civil jurisdictional amount of magistrates court provided in Section 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:

<< SC ST § 46-1-20 >>

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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the crop is 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.

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

<< SC ST § 46-1-40 >>

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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the tobacco plants is 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.

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

<< SC ST § 46-1-60 >>

(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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 sale amount of the commodities is 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.

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

<< SC ST § 46-1-70 >>

(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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 sale amount of the commodities is 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.

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

<< SC ST § 49-1-50 >>

(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 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 two thousand dollars but less than ten thousand dollars;

(3) 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 value of the lumber or timber is 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.

Repealed section

<< Repealed: SC ST § 16-13-425 >>

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

Driving under suspension, habitual offenders

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

<< SC ST § 56-1-460 >>

Section 56-1-460. (A)(1) Except as provided in 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 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 portion of 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, 22-3-550, and 14-25-65, an offense punishable under this item may be tried in 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 subsection (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 item may be suspended.

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

<< SC ST § 56-1-1105 >>

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.

Hindering officers or rescuing prisoners

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

<< SC ST § 16-5-50 >>

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 more than three thousand dollars or imprisonment for not more than three years, or both, at the discretion of the court having jurisdiction.

Two strikes/three strikes, new offenses added, work release, discretion

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

<< SC ST § 17-25-45 >>

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:

(a) a most serious offense; or

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

(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 |
| 16-3-50 | 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
16-3-620	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 incendiary, death results	Damaging or destroying building, vehicle, or other property by means of explosive
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) when death results from violation	Interference with traffic-control devices or railroad signs or signals prohibited
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 this section is in the discretion of the solicitor.

(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.

Murder, death or mandatory minimum of thirty years to life

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

<< SC ST § 16-3-20 >>

(A) A person who is convicted of or pleads guilty to murder must be punished by death, 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, Article IV of the Constitution of South Carolina, 1895, the commuttee 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.

Repealed sections

<< Repealed: SC ST §§ 16-3-30, 16-3-40, 16-3-430 >>

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

Municipal court, civil jurisdiction

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

<< SC ST § 14-25-65 >>

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 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.

Magistrates court, civil jurisdiction

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

<< SC ST § 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 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.

Unlawful possession of a firearm by a person convicted of violent offense, confiscation

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

<< SC ST § 16-23-500 >>

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.

Violent crimes defined, crimes added

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

<< SC ST § 16-1-60 >>

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)); 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 10-11-325(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.

Additional punishment for possession of weapon during violent crime, work release eligibility

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

<< SC ST § 16-23-490 >>

(C) Except as provided in this subsection, 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.

No parole offenders, work release eligibility

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

<< SC ST § 24-13-125 >>

(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 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.

Release of offender who committed violent crime into same community, work release eligibility

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

<< SC ST § 24-13-650 >>

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.

Custody and participation in work release programs, work release eligibility

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

<< SC ST § 24-3-20 >>

(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 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; a harassment or stalking offense pursuant to Article 17, Chapter 3, 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.

Youthful offenders, definition

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

<< SC ST § 24-19-10 >>

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;

(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.

Youthful offenders, expungement

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

<< SC ST § 22–5–920 >>

(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.

Youthful offenders, victim notification

SECTION 33. Section 24–19–110 of the 1976 Code, as last amended by Act 151 of 2010, is further amended by adding an appropriately lettered subsection to read:

<< SC ST § 24–19–110 >>

(4) 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.

Youthful offenders, victim notification

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

<< SC ST § 24–19–120 >>

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.

Surcharge on drug offenses increased

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

<< SC ST § 14–1–213 >>

(A) In addition to all other assessments and surcharges required to be imposed by law, a one hundred 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.

Method of scheduling drugs

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

<< SC ST § 44-53-160 >>

(4) If any substance is added, deleted, or rescheduled as a controlled substance under federal law or regulation, the department shall by rule, at its first regular or special meeting after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly. 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.

Controlled substances, suspension of sentence and probation, work release eligibility

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

<< SC ST § 44-53-370 >>

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 ten years nor more than thirty years, or fined not more than fifty 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;

(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. 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 item 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 item 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 diethyla-

mide (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: 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 nor 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 hydroxybutyrate 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 hydroxybutyrate 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.

Controlled substances, suspension of sentence and probation, work release eligibility

SECTION 38. Section 44–53–375 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

<< SC ST § 44–53–375 >>

Section 44-53-375. (A) A person possessing 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 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 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) nine grams or more, but less than twenty-eight grams:

(i) for a first offense, a term of imprisonment of not 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) Sentences for violation of the provisions of subsections (C) or (E) may not be suspended and probation may not be granted. A person convicted and sentenced under subsection (C) or (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.

Distribution of drugs within proximity of school, knowledge required

SECTION 39. Section 44-53-445 of the 1976 Code is amended to read:

<< SC ST § 44-53-445 >>

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 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.

(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 only the purchase of a controlled substance, 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.

(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.

Conditional discharge and expungement of certain drug offenses

SECTION 40. Section 44–53–450 of the 1976 Code, as last amended by Act 36 of 2009, is further amended to read:

<< SC ST § 44–53–450 >>

Section 44–53–450. (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 marijuana, 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), 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) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), 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.

Second and subsequent offenses for purposes of drug offenses, defined

SECTION 41. Section 44-53-470 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

<< SC ST § 44-53-470 >>

Section 44-53-470. (A) An offense is considered a second or subsequent offense if:

(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.

Controlled substances, return of monies used in an investigation

SECTION 42. Section 44-53-582 of the 1976 Code is amended to read:

<< SC ST § 44-53-582 >>

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.

Driver's license suspension for drug offenses

SECTION 43. Section 56-1-745(A) of the 1976 Code is amended to read:

<< SC ST § 56-1-745 >>

(A) The driver's license of a person convicted of a controlled substance violation must be suspended for a period of six months. 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. For each subsequent conviction under this section, the court shall order the driver's license to be suspended for an additional six months. 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

General Assembly's intent, Part II

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.

Definitions

SECTION 45. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

<< SC ST § 24–21–5 >>

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 toward 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 super-

vision. 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.

Board of Probation, Parole and Pardon Services, qualifications, training, assessment tool

SECTION 46. Section 24–21–10 of the 1976 Code is amended to read:

<< SC ST § 24–21–10 >>

Section 24–21–10. (A) The department is governed by its director. 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:

(a) a review and analysis of the effectiveness of the assessment tool used by the parole agents;

(b) a review of the department's progress toward public safety goals;

(c) the use of data in decision making; and

(d) 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 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.

Board of Probation, Parole and Pardon Services, structured decision-making guide

SECTION 47. Section 24–21–13 of the 1976 Code is amended to read:

<< SC ST § 24–21–13 >>

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.

Probation, Parole and Pardon Services, reentry supervision

SECTION 48. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

<< SC ST § 24–21–32 >>

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 release date. Inmates who have been incarcerated for a minimum of two years shall be released to reentry supervision one hundred 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.

Director of Probation, Parole and Pardon Services, assessment

SECTION 49. Section 24–21–220 of the 1976 Code is amended to read:

<< SC ST § 24–21–220 >>

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.

Probation agents, powers and duties, evidence-based practices to reduce recidivism, assessment of criminal risk factors

SECTION 50. Section 24–21–280 of the 1976 Code is amended to read:

<< SC ST § 24–21–280 >>

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 also shall 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.

Probation agents and other staff, employment and duties of hearing officers

SECTION 51. Section 24–21–230 of the 1976 Code is amended to read:

<< SC ST § 24–21–230 >>

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.

Department of Probation, Parole and Pardon Services, administrative monitoring when fines outstanding

SECTION 52. Article 1, Chapter 21, Title 24 is amended by adding:

<< SC ST § 24-21-100 >>

Section 24-21-100. (A) Notwithstanding the provisions of Section 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 toward 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 toward 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 toward 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.

Department of Probation, Parole and Pardon Services, administrative sanctions

SECTION 53. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

<< SC ST § 24-21-110 >>

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 supervision; 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.

Department of Probation, Parole and Pardon Services, restitution

SECTION 54. Section 24-21-490 of the 1976 Code is amended to read:

<< SC ST § 24-21-490 >>

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, Title 14.

Parole for terminally ill, geriatric, or permanently disabled inmates

SECTION 55. Article 7, Chapter 21, Title 24 of the 1976 Code is amended by adding:

<< SC ST § 24-21-715 >>

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.

Office of Pretrial Intervention Coordinator, diversion program data and reporting

SECTION 56. Chapter 22, Title 17 of the 1976 Code is amended by adding:

T. 17 Ch. 22 Art. 11

Article 11

Office of Pretrial Intervention Coordinator Diversion Program Data and Reporting

<< SC ST § 17–22–1110 >>

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.

<< SC ST § 17–22–1120 >>

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 Coordinator 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; pretrial 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.

Law enforcement agency coordination of employment and job services, assessments, Department of Motor Vehicles to provide photo identification cards for inmates released

SECTION 57. Section 24–13–2130 of the 1976 Code is amended to read:

<< SC ST § 24–13–2130 >>

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.

Board of Probation, Parole and Pardon Services, parole, technical correction

SECTION 58. Section 24–21–645 of the 1976 Code, as last amended by Act 151 of 2010, is further amended to read:

<< SC ST § 24–21–645 >>

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 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.

Eligibility for diversion programs, persons on parole or probation, excluding violent offenders

SECTION 59. Section 16-1-130 of the 1976 Code, as added by Act 106 of 2005, is amended to read:

<< SC ST § 16-1-130 >>

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 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

General Assembly's intent, Part III

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.

Statement of Estimated Fiscal Impact on criminal offense changes

SECTION 61. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

<< SC ST § 2–7–74 >>

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.

Sentencing Reform Oversight Committee

SECTION 62. Title 24 of the 1976 Code is amended by adding:

T. 24 Ch. 28

CHAPTER 28

Sentencing Reform Oversight Committee

<< SC ST § 24–28–10 >>

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.

<< SC ST § 24–28–20 >>

Section 24–28–20. (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.

(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.

<< SC ST § 24-28-30 >>

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; and

(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 first 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 also shall 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.

<< SC ST § 24–28–40 >>

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.

<< SC ST § 24–28–50 >>

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

General Assembly's findings, one subject declaration

SECTION 63. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III 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.

Severability clause

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.

Savings clause

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.

Time effective

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.

Ratified the 1st day of June, 2010.

Approved the 2nd day of June, 2010.

SC LEGIS 273 (2010)

END OF DOCUMENT