



State of South Carolina

Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

November 5, 2012

Mr. Trovon Keith, #272473
Perry Correctional Institute, B-x-21
430 Oaklawn Road
Pelzer, South Carolina 29669

Dear Mr. Keith,

On October 15, 2012, our office received your Freedom of Information Act request for “the Sentence Reform Bill and the bill about parole”.

We consider your request to be for the Omnibus Crime and Sentencing Reform Act of 2010, a copy of which is enclosed. Copies of bills passed by the General Assembly can also be found online at www.scstatehouse.gov.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca S. Schimsa".

Rebecca S. Schimsa
Staff Attorney

Enclosures

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AMENDED

5 May 18, 2010

6

7 **S. 1154**

8

9 Introduced by Senators Malloy, Knotts, Campsen, McConnell,
10 Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey,
11 Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin,
12 Leventis, Leatherman, Setzler, O'Dell, Hayes and Pinckney

13

14 S. Printed 5/25/10--H.

15 Read the first time April 13, 2010.

16

17

1

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

4

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

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

27 (C) A person who wilfully and maliciously:

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

35 (2) ~~aids, counsels, or procures a burning that results in~~
36 ~~damage to a building or structure other than those specified in~~
37 ~~subsection (A) or (B), a railway car, a ship, boat, or other~~
38 ~~watercraft, an aircraft, an automobile or other motor vehicle, or~~
39 ~~personal property with intent to destroy or damage by explosion or~~
40 ~~fire; whether the property of himself or another, which results,~~
41 ~~either directly or indirectly, in bodily injury to a person or damage~~
42 to the property is guilty of the felony of arson in the third degree

1 apprehend and identify the members of the mob and bring them to
2 trial.

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

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

9
10 SECTION 5. Sections 16-3-220, 16-3-230, 16-3-240, 16-3-250,
11 16-3-260, and 16-3-270 of the 1976 Code are repealed.

12
13 SECTION 6. A. Article 1, Chapter 3, Title 16 of the 1976 Code
14 is amended by adding:

15
16 “Section 16-3-29. A person who, with intent to kill, attempts to
17 kill another person with malice aforethought, either expressed or
18 implied, commits the offense of attempted murder. A person who
19 violates this section is guilty of a felony, and, upon conviction,
20 must be imprisoned for not more than thirty years. A sentence
21 imposed pursuant to this section may not be suspended nor may
22 probation be granted.”

23
24 B. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by
25 adding:

26
27 “Section 16-3-600.(A) For purposes of this section:

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

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

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

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

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

1 defined in subsection (C)(1), assault and battery of a high and
2 aggravated nature, as defined in subsection (B)(1), and attempted
3 murder, as defined in Section 16-3-29.

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

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

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

18

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

20

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

38

39 SECTION 7. A. Sections 16-3-612, 16-3-620, 16-3-630, and
40 16-3-635 of the 1976 Code are repealed.

41

42 B. The common law offenses of assault and battery with intent to
43 kill, assault with intent to kill, assault and battery of a high and

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

- 6 (1) family ties;
- 7 (2) employment;
- 8 (3) financial resources;
- 9 (4) character and mental condition;
- 10 (5) length of residence in the community;
- 11 (6) record of convictions; and
- 12 (7) record of flight to avoid prosecution or failure to appear
13 at other court proceedings.

14 (B) The court shall consider:

- 15 (1) the accused’s criminal record;
- 16 (2) any charges pending against the accused at the time
17 release is requested;

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

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

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

- 26 (1) the accused’s criminal record;
- 27 (2) any charges pending against the accused at the time
28 release is requested;
- 29 (3) all incident reports generated as a result of the offense
30 charged; and
- 31 (4) any other information that will assist the court in
32 determining conditions of release.

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

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

1
2 SECTION 11. Section 16-11-312(C) of the 1976 Code is
3 amended to read:

4
5 “(C)(1)Burglary in the second degree pursuant to subsection (A)
6 is a felony punishable by imprisonment for not more than ten
7 years.

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

14
15 SECTION 12. Section 16-17-420 of the 1976 Code is amended
16 to read:

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

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

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

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

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

37
38 SECTION 13. Article 1, Chapter 25, Title 17 of the 1976 Code
39 is amended by adding:

40
41 “Section 17-25-65. (A) Upon the State’s motion made within
42 one year of sentencing, the court may reduce a sentence if the
43 defendant, after sentencing, provided:

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

3
4 B. Section 56-3-1970 of the 1976 Code, as last amended by Act
5 24 of 2009, is further amended to read:

6
7 "Section 56-3-1970.(A) It is unlawful to park any vehicle in a
8 parking place clearly designated for handicapped persons unless
9 the vehicle bears the distinguishing license plate or placard
10 provided in Section 56-3-1960.

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

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

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

21
22 SECTION 15. A. Article 1, Chapter 1, Title 56 of the 1976
23 Code is amended by adding:

24
25 "Section 56-1-395. (A) The Department of Motor Vehicles
26 shall establish a driver's license reinstatement fee payment
27 program. A person who is a South Carolina resident, is eighteen
28 years of age or older, and has had his driver's license suspended
29 may apply to the Department of Motor Vehicles to obtain a license
30 valid for no more than six months to allow time for payment of
31 reinstatement fees. If the person has served all of his suspensions,
32 has met all other conditions for reinstatement, and owes three
33 hundred dollars or more of South Carolina reinstatement fees only
34 for suspensions that are listed in subsection (E), the Department of
35 Motor Vehicles may issue a six-month license upon payment of a
36 thirty-five dollar administrative fee and payment of fifteen percent
37 of the reinstatement fees owed.

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

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

3

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

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

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

15 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or
16 municipal court, notwithstanding the provisions of Sections
17 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the
18 property or the property loss is worth ~~one~~ two thousand dollars or
19 less. Upon conviction, the person must be fined not more than one
20 thousand dollars, or imprisoned, ~~or both, as permitted by law and~~
21 ~~without presentment or indictment by the grand jury~~ not more than
22 thirty days, or both.”

23

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

25

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

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

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

37 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or
38 municipal court, notwithstanding the provisions of Sections
39 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the
40 property or the property loss is worth ~~one~~ two thousand dollars or
41 less. Upon conviction, the person must be fined not more than one
42 thousand dollars, or imprisoned, ~~or both, as permitted by law and~~

1 both, if the amount of the forgery is less than ~~five~~ ten thousand
2 dollars.

3 (C) If the forgery does not involve a dollar amount, the person
4 is guilty of a misdemeanor under the jurisdiction of the magistrates
5 or municipal court, notwithstanding the provisions of Sections
6 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon
7 conviction, must be fined in the discretion of the court or
8 imprisoned not more than three years, or both.”

9
10 E. Section 16-13-30 of the 1976 Code is amended to read:

11
12 “Section 16-13-30. (A) Simple larceny of any article of goods,
13 choses in action, bank bills, bills receivable, chattels, or other
14 article of personalty of which by law larceny may be committed, or
15 of any fixture, part, or product of the soil severed from the soil by
16 an unlawful act, or has a value of ~~one~~ two thousand dollars or less,
17 is petit larceny, a misdemeanor, triable in the ~~magistrate’s~~
18 magistrates court or municipal court, notwithstanding the
19 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and
20 14-25-65. Upon conviction, the person must be fined not more
21 than one thousand dollars, or imprisoned ~~not more than is~~
22 ~~permitted by law without presentment or indictment by the grand~~
23 jury not more than thirty days.

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

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

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

32
33 F. Section 16-13-40 of the 1976 Code is amended to read:

34
35 “Section 16-13-40. (A) It is unlawful for a person to steal or
36 take by robbery a bond, warrant, bill, or promissory note for the
37 payment or securing the payment of money belonging to another.

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

40 (1) misdemeanor triable in ~~magistrate’s~~ magistrates court or
41 municipal court, notwithstanding the provisions of Sections
42 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the instrument
43 stolen or taken has a value of ~~one~~ two thousand dollars or less.

1 not to exceed one year, or both, and shall pay restitution to the
2 culturist an amount determined by the court. Notwithstanding the
3 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and
4 14-25-65, an offense punishable under this subitem may be tried in
5 magistrate's magistrates or municipal court.

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

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

20 (B) ~~Provided further, that if~~ If the value of such property stolen
21 or damaged is less than ~~one~~ two hundred dollars, the case shall be
22 tried in ~~magistrate's~~ magistrates court or municipal court,
23 notwithstanding the provisions of Sections 22-3-540, 22-3-545,
24 22-3-550, and 14-25-65, and the punishment shall be ~~no more than~~
25 is permitted by law without presentment or indictment by a grand
26 jury a fine of not more than one thousand dollars or imprisonment
27 for not more than thirty days, or both."

28
29 I. Section 16-13-70(B) of the 1976 Code is amended to read:

30
31 "(B) A person who violates the provisions of this section is
32 guilty of a:

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

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

40 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
41 municipal court, notwithstanding the provisions of Sections
42 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
43 property is ~~one~~ two thousand dollars or less. Upon conviction, the

1 person knows or has reason to believe the goods, chattels, or
2 property is stolen. A person is guilty of this offense whether or not
3 anyone is convicted of the theft of the property.

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

6 (1) misdemeanor triable in ~~magistrate's~~ magistrates court or
7 municipal court, notwithstanding the provisions of Sections
8 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
9 property is ~~one~~ two thousand dollars or less. Upon conviction, the
10 person must be fined not more than one thousand dollars, or
11 imprisoned ~~not more than is permitted by law without presentment~~
12 ~~or indictment by the grand jury~~ not more than thirty days;

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

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

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

22

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

24

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

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

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

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

40 (C) The person convicted of a felony is disqualified from
41 holding any office of honor or emolument in this State; but the
42 General Assembly, by a two-thirds vote, may remove this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

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

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

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

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

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

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

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

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

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

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

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

5 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
6 municipal court, notwithstanding the provisions of Sections
7 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
8 rented or leased item is ~~one~~ two thousand dollars or less. Upon
9 conviction, the person must be fined not more than one thousand
10 dollars or imprisoned not more than thirty days ~~is permitted by law~~
11 ~~without presentment or indictment by the grand jury, or both.~~”

12

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

14

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

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

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

26 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
27 municipal court, notwithstanding the provisions of Sections
28 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of food
29 stamps fraudulently acquired or used is of a value of ~~one~~ two
30 thousand dollars or less. Upon conviction, the person must be
31 fined not more than one thousand dollars, or imprisoned not more
32 than thirty days, or both ~~is permitted by law without presentment~~
33 ~~or indictment by the grand jury.~~”

34

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

36

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

39 (1) misdemeanor under the jurisdiction of the magistrates or
40 municipal court, notwithstanding the provisions of Sections
41 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon
42 conviction, must be sentenced pursuant to Section 16-14-100(a) if
43 the value of the money, goods, services, and anything else of

1 not more than one thousand dollars, or imprisoned not more than
2 thirty days, or both, pursuant to the jurisdiction of magistrates as
3 provided in Section 22-3-550, and must be required to perform not
4 more than two hundred fifty hours of community service.”

5
6 X. Section 16-21-80 of the 1976 Code is amended to read:

7
8 “Section 16-21-80. A person not entitled to the possession of
9 a vehicle who receives, possesses, conceals, sells, or disposes of it,
10 knowing it to be stolen or converted under circumstances
11 constituting a crime, is guilty of a:

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

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

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

26
27 Y. Section 36-9-410(C) of the 1976 Code, as added by Act 265
28 of 2004, is amended to read:

29
30 “(C) If the value of the personal property subject to a perfected
31 security interest is worth:

32 (1) ~~one~~ two thousand dollars or less, a person who violates
33 the provisions of this section is guilty of a misdemeanor triable in
34 the ~~magistrate’s~~ magistrates court or the municipal court,
35 notwithstanding the provisions of Sections 22-3-540, 22-3-545,
36 22-3-550, and 14-25-65, and, upon conviction, must be fined not
37 more than ~~five hundred~~ one thousand dollars or imprisoned not
38 more than thirty days, or both;

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

1 as guest, is guilty of a misdemeanor and, upon conviction, must be
2 fined not more than ~~five hundred~~ one thousand dollars or
3 imprisoned not more than six months, or both. Notwithstanding
4 the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and
5 14-25-65, an offense punishable under this subsection may be tried
6 in magistrates or municipal court."

7
8 B.B. Section 45-2-40 of the 1976 Code, as added by Act 446 of
9 1994, is amended to read:

10
11 "Section 45-2-40.(A) A person who on the premises or
12 property of a lodging establishment:

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

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

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

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

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

34 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
35 municipal court, notwithstanding the provisions of Sections
36 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of
37 injury or damage to the property is ~~one~~ two thousand dollars or
38 less. Upon conviction, the person must be fined not more than ~~five~~
39 ~~hundred~~ one thousand dollars or imprisoned not more than thirty
40 days.

41 (C) A person who rents or leases a room in a lodging
42 establishment for the purpose of allowing the room to be used by
43 another to do any act enumerated in subsections (A) or (B) of this

1 the crop is more than ~~one~~ two thousand dollars but less than ~~five~~
2 ten thousand dollars;

3 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
4 municipal court, notwithstanding the provisions of Sections
5 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
6 crop is ~~one~~ two thousand dollars or less. Upon conviction, the
7 person must be fined not more than one thousand dollars, or
8 imprisoned ~~not more than is permitted by law without presentment~~
9 ~~or indictment by the grand jury~~ not more than thirty days."

10

11 D.D. Section 46-1-40 of the 1976 Code, as last amended by Act
12 184 of 1993, is further amended to read:

13

14 "Section 46-1-40. A person who steals tobacco plants, whether
15 severed from the freehold or not, from any tobacco plant beds is
16 guilty of a:

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

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

24 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
25 municipal court, notwithstanding the provisions of Sections
26 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
27 tobacco plants is ~~one~~ two thousand dollars or less. Upon
28 conviction, the person must be fined not more than one thousand
29 dollars, or imprisoned ~~not more than is permitted by law without~~
30 ~~presentment or indictment by the grand jury~~ not more than thirty
31 days."

32

33 E.E. Section 46-1-60(B) of the 1976 Code, as last amended by Act
34 184 of 1993, is further amended to read:

35

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

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

42 (2) felony and, upon conviction, must be fined in the
43 discretion of the court or imprisoned not more than five years, or

1 both, if the value of the lumber or timber is more than ~~one~~ two
2 thousand dollars but less than ~~five~~ ten thousand dollars.

3 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or
4 municipal court, notwithstanding the provisions of Sections
5 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the
6 lumber or timber is ~~one~~ two thousand dollars or less. Upon
7 conviction, the person must be fined not more than one thousand
8 dollars, or imprisoned ~~not more than is permitted by law without~~
9 presentment or indictment by the grand jury not more than thirty
10 days, or both."

11

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

13

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

16

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

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

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

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

34 (d) Notwithstanding the provisions of Sections 22-3-540,
35 22-3-545, ~~and~~ 22-3-550, ~~and~~ 14-25-65, an offense punishable
36 under this ~~subitem~~ item may be tried in ~~magistrate's~~ magistrates or
37 municipal court.

38 (e)(i) A person convicted of a first or second offense of
39 this item, as determined by the records of the department, and who
40 is employed or enrolled in a college or university at any time while
41 his driver's license is suspended pursuant to this item, may apply
42 for a route restricted driver's license permitting him to drive only
43 to and from work or his place of education and in the course of his

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

5 (2) 'Habitual offender' has the same meaning as in Section
6 56-1-1020.

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

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

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

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

30
31 SECTION 19. Section 16-5-50 of the 1976 Code is amended to
32 read:

33
34 "Section 16-5-50. Any person who shall (a) hinder, prevent
35 or obstruct any officer or other person charged with the execution
36 of any warrant or other process issued under the provisions of this
37 chapter in arresting any person for whose apprehension such
38 warrant or other process may have been issued, (b) rescue or
39 attempt to rescue such person from the custody of the officer or
40 person or persons lawfully assisting him, as aforesaid, (c) aid, abet
41 or assist any person so arrested, as aforesaid, directly or indirectly,
42 to escape from the custody of the officer or person or persons
43 assisting him, as aforesaid, or (d) harbor or conceal any person for

1 16-1-80 Attempt, for any offense enumerated in
2 this item
3 16-3-10 Murder
4 16-3-29 Attempted Murder
5 ~~16-3-30~~ ~~Killing by poison~~
6 ~~16-3-40~~ ~~Killing by stabbing or thrusting~~
7 16-3-50 Voluntary manslaughter
8 16-3-85(A)(1) Homicide by child abuse
9 16-3-85(A)(2) Aiding and abetting homicide by child
10 abuse
11 16-3-210 Lynching, First degree
12 16-3-210(B) Assault and battery by mob, First
13 degree
14 ~~16-3-430~~ ~~Killing in a duel~~
15 16-3-620 Assault and battery with intent to kill
16 16-3-652 Criminal sexual conduct, First degree
17 16-3-653 Criminal sexual conduct, Second degree
18 16-3-655 Criminal sexual conduct with minors,
19 except where evidence presented at the criminal proceeding and
20 the court, after the conviction, makes a specific finding on the
21 record that the conviction obtained for this offense resulted from
22 consensual sexual conduct where the victim was younger than the
23 actor, as contained in Section 16-3-655(3)
24 16-3-656 Assault with intent to commit criminal
25 sexual conduct, First and Second degree
26 16-3-910 Kidnapping
27 16-3-920 Conspiracy to commit kidnapping
28 16-3-1075 Carjacking
29 16-11-110(A) Arson, First degree
30 16-11-311 Burglary, First degree
31 16-11-330(A) Armed robbery
32 16-11-330(B) Attempted armed robbery
33 16-11-540 Damaging or destroying building,
34 vehicle, or other property by means of explosive incendiary, death
35 results
36 24-13-450 Taking of a hostage by an inmate
37 25-7-30 Giving information respecting national
38 or state defense to foreign contacts during war
39 25-7-40 Gathering information for an enemy
40 43-35-85(F) Abuse or neglect of a vulnerable adult
41 resulting in death
42 55-1-30(3) Unlawful removing or damaging of
43 airport facility or equipment when death results

1 (3) 'Conviction' means any conviction, guilty plea, or plea
2 of nolo contendere.

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

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

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

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

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

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

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

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

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

1 program, nor is the person eligible to receive any work credits,
2 good conduct credits, education credits, or any other credits that
3 would reduce the mandatory imprisonment required by this
4 subsection.

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

29
30 SECTION 22. Sections 16-3-30, 16-3-40, and 16-3-430 of the
31 1976 Code are repealed.

32
33 SECTION 23. Section 14-25-65 of the 1976 Code, as last
34 amended by Act 78 of 1999, is further amended to read:

35
36 “Section 14-25-65. If a municipal judge finds a party guilty of
37 violating a municipal ordinance or a state law within the
38 jurisdiction of the court, he may impose a fine of not more than
39 five hundred dollars or imprisonment for thirty days, or both. In
40 addition, a municipal judge may order restitution in an amount not
41 to exceed ~~five thousand dollars~~ the civil jurisdictional amount of
42 magistrates court provided in Section 22-3-10(2). In determining
43 the amount of restitution, the judge shall determine and itemize the

1 equipment approved by the agency, or destroy it. A firearm or
2 ammunition must not be disposed of in any manner until the
3 results of any legal proceeding in which it may be involved are
4 finally determined. If the State Law Enforcement Division seized
5 the firearm or ammunition, the division may keep the firearm or
6 ammunition for use by its forensic laboratory. Records must be
7 kept of all confiscated firearms or ammunition received by the law
8 enforcement agencies under the provisions of this section.

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

14

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

17

18 “Section 16-1-60. For purposes of definition under South
19 Carolina law, a violent crime includes the offenses of: murder
20 (Section 16-3-10); attempted murder (Section 16-3-29); assault
21 and battery by mob, first degree, resulting in death (Section
22 16-3-210(B)); criminal sexual conduct in the first and second
23 degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct
24 with minors, first and second degree (Section 16-3-655); assault
25 with intent to commit criminal sexual conduct, first and second
26 degree (Section 16-3-656); assault and battery with intent to kill
27 (Section 16-3-620); assault and battery of a high and aggravated
28 nature (Section 16-3-600(B)); kidnapping (Section 16-3-910);
29 voluntary manslaughter (Section 16-3-50); armed robbery (Section
30 16-11-330(A)); attempted armed robbery (Section 16-11-330(B));
31 carjacking (Section 16-3-1075); drug trafficking as defined in
32 Section 44-53-370(e) or trafficking cocaine base as defined in
33 Section 44-53-375(C); manufacturing or trafficking
34 methamphetamine as defined in Section 44-53-375; arson in the
35 first degree (Section 16-11-110(A)); arson in the second degree
36 (Section 16-11-110(B)); burglary in the first degree (Section
37 16-11-311); burglary in the second degree (Section 16-11-312(B));
38 engaging a child for a sexual performance (Section 16-3-810);
39 homicide by child abuse (Section 16-3-85(A)(1)); aiding and
40 abetting homicide by child abuse (Section 16-3-85(A)(2));
41 inflicting great bodily injury upon a child (Section 16-3-95(A));
42 allowing great bodily injury to be inflicted upon a child (Section
43 16-3-95(B)); criminal domestic violence of a high and aggravated

1 years may not be suspended and the person may not complete his
2 term of imprisonment in less than five years pursuant to good-time
3 credits or work credits, but may earn credits during this period.
4 The person is eligible for work release, if the person is sentenced
5 for voluntary manslaughter (Section 16-3-50), kidnapping (Section
6 16-3-910), carjacking (Section 16-3-1075), burglary in the second
7 degree (Section 16-11-312(B)), armed robbery (Section
8 16-11-330(A)), or attempted armed robbery (Section
9 16-11-330(B)), the crime did not involve any criminal sexual
10 conduct or an additional violent crime as defined in Section
11 16-1-60, and the person is within three years of release from
12 imprisonment.”

13

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

16

17 “(A)Notwithstanding any other provision of law, except in a
18 case in which the death penalty or a term of life imprisonment is
19 imposed, or as provided in this subsection, a prisoner convicted of
20 a ‘no parole offense’, as defined in Section 24-13-100, and
21 sentenced to the custody of the Department of Corrections,
22 including a prisoner serving time in a local facility pursuant to a
23 designated facility agreement authorized by Section 24-3-20, is not
24 eligible for work release until the prisoner has served not less than
25 eighty percent of the actual term of imprisonment imposed. This
26 percentage must be calculated without the application of earned
27 work credits, education credits, or good conduct credits, and is to
28 be applied to the actual term of imprisonment imposed, not
29 including any portion of the sentence which has been suspended.
30 A person is eligible for work release if the person is sentenced for
31 voluntary manslaughter (Section 16-3-50), kidnapping (Section
32 16-3-910), carjacking (Section 16-3-1075), burglary in the second
33 degree (Section 16-11-312(B)), armed robbery (Section
34 16-11-330(A)), or attempted armed robbery (Section
35 16-11-330(B)), the crime did not involve any criminal sexual
36 conduct or an additional violent crime as defined in Section
37 16-1-60, and the person is within three years of release from
38 imprisonment. Except as provided in this subsection, Nothing
39 nothing in this section may be construed to allow a prisoner
40 convicted of murder or a prisoner prohibited from participating in
41 work release by another provision of law to be eligible for work
42 release.”

43

1 receive the notification contained in this section by notifying the
2 department of this waiver in writing. The department has the
3 authority to deny release based upon opinions received from these
4 persons, if any, as to the suitability of the release.

5 A prisoner's place of confinement may not be extended as
6 permitted by this subsection ~~who~~ if the prisoner:

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

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

30 (3) A prisoner who is serving a sentence for a 'no parole
31 offense' as defined in Section 24-13-100 and who is otherwise
32 eligible for work release shall not have his place of confinement
33 extended until he has served the minimum period of incarceration
34 as set forth in Section 24-13-125."

35
36 SECTION 31. Section 24-19-10 of the 1976 Code is amended to
37 read:

38
39 "Section 24-19-10. As used herein:

40 (a) 'Department' means the Department of Corrections.

41 (b) 'Division' means the Youthful Offender Division.

42 (c) 'Director' means the Director of the Department of
43 Corrections.

1 and other training considered appropriate and necessary by the
2 division.

3 (f) 'Conviction' means a judgment in a verdict or finding of
4 guilty, plea of guilty, or plea of nolo contendere to a criminal
5 charge where the imprisonment is at least one year, but excluding
6 all offenses in which the maximum punishment provided by law is
7 death or life imprisonment."
8

9 SECTION 32. Section 22-5-920(B) of the 1976 Code, as last
10 amend by Act 36 of 2009, is further amended to read:
11

12 "(B) Following a first offense conviction as a youthful offender
13 for which a defendant is sentenced pursuant to the provisions of
14 Chapter 19, Title 24, Youthful Offender Act, the defendant, after
15 five years from the date of completion of his sentence, including
16 probation and parole, may apply, or cause someone acting on his
17 behalf to apply, to the circuit court for an order expunging the
18 records of the arrest and conviction. However, this section does
19 not apply to an offense involving the operation of a motor vehicle,
20 to a violation of Title 50 or the regulations promulgated under it
21 for which points are assessed, suspension provided for, or
22 enhanced penalties for subsequent offenses authorized, to an
23 offense classified as a violent crime in Section 16-1-60, or to an
24 offense contained in Chapter 25, Title 16, except as otherwise
25 provided in Section 16-25-30. If the defendant has had no other
26 conviction during the five-year period following completion of his
27 sentence, including probation and parole, for a first offense
28 conviction as a youthful offender for which the defendant was
29 sentenced pursuant to the provisions of Chapter 19, title 24,
30 Youthful Offender Act, the circuit court may issue an order
31 expunging the records. No person may have his records expunged
32 under this section more than once. A person may have his record
33 expunged even though the conviction occurred before the effective
34 date of this section. A person eligible for a sentence pursuant to
35 the provisions of Chapter 19, Title 24, Youthful Offender Act, and
36 who is not sentenced pursuant to those provisions, is not eligible to
37 have his record expunged pursuant to the provisions of this
38 section."
39

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

1 objects to the change. In that case, the Department shall publish
2 the reasons for objection and afford all interested parties an
3 opportunity to be heard. At the conclusion of the hearing, the
4 Department shall announce its decision and shall notify the
5 General Assembly in writing of the change in Federal law or
6 regulations and of the Department's recommendation that a
7 corresponding change in South Carolina law be made, or not be
8 made, as the case may be.

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

21

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

24

25 "Section 44-53-370. (a) Except as authorized by this article it
26 shall be unlawful for any person:

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

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

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

37 (1) a controlled substance classified in Schedule I (b) and (c)
38 which is a narcotic drug or lysergic acid diethylamide (LSD) and
39 in Schedule II which is a narcotic drug is guilty of a felony and,
40 upon conviction, for a first offense must be imprisoned not more
41 than fifteen years or fined not more than twenty-five thousand
42 dollars, or both. For a second offense, or if, in the case of a first
43 conviction of violation of any provision of this subsection, the

1 relating to narcotic drugs, marijuana, depressant, stimulant, or
2 hallucinogenic drugs, the offender is guilty of a felony and, upon
3 conviction, must be imprisoned not less than five years nor more
4 than twenty years, or fined not more than twenty thousand dollars,
5 or both. ~~Except in the case of conviction for a first offense, the~~
6 ~~sentence must not be suspended and probation must not be granted~~
7 Notwithstanding any other provision of law, a person convicted
8 and sentenced pursuant to this item for a first offense or second
9 offense may have the sentence suspended and probation granted,
10 and is eligible for parole, supervised furlough, community
11 supervision, work release, work credits, education credits, and
12 good conduct credits. Notwithstanding any other provision of law,
13 a person convicted and sentenced pursuant to this subsection for a
14 third or subsequent offense in which all prior offenses were for
15 possession of a controlled substance pursuant to subsections (c)
16 and (d), may have the sentence suspended and probation granted,
17 and is eligible for parole, supervised furlough, community
18 supervision, work release, work credits, education credits, and
19 good conduct credits. In all other cases, the sentence must not be
20 suspended nor probation granted;

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

42 (4) a substance classified in Schedule V is guilty of a
43 misdemeanor and, upon conviction, for a first offense must be

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

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

27 (4) possession of more than: ~~ten grains~~ one gram of cocaine,
28 one hundred milligrams of alpha- or beta-eucaine, four grains of
29 opium, four grains of morphine, two grains of heroin, one hundred
30 milligrams of isonipicaine, twenty-eight grams or one ounce of
31 marijuana, ten grams of hashish, fifty micrograms of lysergic acid
32 diethylamide (LSD) or its compounds, fifteen tablets, capsules,
33 dosage units, or the equivalent quantity of 3,
34 4-methylenedioxymethamphetamine (MDMA), or twenty
35 milliliters or milligrams of gamma hydroxybutyric acid or a
36 controlled substance analogue of gamma hydroxybutyric acid, is
37 prima facie guilty of violation of subsection (a) of this section. A
38 person who violates this subsection with respect to twenty- eight
39 grams or one ounce or less of marijuana or ten grams or less of
40 hashish is guilty of a misdemeanor and, upon conviction, must be
41 imprisoned not more than thirty days or fined not less than one
42 hundred dollars nor more than two hundred dollars. Conditional
43 discharge may be granted in accordance with the provisions of

1 may be suspended nor probation granted, and a fine of fifteen
2 thousand dollars;

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

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

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

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

25 (2) ten grams or more of cocaine or any mixtures containing
26 cocaine, as provided in Section 44-53-210(b)(4), is guilty of a
27 felony which is known as 'trafficking in cocaine' and, upon
28 conviction, must be punished as follows if the quantity involved is:

29 (a) ten grams or more, but less than twenty-eight grams:

30 1. for a first offense, a term of imprisonment of not less
31 than three years nor more than ten years, no part of which may be
32 suspended nor probation granted, and a fine of twenty-five
33 thousand dollars;

34 2. for a second offense, a term of imprisonment of not
35 less than five years nor more than thirty years, no part of which
36 may be suspended nor probation granted, and a fine of fifty
37 thousand dollars;

38 3. for a third or subsequent offense, a mandatory
39 minimum term of imprisonment of not less than twenty-five years
40 nor more than thirty years, no part of which may be suspended nor
41 probation granted, and a fine of fifty thousand dollars;

42 (b) twenty-eight grams or more, but less than one hundred
43 grams:

1 part of which may be suspended nor probation granted, and a fine
2 of two hundred thousand dollars;

3 (c) twenty-eight grams or more, a mandatory term of
4 imprisonment of not less than twenty-five years nor more than
5 forty years, no part of which may be suspended nor probation
6 granted, and a fine of two hundred thousand dollars;

7 (4) fifteen grams or more of methaqualone is guilty of a
8 felony which is known as 'trafficking in methaqualone' and, upon
9 conviction, must be punished as follows if the quantity involved is:

10 (a) fifteen grams but less than one hundred fifty grams:

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

15 2. for a second or subsequent offense, a mandatory term
16 of imprisonment of twenty-five years, no part of which may be
17 suspended nor probation granted, and a fine of twenty-five
18 thousand dollars;

19 (b) one hundred fifty grams but less than fifteen hundred
20 grams, a mandatory term of imprisonment of twenty-five years, no
21 part of which may be suspended nor probation granted, and a fine
22 of twenty-five thousand dollars;

23 (c) fifteen hundred grams but less than fifteen kilograms,
24 a mandatory term of imprisonment of twenty-five years, no part of
25 which may be suspended nor probation granted, and a fine of fifty
26 thousand dollars;

27 (d) fifteen kilograms or more, a term of imprisonment of
28 not less than twenty-five years nor more than thirty years with a
29 mandatory minimum term of imprisonment of twenty-five years,
30 no part of which may be suspended nor probation granted, and a
31 fine of two hundred thousand dollars;

32 (5) one hundred tablets, capsules, dosage units, or the
33 equivalent quantity, or more of lysergic acid diethylamide (LSD) is
34 guilty of a felony which is known as 'trafficking in LSD' and,
35 upon conviction, must be punished as follows if the quantity
36 involved is:

37 (a) one hundred dosage units or the equivalent quantity, or
38 more, but less than five hundred dosage units or the equivalent
39 quantity:

40 1. for a first offense, a term of imprisonment of not less
41 than three years nor more than ten years, no part of which may be
42 suspended nor probation granted, and a fine of twenty thousand
43 dollars;

1 (c) one thousand grams but less than five kilograms, a
2 mandatory term of imprisonment of twenty-five years, no part of
3 which may be suspended nor probation granted, and a fine of fifty
4 thousand dollars;

5 (d) five kilograms or more, a term of imprisonment of not
6 less than twenty-five years, nor more than thirty years, with a
7 mandatory minimum term of imprisonment of twenty-five years,
8 no part of which may be suspended nor probation granted, and a
9 fine of two hundred thousand dollars;

10 (7) fifty milliliters or milligrams or more of gamma
11 hydroxybutyric acid or a controlled substance analogue of gamma
12 hydroxybutyric acid is guilty of a felony which is known as
13 'trafficking in gamma hydroxybutyric acid' and, upon conviction,
14 must be punished as follows:

15 (a) for a first offense, a term of imprisonment of not less
16 than one year nor more than ten years, no part of which may be
17 suspended nor probation granted, and a fine of ten thousand
18 dollars;

19 (b) for a second or subsequent offense, a mandatory term
20 of imprisonment of twenty-five years, no part of which may be
21 suspended nor probation granted, and a fine of twenty-five
22 thousand dollars.

23 A person convicted and sentenced under this subsection to a
24 mandatory term of imprisonment of twenty-five years, a
25 mandatory minimum term of imprisonment of twenty-five years,
26 or a mandatory minimum term of imprisonment of not less than
27 twenty-five years nor more than thirty years is not eligible for
28 parole, extended work release, as provided in Section 24-13-610,
29 or supervised furlough, as provided in Section 24-13-710.
30 Notwithstanding Section 44-53-420, a person convicted of
31 conspiracy pursuant to this subsection must be sentenced as
32 provided in this section with a full sentence or punishment and not
33 one-half of the sentence or punishment prescribed for the offense.

34 The weight of any controlled substance in this subsection
35 includes the substance in pure form or any compound or mixture of
36 the substance.

37 The offense of possession with intent to distribute described in
38 Section 44-53-370(a) is a lesser included offense to the offenses of
39 trafficking based upon possession described in this subsection.

40 (8) one hundred tablets, capsules, dosage units, or the
41 equivalent quantity, or more of 3,
42 4-methalenedioxymethamphetamine (MDMA) is guilty of a felony

- 1 (2) criminal sexual conduct in the first, second, or third
2 degree, Sections 16-3-652, 16-3-653, and 16-3-654;
- 3 (3) criminal sexual conduct with a minor in the first or
4 second degree, Section 16-3-655;
- 5 (4) criminal sexual conduct where victim is legal spouse
6 (separated), Section 16-3-658;
- 7 (5) spousal sexual battery, Section 16-3-615;
- 8 (6) engaging a child for a sexual performance, Section
9 16-3-810;
- 10 (7) committing lewd act upon child under sixteen, Section
11 16-15-140;
- 12 (8) petit larceny, Section 16-13-30 (A); or
- 13 (9) grand larceny, Section 16-13-30 (B).
- 14 (g) A person who violates subsection (f) with respect to:
- 15 (1) a controlled substance classified in Schedule I (b) or (c)
16 which is a narcotic drug or lysergic acid diethylamide (LSD), or in
17 Schedule II which is a narcotic drug is guilty of a felony and, upon
18 conviction, must be:
- 19 (a) for a first offense, imprisoned not more than twenty
20 years or fined not more than thirty thousand dollars, or both;
- 21 (b) for a second offense, or if in the case of a first
22 conviction of a violation of any provision of this subsection, the
23 offender previously has been convicted of a violation of the laws
24 of the United States or of any state, territory, or district relating to
25 narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic
26 drugs, imprisoned not less than five years nor more than thirty
27 years, or fined not more than fifty thousand dollars, or both;
- 28 (c) for a third or subsequent offense, or if the offender
29 previously has been convicted two or more times in the aggregate
30 of a violation of the laws of the United States or of any state,
31 territory, or district relating to narcotic drugs, marijuana,
32 depressant, stimulant, or hallucinogenic drugs, imprisoned not less
33 than fifteen years nor more than thirty years, or fined not more
34 than fifty thousand dollars, or both.
- 35 Except in the case of conviction for a first offense, the sentence
36 in this item must not be suspended and probation must not be
37 granted;
- 38 (2) any other controlled substance or gamma hydroxy
39 butyrate is guilty of a felony and, upon conviction, must be:
- 40 (a) for a first offense, imprisoned not more than fifteen
41 years or fined not more than twenty-five thousand dollars, or both;
- 42 (b) for a second offense, or if in the case of a first
43 conviction of a violation of any provision of this subsection, the

1 methamphetamine or cocaine base, in violation of the provisions of
2 Section 44-53-370, is guilty of a felony and, upon conviction:

3 (1) for a first offense, must be sentenced to a term of
4 imprisonment of not more than fifteen years or fined not more than
5 twenty-five thousand dollars, or both;

6 (2) for a second offense or if, in the case of a first conviction
7 of a violation of this section, the offender has been convicted of
8 any of the laws of the United States or of any state, territory, or
9 district relating to narcotic drugs, marijuana, depressant, stimulant,
10 or hallucinogenic drugs, the offender must be imprisoned for not
11 less than five years nor more than thirty years, or fined not more
12 than fifty thousand dollars, or both;

13 (3) for a third or subsequent offense or if the offender has
14 been convicted two or more times in the aggregate of any violation
15 of the laws of the United States or of any state, territory, or district
16 relating to narcotic drugs, marijuana, depressant, stimulant, or
17 hallucinogenic drugs, the offender must be imprisoned for not less
18 than ~~fifteen~~ ten years nor more than thirty years, or fined not more
19 than fifty thousand dollars, or both.

20 Possession of one or more grams of methamphetamine or
21 cocaine base is prima facie evidence of a violation of this
22 subsection. Notwithstanding any other provision of law, a person
23 convicted and sentenced pursuant to this subsection for a first
24 offense or second offense may have the sentence suspended and
25 probation granted, and is eligible for parole, supervised furlough,
26 community supervision, work release, work credits, education
27 credits, and good conduct credits. Notwithstanding any other
28 provision of law, a person convicted and sentenced pursuant to this
29 subsection for a third or subsequent offense in which all prior
30 offenses were for possession of a controlled substance pursuant to
31 subsection (A), may have the sentence suspended and probation
32 granted and is eligible for parole, supervised furlough, community
33 supervision, work release, work credits, education credits, and
34 good conduct credits. In all other cases, the sentence must not be
35 suspended nor probation granted.

36 (C) A person who knowingly sells, manufactures, delivers,
37 purchases, or brings into this State, or who provides financial
38 assistance or otherwise aids, abets, attempts, or conspires to sell,
39 manufacture, deliver, purchase, or bring into this State, or who is
40 knowingly in actual or constructive possession or who knowingly
41 attempts to become in actual or constructive possession of ten
42 grams or more of methamphetamine or cocaine base, as defined
43 and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or

1 (D) Possession of equipment or paraphernalia used in the
2 manufacture of cocaine, cocaine base, or methamphetamine is
3 prima facie evidence of intent to manufacture.

4 (E)(1) It is unlawful for any person, other than a manufacturer,
5 practitioner, dispenser, distributor, or retailer to knowingly possess
6 any product that contains ~~twelve~~ nine grams or more of ephedrine,
7 pseudoephedrine, or phenylpropanolamine, their salts, isomers, or
8 salts of isomers, or a combination of any of these substances. A
9 person who violates this subsection is guilty of a felony known as
10 'trafficking in ephedrine, pseudoephedrine, or
11 phenylpropanolamine, their salts, isomers, or salts of isomers, or a
12 combination of any of these substances' and, upon conviction,
13 must be punished as follows if the quantity involved is:

14 (a) ~~twelve~~ nine grams or more, but less than twenty-eight
15 grams:

16 (i) for a first offense, a term of imprisonment of not
17 ~~less than three years~~ nor more than ten years, no part of which may
18 be suspended nor probation granted, and a fine of twenty-five
19 thousand dollars;

20 (ii) for a second offense, a term of imprisonment of not
21 less than five years nor more than thirty years, no part of which
22 may be suspended nor probation granted, and a fine of fifty
23 thousand dollars;

24 (iii) for a third or subsequent offense, a mandatory
25 minimum term of imprisonment of not less than twenty-five years
26 nor more than thirty years, no part of which may be suspended nor
27 probation granted, and a fine of fifty thousand dollars;

28 (b) twenty-eight grams or more, but less than one hundred
29 grams:

30 (i) for a first offense, a term of imprisonment of not
31 less than seven years nor more than twenty-five years, no part of
32 which may be suspended nor probation granted, and a fine of fifty
33 thousand dollars;

34 (ii) for a second offense, a term of imprisonment of not
35 less than seven years nor more than thirty years, no part of which
36 may be suspended nor probation granted, and a fine of fifty
37 thousand dollars;

38 (iii) for a third or subsequent offense, a mandatory
39 minimum term of imprisonment of not less than twenty-five years
40 and not more than thirty years, no part of which may be suspended
41 nor probation granted, and a fine of fifty thousand dollars;

42 (c) one hundred grams or more, but less than two hundred
43 grams, a mandatory term of imprisonment of twenty-five years, no

1 imprisonment of twenty-five years, or a mandatory minimum term
2 of imprisonment of not less than twenty-five years nor more than
3 thirty years is not eligible for parole, extended work release as
4 provided in Section 24-13-610, or supervised furlough as provided
5 in Section 24-13-710.

6 (G) A person eighteen years of age or older may be charged
7 with unlawful conduct toward a child pursuant to Section 63-5-70,
8 if a child was present at any time during the unlawful
9 manufacturing of methamphetamine.”

10

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

13

14 “Section 44-53-445. (A) It is a separate criminal offense for a
15 person to distribute, sell, purchase, manufacture, or to unlawfully
16 possess with intent to distribute, a controlled substance while in,
17 on, or within a one-half mile radius of the grounds of a public or
18 private elementary, middle, or secondary school; a public
19 playground or park; a public vocational or trade school or technical
20 educational center; or a public or private college or university.

21 (B) For a person to be convicted of an offense pursuant to
22 subsection (A), the person must:

23 (1) have knowledge that that he is in, on, or within a
24 one-half mile radius of the grounds of a public or private
25 elementary, middle, or secondary school; a public playground or
26 park; a public vocational or trade school or technical educational
27 center; or a public or private college or university; and

28 (2) actually distribute, sell, purchase, manufacture, or
29 unlawfully possess with intent to distribute, the controlled
30 substance within a one-half mile radius of the grounds of a public
31 or private elementary, middle, or secondary school; a public
32 playground or park; a public vocational or trade school or technical
33 educational center; or a public or private college or university.

34 (C) A person must not be convicted of an offense pursuant to
35 subsection (A) if the person is stopped by a law enforcement
36 officer for the controlled substance offense within a one-half mile
37 radius of the grounds of a public or private elementary, middle, or
38 secondary school; a public playground or park; a public vocational
39 or trade school or technical educational center; or a public or
40 private college or university, but did not actually commit the
41 controlled substance offense within a one-half mile radius of the
42 grounds of a public or private elementary, middle, or secondary
43 school; a public playground or park; a public vocational or trade

1 by law upon conviction of a crime, including the additional
2 penalties imposed for second or subsequent convictions. However,
3 a nonpublic record shall be forwarded to and retained by the
4 Department of Narcotic and Dangerous Drugs under the South
5 Carolina Law Enforcement Division solely for the purpose of use
6 by the courts in determining whether or not a person has
7 committed a subsequent offense under this article. Discharge and
8 dismissal under this section may occur only once with respect to
9 any person.

10 ~~(bB)~~ Upon the dismissal of the person and discharge of the
11 proceedings against him pursuant to subsection (A), ~~and if the~~
12 ~~offense did not involve a controlled substance classified in~~
13 ~~Schedule I which is a narcotic drug and Schedule II which is a~~
14 ~~narcotic drug,~~ the person may apply to the court for an order to
15 expunge from all official records (other than the nonpublic records
16 to be retained as provided in subsection (A)) all recordation
17 relating to his arrest, indictment or information, trial, finding of
18 guilty, and dismissal and discharge pursuant to this section. If the
19 court determines, after hearing, that the person was dismissed and
20 the proceedings against him discharged, it shall enter the order.
21 The effect of the order is to restore the person, in the
22 contemplation of the law, to the status he occupied before the
23 arrest or indictment or information. No person as to whom the
24 order has been entered may be held pursuant to another provision
25 of law to be guilty of perjury or otherwise giving a false statement
26 by reason of his failure to recite or acknowledge the arrest, or
27 indictment or information, or trial in response to an inquiry made
28 of him for any purpose.

29 (C) Before a person may be discharged and the proceedings
30 dismissed pursuant to this section, the person must pay a fee of
31 three hundred fifty dollars if the person is in a general sessions
32 court and one hundred fifty dollars if the person is in a summary
33 court. No portion of the fee may be waived, reduced, or
34 suspended, except in cases of indigency. If the court determines
35 that a person is indigent, the court may partially or totally waive,
36 reduce, or suspend the fee. The revenue collected pursuant to this
37 subsection must be retained by the jurisdiction that heard or
38 processed the case and paid to the State Treasurer within thirty
39 days of receipt. The State Treasurer shall transmit these funds to
40 the Prosecution Coordination Commission which shall then
41 apportion these funds among the sixteen judicial circuits on a per
42 capita basis equal to the population in that circuit compared to the
43 population of the State as a whole based on the most recent official

1 offense provision, of this article or of another state or federal
2 statute relating to narcotic drugs, depressants, stimulants, or
3 hallucinogenic drugs; and

4 (4) for an offense involving a controlled substance other
5 than marijuana pursuant to this article, the offender has at any time
6 been convicted of a second or subsequent violation of a controlled
7 substance, offense provision, other than a marijuana offense
8 provision, of this article or of another state or federal statute
9 relating to narcotic drugs, depressants, stimulants, or
10 hallucinogenic drugs.

11 (B) If a person is sentenced to confinement as the result of a
12 conviction pursuant to this article, the time period specified in this
13 section begins on the date of the conviction or on the date the
14 person is released from confinement imposed for the conviction,
15 whichever is later.”

16
17 SECTION 42. Section 44-53-582 of the 1976 Code is amended
18 to read:

19
20 “Section 44-53-582. All monies used by law enforcement
21 officers or agents, in the line of duty, to purchase controlled
22 substances during a criminal investigation must be returned to the
23 State or local agency or unit of government furnishing the monies
24 upon a determination by the court that the monies were used by
25 law enforcement officers or agents, in the line of duty, to purchase
26 controlled substances during a criminal investigation. The court
27 may order a defendant to return the monies to the state or local
28 agency or unit of government at the time of sentencing.”

29
30 SECTION 43. Section 56-1-745(A) of the 1976 Code is
31 amended to read:

32
33 “(A)The driver’s license of a person convicted of a controlled
34 substance violation ~~involving hashish or marijuana~~ must be
35 suspended for a period of six months. ~~The driver’s license of a~~
36 ~~person convicted of any other controlled substance violation must~~
37 ~~be suspended for a period of one year.~~ If the person does not have
38 a driver’s license, the court shall order the Department of Motor
39 Vehicles not to issue a driver’s license for six months after the
40 person legally is eligible for the issuance of a driver’s license ~~if the~~
41 ~~offense involves hashish or marijuana.~~ ~~If the offense involves any~~
42 ~~other controlled substance, the court shall order the department not~~
43 ~~to issue a driver’s license for one year after the person legally is~~

1 family or marital relationships; or low levels of employment or
2 education.

3 (3) 'Department' means the Department of Probation, Parole
4 and Pardon Services.

5 (4) 'Evidence-based practices' mean supervision policies,
6 procedures, and practices that scientific research demonstrates
7 reduce recidivism among individuals on probation, parole, or
8 post-correctional supervision.

9 (5) 'Financial obligations' mean fines, fees, and restitution
10 either ordered by the court or statutorily imposed.

11 (6) 'Hearing Officer' means an employee of the department
12 who conducts preliminary hearings to determine probable cause on
13 alleged violations committed by an individual under the
14 supervision of the department and as otherwise provided by law.
15 This includes, but is not limited to, violations concerning
16 probation, parole, and community supervision. The hearing officer
17 also conducts preliminary hearings and final revocation hearings
18 for supervised furlough, youthful offender conditional release
19 cases, and such other hearings as required by law."

20

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

23

24 "Section 24-21-10.(A) The ~~department~~ Department of
25 Probation, Parole, and Pardon Services, hereafter referred to as the
26 'department', is governed by the ~~its~~ director of the department.
27 The director must be appointed by the Governor with the advice
28 and consent of the Senate. ~~To qualify for appointment, the director~~
29 must have a baccalaureate or more advanced degree from an
30 institution of higher learning that has been accredited by a regional
31 or national accrediting body, which is recognized by the Council
32 for Higher Education Accreditation and must have at least ten
33 years of training and experience in one or more of the following
34 fields: parole, probation, corrections, criminal justice, law, law
35 enforcement, psychology, psychiatry, sociology, or social work.

36 (B) The Board of Probation, Parole, and Pardon Services is
37 composed of seven members. The terms of office of the members
38 are for six years. Six of the seven members must be appointed
39 from each of the congressional districts and one member must be
40 appointed at large. The at-large appointee shall have at least five
41 years of work or volunteer experience in one or more of the
42 following fields: parole, probation, corrections, criminal justice,
43 law, law enforcement, psychology, psychiatry, sociology, or social

1 members and the specific requirements of the course that the
2 members must complete.

3 (E)(1) Each parole board member is also required to complete a
4 minimum of eight hours of training annually, which shall be
5 provided for in the department's annual budget. This annual
6 training course must be developed using the training components
7 consistent with those offered by the National Institute of
8 Corrections or American Probation and Parole Association and
9 must offer classes regarding:

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

12 (2) a review of the department's progress toward public
13 safety goals;

14 (3) the use of data in decision making; and

15 (4) any information regarding promising and evidence-based
16 practices offered in the corrections related and crime victim
17 dynamics field.

18 The department must promulgate regulations setting forth the
19 specific criteria for the course that the members must complete.

20 (2) If a parole board member does not fulfill the training as
21 provided in this section, the governor, upon notification, must
22 remove that member from the board unless the Governor grants the
23 parole board member an extension to complete the training, based
24 upon exceptional circumstances.

25 (F) The department must develop a plan that includes the
26 following:

27 (1) establishment of a process for adopting a validated
28 actuarial risk and needs assessment tool consistent with
29 evidence-based practices and factors that contribute to criminal
30 behavior, which the Parole Board shall use in making parole
31 decisions, including additional objective criteria that may be used
32 in parole decisions;

33 (2) establishment of procedures for the department on the
34 use of the validated assessment tool to guide the department,
35 Parole Board, and agents of the department in determining
36 supervision management and strategies for all offenders under the
37 department's supervision, including offender risk classification,
38 and case planning and treatment decisions to address criminal risk
39 factors and reduce offender risk of recidivism; and

40 (3) establishment of goals for the department, which include
41 training requirements, mechanisms to ensure quality
42 implementation of the validated assessment tool, and performance
43 safety performance indicators.

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

3
4 “Section 24-21-32.(A) For purposes of this section, ‘release
5 date’ means the date determined by the South Carolina Department
6 of Corrections on which an inmate is released from prison, based
7 on the inmate’s sentence and all earned credits allowed by law.

8 (B) Notwithstanding the provisions of this chapter, an inmate,
9 who is not required to participate in a community supervision
10 program pursuant to Article 6, Chapter 21, Title 24, shall be placed
11 on reentry supervision with the department before the expiration of
12 the inmate’s released date. Inmates who have been incarcerated
13 for a minimum of two years shall be released to reentry
14 supervision one hundred and eighty days before their release date.
15 For an inmate whose sentence includes probation, the period of
16 reentry supervision is reduced by the term of probation.

17 (C) The individual terms and conditions of reentry supervision
18 shall be developed by the department using an evidence-based
19 assessment of the inmate’s needs and risks. An inmate placed on
20 reentry supervision must be supervised by a probation agent of the
21 department. The department shall promulgate regulations for the
22 terms and conditions of reentry supervision. Until such time as
23 regulations are promulgated, the terms and conditions shall be
24 based on guidelines developed by the director.

25 (D) If the department determines that an inmate has violated a
26 term or condition of reentry supervision sufficient to revoke the
27 reentry supervision, a probation agent must initiate a proceeding
28 before a department administrative hearing officer. The
29 proceeding must be initiated pursuant to a warrant or a citation
30 describing the violations of the reentry supervision. No inmate
31 arrested for violation of a term or condition of reentry supervision
32 may be released on bond; however, he shall be credited with time
33 served as set forth in Section 24-13-40 toward his release date. If
34 the administrative hearing officer determines the inmate has
35 violated a term or condition of reentry supervision, the hearing
36 officer may impose other terms or conditions set forth in the
37 regulations or department guidelines, and may continue the inmate
38 on reentry supervision, or the hearing officer may revoke the
39 inmate’s reentry supervision and the inmate shall be incarcerated
40 up to one hundred eighty days, but the maximum aggregate time
41 that the inmate shall serve on reentry supervision or for revocation
42 of the reentry supervision shall not exceed an amount of time equal
43 to the length of incarceration imposed by the court for the offense

1 probation, parole, or community supervision to bring about
2 improvement in their conduct and condition and to reduce the risk
3 of recidivism for the offenders under his supervision. A probation
4 agent must keep detailed records of his work, make reports in
5 writing, and perform other duties as the director may require.

6 (B) A probation agent has, in the execution of his duties, the
7 power to issue an arrest warrant or a citation charging a violation
8 of conditions of supervision, the powers of arrest, and, to the
9 extent necessary, the same right to execute process given by law to
10 sheriffs. A probation agent has the power and authority to enforce
11 the criminal laws of the State. In the performance of his duties of
12 probation, parole, community supervision, and investigation, he is
13 regarded as the official representative of the court, the department,
14 and the board.

15 (C) A probation agent must conduct an actuarial assessment of
16 offender risks and needs, including criminal risk factors and
17 specific needs of each individual, under the supervision of the
18 department, which shall be used to make objectively based
19 decisions that are consistent with evidence-based practices on the
20 type of supervision and services necessary. The actuarial
21 assessment tool shall include screening and comprehensive
22 versions. The screening version shall be used as a triage tool to
23 determine offenders who require the comprehensive version. The
24 director shall also require each agent to receive annual training on
25 evidence-based practices and criminal risks factors and how to
26 target these factors to reduce recidivism.

27 (D) A probation agent, in consultation with his supervisor, shall
28 identify each individual under the supervision of the department,
29 with a term of supervision of more than one year, and shall
30 calculate and award compliance credits as provided in this section.
31 Credits may be earned from the first day of supervision on a
32 thirty-day basis, but shall not be applied until after each thirty-day
33 period of supervision has been completed. Compliance credits
34 may be denied for noncompliance on a thirty-day basis as
35 determined by the department. The denial of nonearned
36 compliance credits is a final decision of the department and is not
37 subject to appeal. An individual may earn up to twenty days of
38 compliance credits for each thirty-day period in which he has
39 fulfilled all of the conditions of his supervision, has no new arrests,
40 and has made all scheduled payments of his financial obligations.

41 (E) Any portion of the earned compliance credits are subject to
42 be revoked by the department if an individual violates a condition
43 of supervision during a subsequent thirty-day period.

1 department may petition the court to hold an individual in civil
2 contempt for failure to pay the financial obligations. If the court
3 finds the individual has the ability to pay but has not made
4 reasonable progress towards payment, the court may hold the
5 individual in civil contempt of court and may impose a term of
6 confinement in the local detention center until payment of the
7 financial obligations, but in no case to exceed ninety days of
8 confinement. Following any term of confinement, the individual
9 shall be returned to quarterly administrative monitoring by the
10 department. If the individual under administrative monitoring does
11 not have the ability to pay the financial obligations and has no
12 reasonable likelihood of being able to pay in the future, the
13 Department may submit a consent order of judgment to the court,
14 which shall relieve the individual of any further administrative
15 monitoring.

16 (B) An individual placed on administrative monitoring shall
17 pay a regular monitoring fee towards offsetting the cost of his
18 administrative monitoring for the period of time that he remains
19 under monitoring. The regular monitoring fee must be determined
20 by the department based upon the ability of the person to pay. The
21 fee must not be more than ten dollars a month. All regular
22 monitoring fees must be retained by the department, carried
23 forward, and applied to the department's operation."
24

25 SECTION 53. Article 1, Chapter 21, Title 24 of the 1976 Code
26 is amended by adding:
27

28 "Section 24-21-110. (A) In response to a violation of the terms
29 and conditions of any supervision program operated by the
30 department, whether pursuant to statute or contract with another
31 state agency, the probation agent may, with the concurrence of his
32 supervisor and, as an alternative to issuing a warrant or citation,
33 serve on the offender a notice of administrative sanctions. The
34 agent must not serve a notice of administrative sanctions on an
35 offender for violations of special conditions if a sentencing court
36 provided that those violations would be heard by the court. The
37 administrative sanctions must be equal to or less restrictive than
38 the sanctions available to the revoking authority, with the
39 exception of revocation.

40 (B) If the offender agrees in writing to the additional conditions
41 set forth in the notice or order of administrative sanctions, the
42 conditions must be implemented with swiftness and certainty. If
43 the offender does not agree, or if after agreeing the offender fails to

1 of supervision and ordered to serve a term of imprisonment. This
2 calculation shall be based on the fiscal year prior to the fiscal year
3 in which the report is required. The baseline revocation rate shall
4 be the revocation rate in fiscal year 2010; and
5 (3) the number and percentage of offenders who were
6 convicted of a new offense and sentenced to a term of
7 imprisonment. This calculation shall be based on the fiscal year
8 prior to the fiscal year in which the report is required. The
9 baseline revocation rate shall be the revocation rate in fiscal year
10 2010.”

11
12 SECTION 54. Section 24-21-490 of the 1976 Code is amended
13 to read:

14
15 “Section 24-21-490.(A) The Department of Probation, Parole
16 and Pardon Services shall collect and distribute restitution on a
17 monthly basis from all offenders under probationary and intensive
18 probationary supervision.

19 (B) Notwithstanding Section 14-17-725, the department shall
20 assess a collection fee of twenty percent of each restitution
21 program and deposit this collection fee into a separate account.
22 The department shall maintain individual restitution accounts that
23 reflect each transaction and the amount paid, the collection fee,
24 and the unpaid balance of the account. A summary of these
25 accounts must be reported to the Governor’s Office, the President
26 of the Senate, the Speaker of the House, the Chairman of the
27 House Judiciary Committee, and the Chairman of the Senate
28 Corrections and Penology Committee every six months following
29 the enactment of this section.

30 (C) The department may retain the collection fees described in
31 subsection (B) and expend the fees for the purpose of collecting
32 and distributing restitution. Unexpended funds at the end of each
33 fiscal year may be retained by the department and carried forward
34 for use for the same purpose by the department.

35 (D) For financial obligations collected by the department
36 pursuant to administrative monitoring requirements, payments
37 shall be distributed by the department proportionately to pay
38 restitution and fees based on the ratio of each category to the total
39 financial obligation owed. Fines shall continue to be paid and
40 collected pursuant to the provisions of Chapter 17 of Title 14.”

41
42 SECTION 55. Article 7, Chapter 21, Title 24 of the 1976 Code
43 is amended by adding:

1 parole set forth in this section, a probation agent must issue a
2 warrant or citation charging a violation of parole and the board
3 shall proceed pursuant to the provisions of Section 24-21-680.”

4
5 SECTION 56. Chapter 22, Title 17 of the 1976 Code is amended
6 by adding:

7
8 “Article 11

9
10 Office of Pretrial Intervention Coordinator
11 Diversion Program Data and Reporting

12
13 Section 17-22-1110. As used in this chapter:

14 (1) ‘Criminal risk factors’ mean characteristics and behaviors
15 that, when addressed or changed, affect a person’s risk for
16 committing crimes. The characteristics may include, but not be
17 limited to, the following risk and criminogenic need factors:
18 antisocial behavior patterns; criminal personality; antisocial
19 attitudes, values, and beliefs; poor impulse control; criminal
20 thinking; substance abuse; criminal associates; dysfunctional
21 family or marital relationships; or low levels of employment or
22 education.

23 (2) ‘Evidence-based practices’ mean supervision policies,
24 procedures, and practices that scientific research demonstrates
25 reduce recidivism among individuals on probation, parole, or
26 post-correctional supervision.

27
28 Section 17-22-1120. (A) In addition to the information
29 collected and processed by the Office of Pretrial Intervention
30 Coordinator within the Commission on Prosecution Coordination
31 pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office
32 of Pretrial Intervention Coordination shall be responsible for
33 collecting data on all programs administered by a circuit solicitor,
34 the Commission on Prosecution Coordination, or a court, which
35 divert offenders from prosecution to an alternative program or
36 treatment.

37 (B) This shall include programs administered by circuit
38 solicitors, which are either statutorily mandated or established by
39 judicial order, and shall include, but are not limited to: alcohol
40 education programs; drug courts for adults or juveniles; traffic
41 education programs; worthless checks units; pre-trial intervention;
42 mental health courts; or juvenile arbitration.

- 1 evidence-based practices and criminal risk factors analysis as may
2 be appropriate;
- 3 (2) developing skills enhancement programs for inmates, as
4 appropriate;
- 5 (3) coordinating job referrals and related services to inmates
6 prior to release from incarceration;
- 7 (4) encouraging participation by inmates in the services
8 offered;
- 9 (5) developing and maintaining a statewide network of
10 employment referrals for inmates at the time of their release from
11 incarceration and aiding inmates in the securing of employment;
- 12 (6) identifying and facilitating other transitional services
13 within both governmental and private sectors;
- 14 (7) surveying employment trends within the State and
15 making proposals to the Department of Corrections regarding
16 potential vocational training activities.

17 (B) Further, the Department of Corrections and the Department
18 of Probation, Parole and Pardon Services are directed to work with
19 the Department of Motor Vehicles to develop and implement a
20 plan for providing inmates who are being released from a
21 correctional facility with a valid photo identification card. To the
22 extent that funds are available from an individual inmate's
23 account, the Department of Corrections shall transfer five dollars
24 to the Department of Motor Vehicles to cover the cost of issuing
25 the photo identification card. The Department of Motor Vehicles
26 shall use existing resources and technology to produce the photo
27 identification card."

28
29 SECTION 58. Section 24-21-645 of the 1976 Code, as last
30 amended by an unnumbered Act of 2010 bearing ratification
31 number R 140, is further amended to read:

32
33 "Section 24-21-645. (A) The board may issue an order
34 authorizing the parole which must be signed either by a majority of
35 its members or by all three members meeting as a parole panel on
36 the case ninety days prior to the effective date of the parole;
37 however, at least two-thirds of the members of the board must
38 authorize and sign orders authorizing parole for persons convicted
39 of a violent crime as defined in Section 16-1-60. A provisional
40 parole order shall include the terms and conditions, if any, to be
41 met by the prisoner during the provisional period and terms and
42 conditions, if any, to be met upon parole.

1 prisoners in confinement for a violent crime as defined in Section
2 16-1-60 must have their cases reviewed every two years for the
3 purpose of a determination of parole, except that prisoners who are
4 eligible for parole pursuant to Section 16-25-90, and who are
5 subsequently denied parole must have their cases reviewed every
6 twelve months for the purpose of a determination of parole. This
7 ~~section~~ subsection applies retroactively to a prisoner who has had a
8 parole hearing pursuant to Section 16-25-90 prior to the effective
9 date of this act.”

10

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

13

14 “Section 16-1-130. (A) A person may not be considered for a
15 diversion program, including, but not limited to, a drug court
16 program or a mental health court, if the:

17 (1) person’s current charge is for a violent offense as defined
18 in Section 16-1-60 or a stalking offense pursuant to Article 17,
19 Chapter 3, Title 16;

20 (2) person has a prior conviction for a violent crime as
21 defined in Section 16-1-60, or a harassment or stalking offense
22 pursuant to Article 17, Chapter 3, Title 16;

23 (3) person is subject to a restraining order pursuant to the
24 provisions of Article 17, Chapter 3, Title 16 or a valid order of
25 protection pursuant to the provisions of Chapter 4, Title 20;

26 (4) person is currently on parole or probation for ~~any offense~~
27 a violent crime as defined in Section 16-1-60; or

28 (5) consent of the victim has not been obtained unless
29 reasonable attempts have been made to contact the victim and the
30 victim is either nonresponsive or cannot be located after a
31 reasonable search.

32 (B) The provisions of this section do not apply to a diversion
33 program administered by the South Carolina Prosecution
34 Coordination Commission or by a circuit solicitor.”

35

36

PART III

37

38

Oversight Established

39

40 SECTION 60. It is the intent of the General Assembly that the
41 provisions in PART III provide oversight revisions to fiscal impact
42 statements and also a committee to continue oversight of the

1 Representatives committee any estimates provided by a state
2 agency or political subdivision, which are substantially different
3 from the fiscal impact as issued by the Office of State Budget.

4 (H) The Office of State Budget may request information from
5 nongovernmental agencies and organizations to assist in preparing
6 the fiscal impact statement.”

7

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

9

10 “Chapter 28

11

12 Sentencing Reform Oversight Committee

13

14 Section 24-28-10. There is hereby established a committee to
15 be known as the Sentencing Reform Oversight Committee,
16 hereinafter called the oversight committee, which must exercise
17 the powers and fulfill the duties described in this chapter.

18

19 Section 24-28-20. (A) The oversight committee shall be
20 composed of seven members, two of whom shall be members of
21 the Senate, both appointed by the Chair of the Senate Judiciary
22 Committee, and one being the Chair of the Judiciary Committee or
23 his designee; two of whom shall be members of the House of
24 Representatives, both appointed by the Chair of the House
25 Judiciary Committee, and one being the Chair of the House
26 Judiciary Committee or his designee; one of whom shall be
27 appointed by the Chair of the Senate Judiciary Committee from the
28 general public at large; one of whom shall be appointed by the
29 Chair of the House Judiciary Committee from the general public at
30 large; and one of whom shall be appointed by the Governor.
31 Provided, however, that in making appointments to the oversight
32 committee, race, gender, and other demographic factors should be
33 considered to assure nondiscrimination, inclusion, and
34 representation to the greatest extent of all segments of the
35 population of the State. The members of the general public
36 appointed by the chairs of the Judiciary Committees must be
37 representative of all citizens of this State and must not be members
38 of the General Assembly.

39 (B) The oversight committee must meet as soon as practicable
40 after appointment and organize itself by electing one of its
41 members as chair and such other officers as the oversight
42 committee may consider necessary. Thereafter, the oversight
43 committee must meet at least annually and at the call of the chair

1 by the Department of Probation, Parole and Pardon Services and
2 reported under Sections 24-21-450 and 24-21-680.

3 (b) to develop rules and regulations for calculating the
4 savings in item (3)(a), which shall account at a minimum for the
5 variable costs averted, such as food and medical expenses, and also
6 consider fixed expenditures that are avoided if larger numbers of
7 potential inmates are avoided.

8 (c) on or before December 1 of each year, beginning in
9 2011, to report the calculations made pursuant to item (3)(a) to the
10 President of the Senate, the Speaker of the House of
11 Representatives, the chief justice of the South Carolina Supreme
12 Court, and the Governor. The report shall also recommend
13 whether to appropriate up to thirty-five percent of any state
14 expenditures that are avoided as calculated in item (3)(a) to the
15 Department of Probation, Parole and Pardon Services.

16 (d) with respect to the recommended appropriations in item
17 (c), none of the calculated savings shall be recommended for
18 appropriation for that fiscal year if there is an increase in the
19 percentage of individuals supervised by the Department of
20 Probation, Parole and Pardon Services who are convicted of a new
21 felony offense as calculated in subitem (3)(a)(ii).

22 (e) any funds appropriated pursuant to the recommendations
23 in item (c) shall be used to supplement, not replace, any other state
24 appropriations to the Department of Probation, Parole and Pardon
25 Services.

26 (f) funds received through appropriations pursuant to this
27 item shall be used by the Department of Probation, Parole and
28 Pardon Services for the following purposes:

29 (i) implementation of evidence-based practices;

30 (ii) increasing the availability of risk reduction programs
31 and interventions, including substance abuse treatment programs,
32 for supervised individuals; or

33 (iii) grants to nonprofit victim services organizations to
34 partner with the Department of Probation, Parole and Pardon
35 Services and courts to assist victims and increase the amount of
36 restitution collected from offenders;

37 (4) to submit to the General Assembly, on an annual basis, the
38 oversight committee's evaluation of the implementation of the
39 recommendations of the Sentencing Reform Commission report of
40 February 2010;

41 (5) to make reports and recommendations to the General
42 Assembly on matters relating to the powers and duties set forth in
43 this section, including recommendations on transfers of funding

1 sentence, clause, phrase, or word of this act is for any reason held
2 to be unconstitutional or invalid, such holding shall not affect the
3 constitutionality or validity of the remaining portions of the act, the
4 General Assembly hereby declaring that it would have passed each
5 and every section, subsection, item, subitem, paragraph,
6 subparagraph, sentence, clause, phrase, and word thereof,
7 irrespective of the fact that any one or more other sections,
8 subsections, paragraphs, subparagraphs, sentences, clauses,
9 phrases, or words hereof may be declared to be unconstitutional,
10 invalid, or otherwise ineffective.

11

12 SECTION 65. The repeal or amendment by the provisions of
13 this act or any law, whether temporary or permanent or civil or
14 criminal, does not affect pending actions, rights, duties, or
15 liabilities founded thereon, or alter, discharge, release, or
16 extinguish any penalty, forfeiture, or liability incurred under the
17 repealed or amended law, unless the repealed or amended
18 provision shall so expressly provide. After the effective date of
19 this act, all laws repealed or amended by this act must be taken and
20 treated as remaining in full force and effect for the purpose of
21 sustaining any pending or vested right, civil action, special
22 proceeding, criminal prosecution, or appeal existing as of the
23 effective date of this act, and for the enforcement of rights, duties,
24 penalties, forfeitures, and liabilities as they stood under the
25 repealed or amended laws.

26

27 SECTION 66. The provisions of Section 15 for implementation
28 of a driver's license reinstatement payment plan and the provisions
29 of Section 18 for implementation of route restricted licenses shall
30 become effective January 1, 2011, or six months after the signature
31 of the Governor, whichever event occurs later in time. The
32 remaining provisions of Part I become effective upon signature of
33 the Governor. The provisions of Part II take effect on January 1,
34 2011, for offenses occurring on or after that date. Regulations
35 required pursuant to this act shall be submitted to the General
36 Assembly no later than January 11, 2011, or six months after
37 enactment, whichever event occurs later in time. All other
38 provisions become effective upon signature of the Governor.
39 Cases and appeals arising or pending under the law as it existed
40 prior to the effective date of this act are saved.

41

----XX----