

Study of the
Attorney General's Office

2022

SC House Legislative Oversight Committee



S.C. House Legislative Oversight Committee



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The purpose of the S.C. House Legislative Oversight Committee's (Committee) work is to determine if agency laws and programs are implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. The Committee's member-driven process enhances the ability of Representatives to make informed decisions about state government and agency responsiveness to the needs of South Carolinians. The process is also a resource for public access to information about the performance of state agencies and their programs.

TABLE OF CONTENTS

Contents

TABLE OF CONTENTS	3
AGENCY OVERVIEW	8
COMMITTEE OVERVIEW	9
FINDINGS	10
Understanding and Collaboration	10
FINDING #1. Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult...11	
FINDING #2. Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system.11	
FINDING #3. Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.)...12	
FINDING #4. Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims.13	
FINDING #5. Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks.14	
FINDING #6. During the study, agency personnel note lack of a clear definition of “unconscionable price” makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.....14	
Operations	16
FINDING #7. Annual briefings conducted by the Attorney General’s Office may be a best practice all state agencies consider adopting.....16	
FINDING #8. Recruitment and retention of employees is an issue with the Attorney General’s Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award).....17	
FINDING #9. The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state’s chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).18	
FINDING #10. Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.18	
FINDING #11. Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths.....19	

FINDING #12. Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant. 21

Resources21

FINDING #13. Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down.22

FINDING #14. The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General’s Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel. 22

FINDING #15. While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.....23

FINDING #16. Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.23

FINDING #17. Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility. 24

Recommendations 25

Criminal Justice Processes25

RECOMMENDATION #1. LAW ENFORCEMENT TRAINING COUNCIL - Approve process charts related to the criminal justice and collect a list of any IT projects that relate to storage or exchange of criminal justice information (e.g., court cases, offender data, victims) that are ongoing or funded for internal use by stakeholders (e.g., agency personnel, legislators, etc.).....26

RECOMMENDATION #2. Maintain accuracy of crime victim process charts.26

RECOMMENDATION #3. Maintain accuracy of prosecution and appeal process charts.27

Victim Services.....28

RECOMMENDATION #4. Create interactive crime victim statistics dashboard.28

RECOMMENDATION #5. Create a publication to help victims understand the complex criminal justice system.28

RECOMMENDATION #6. DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES - Collaborate about victim information issues to support a centralized victim information repository.29

RECOMMENDATION #7. Streamline process for victims to obtain services (i.e., co-enrollment).29

RECOMMENDATION #8. Create a victim service provider directory and track performance of the service providers.31

RECOMMENDATION #9. Annually publish information on crime victim grants issued and utilized.....32

RECOMMENDATION #10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year.32

RECOMMENDATION #11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities.....33

Data34

RECOMMENDATION #12. ATTORNEY GENERAL’S OFFICE, COMMISSION ON PROSECUTION COORDINATION, COMMISSION ON INDIGENT DEFENSE, DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, DEPARTMENT OF JUVENILE JUSTICE, DEPARTMENT OF SOCIAL SERVICES, DEPARTMENT OF CORRECTIONS, DEPARTMENT OF PUBLIC SAFETY, STATE LAW ENFORCEMENT DIVISION, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF INSURANCE, DEPARTMENT OF REVENUE, AND DEPARTMENT OF EMPLOYMENT AND WORKFORCE - Reach agreement on set data standards for criminal justice entities.	34
RECOMMENDATION #13. Link Attorney General’s Office and circuit solicitor case management systems.....	34
Law Enforcement	35
RECOMMENDATION #14. Discuss feasibility of a uniform statewide process for officer involved shooting reviews.	35
RECOMMENDATION #15. Determine feasibility of a central learning portal.	36
State Employees	36
RECOMMENDATION #16. DEPARTMENT OF ADMINISTRATION - Improve meaning and usability of Employee Performance Management System.	36
Specialized Prosecutions	37
RECOMMENDATION #17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution.	38
RECOMMENDATION #18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution.	38
RECOMMENDATION #19. Determine appropriate parties for regulation versus prosecution of money services businesses.	38
Laws	39
RECOMMENDATION #20. GENERAL ASSEMBLY - Consider eliminating bonds for positions or identify entity responsible for enforcement.	40
RECOMMENDATION #21. GENERAL ASSEMBLY - Consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products.....	42
RECOMMENDATION #22. GENERAL ASSEMBLY - Consider increasing the limitation on tokens of recognition for state employees.	43
RECOMMENDATION #23. GENERAL ASSEMBLY - Consider establishing a victim address confidentiality program.	43
RECOMMENDATION #24. GENERAL ASSEMBLY - Consider updating statutes related to the Sexually Violent Predator Act.	44
RECOMMENDATION #25. GENERAL ASSEMBLY – Consider establishing a federal Health and Human Services Office of the Inspector General approved False Claims Act.....	51
RECOMMENDATION #26. GENERAL ASSEMBLY – Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.	52
RECOMMENDATION #27. GENERAL ASSEMBLY – Consider updating statute to add a fentanyl trafficking provision.....	53
RECOMMENDATION #28. GENERAL ASSEMBLY - Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.....	54
RECOMMENDATION #29. GENERAL ASSEMBLY - Consider updating statutes related to venue for State Grand Jury cases.	54

RECOMMENDATION #30. GENERAL ASSEMBLY - Consider updating statute to enable more potential State Grand Jury review of cases with possible health effects on the community.....55

RECOMMENDATION #31. GENERAL ASSEMBLY - Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General’s Office.....56

RECOMMENDATION #32. GENERAL ASSEMBLY - Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General’s Office devolved to another state agency.....57

RECOMMENDATION #33. GENERAL ASSEMBLY - Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General’s Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.....57

RECOMMENDATION #34. GENERAL ASSEMBLY - Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers’ bonds by the Attorney General.....57

RECOMMENDATION #35. GENERAL ASSEMBLY - Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General’s “school safety phone line” when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.....57

RECOMMENDATION #36. GENERAL ASSEMBLY - Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General’s website to serve as notice to Department of Revenue and Secretary of State’s Office.....59

RECOMMENDATION #37. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a “grandfather provision” exempting victim service providers employed prior to 2008 from taking a basic certification course.....59

RECOMMENDATION #38. GENERAL ASSEMBLY - Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.....59

RECOMMENDATION #39. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-910 to delete the final phrase, “unless sentenced for murder as provided in Section 16-3-20.” During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.....59

RECOMMENDATION #40. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term “criminal offense” a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.....60

RECOMMENDATION #41. GENERAL ASSEMBLY - Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading “except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)”. S.C. Code Section 16-3-655(3) no longer exists.....60

RECOMMENDATION #42. GENERAL ASSEMBLY - Consider amending S.C. Code Section 14-1-211.5 (A) and (B)to correct a reference (i.e., replace references to the “Department of Crime Victim Assistance Grants” with references to the “Department of Crime Victim Compensation”).60

RECOMMENDATION #43. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to “S.C. Code Section 16-3-1110(8)” with references to “S.C. Code Section 16-3-1110(9)”).60

RECOMMENDATION #44. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1420(1)(b) by adding “mental health clinician licensed in South Carolina” to the list of exemptions of professionals that are not included in the definition of “victim service provider.”60

RECOMMENDATION #45. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).....	60
RECOMMENDATION #46. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).	60
RECOMMENDATION #47. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.....	60
RECOMMENDATION #48. GENERAL ASSEMBLY - Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General’s Office and renamed the Department of Crime Victim Compensation.	61
RECOMMENDATION #49. HOUSE LEGISLATIVE OVERSIGHT COMMITTEE - Provide the House Regulations Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.	61
STUDY RELATED INTERNAL CHANGES.....	62
SELECTED AGENCY INFORMATION	63
REPORT ACTIONS	63
APPENDIX A – CRIMINAL JUSTICE SYSTEM FLOW CHARTS	64
APPENDIX B – STATUTE MODERNIZATION (I.E., SPECIFIC LANGUAGE AND AGENCY PERSONNEL’S REASONING FOR SUGGESTING THESE CHANGES).....	127
ENDNOTES	149

Agency Overview: Attorney General's Office

Agency Mission

“

To serve the citizens of the State of South Carolina by providing legal representation of the highest quality to state government entities, by supporting the law enforcement communities and the legal and judicial branches through the legislative process, and by honorably and vigorously carrying out the constitutional and statutory responsibilities of the Attorney General.

”

History and Resources (FY 18-19)

History

1776 – The first State Constitution identifies the Attorney General (AG) and provides that the position is elected by the General Assembly

1868 – Revised State Constitution provides for a general election of the AG

1929 – State and US Supreme Courts affirm the authority of the AG as “the chief law enforcement officer”

1974 – Criminal Appeals section is formed

1978 – Post Conviction Relief actions primarily handled by the Office

1983 – Opinions section is created

1992 – AG statutorily responsible for litigation involving any state entity

1995 – Capital and Collateral Litigation section is formed

2004 – Consumer Protection and Antitrust Division is formed

2017 – South Carolina Crime Victim Services Division is created

Organizational Units

- Legal Services Division
- Opinions Division
- Criminal Division
- Victim Services Division
- Administration Division
- Executive

Employees



275.2

authorized FTEs

Funding



\$78,758,364

appropriated and authorized

Successes and Challenges

Identified by the agency

Successes

- Increasing efficiency and outreach of services to victims after separate state Crime Victim entities were merged into a single division of the AG
- Creating regularly occurring self-evaluation practices
- Upgrading technology hardware and desktop software

Challenges

Current:

- Providing competitive attorney salaries
- Retaining attorneys in the Post-Conviction Relief section
- Funding to implement the S.C. Anti-Money Laundering Act of 2016
- Obtaining a seat on the Commission on Prosecution Coordination

Emerging:

- Raising the salary of the AG which has been stagnant for over 28 years and is less than half that of a circuit solicitor
- Lacking office space to accommodate the current size of the agency
- Aging case management system that needs updating

Committee Overview

Subcommittee Membership

Law Enforcement and Criminal Justice Subcommittee

The Honorable Chris Wooten (chair)
The Honorable Josiah Magnuson

The Honorable Kimberly O. Johnson
The Honorable John R. McCravy, III

Oversight Purpose and Methods

Purpose

To determine if agency laws and programs:

- are being implemented and carried out in accordance with the intent of the General Assembly; and
- should be continued, curtailed, or eliminated.

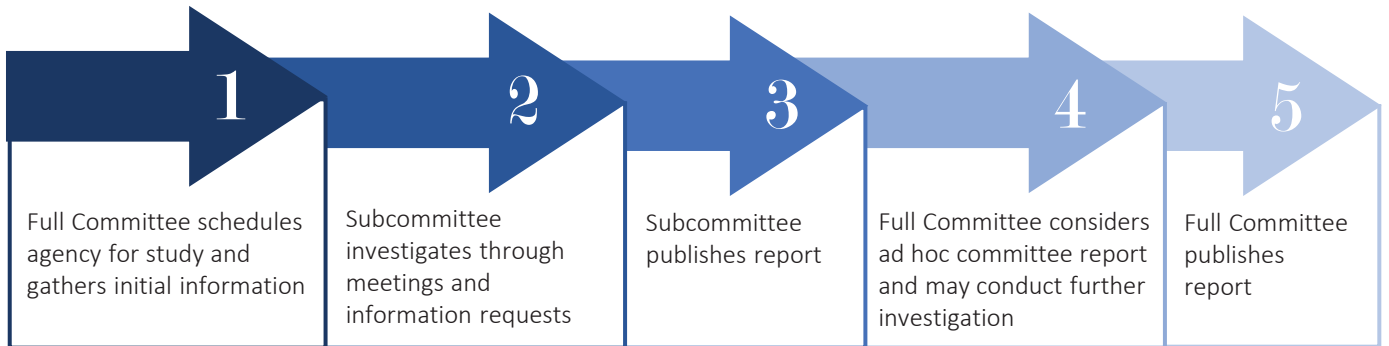
Methods

The Committee and Subcommittee evaluate:

- the application, administration, execution, and effectiveness of the agency's laws and programs;
- the organization and operation of the agency; and
- any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

Study Process



Public Input



20

Responses to an online public survey



2

Online comments received



2

Constituents testified

Study Milestones

Meetings

Subcommittee Meetings		Full Meetings
3/31/22	6/14/22	12/9/19
4/26/22	6/22/22	4/8/21
5/25/22	8/9/22	
6/1/22		
6/8/22		

Agency Reports

March 2015	Seven-Year Plan Report
March 2020	Program Evaluation Report
September 2021	FY 2020-2021 Accountability Report

FINDINGS

The House Legislative Oversight Committee’s (Committee) Law Enforcement and Criminal Justice **Subcommittee** (Subcommittee) reviewed the Attorney General’s Office (agency) and **has 17 findings**. The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee made the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

Understanding and Collaboration

The six findings relating to this topic are summarized in Table 1.

Table 1. Summary of findings relating to understanding and collaboration by stakeholders in the criminal justice system

<p>UNDERSTANDING AND COLLABORATION BY STAKEHOLDERS IN THE CRIMINAL JUSTICE SYSTEM</p>	<ol style="list-style-type: none">1. Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult. <small>See Recommendations #1-#5</small>2. Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system. <small>See Recommendations #1-#4 and #12-13</small>3. Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.) <small>See Recommendations #1-#5 and #15</small>4. Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims. <small>See Recommendation #6</small>5. Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks. <small>See Recommendations #12 and #13</small>6. During the study, agency personnel note lack of a clear definition of “unconscionable price” makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.
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FINDING #1. Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult.

The Attorney General's Office is one of the many state agencies and local entities comprising South Carolina's criminal justice system. Over the years, the House Legislative Oversight Committee, with the assistance of the personnel with various state agencies, has developed flow charts illustrating the complexity of the criminal justice system.² Appendix A includes examples of these flow charts. During the study of the Attorney General's Office, additional information (e.g., list of state agencies authorized to prosecute matters) was obtained about the complexities of the system.³

FINDING #2. Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system.

As noted in a data sharing grant application submitted jointly by personnel with three state agencies (i.e., Department of Probation, Parole and Pardon Services; the State Law Enforcement Division; and the Department of Corrections):

One impediment within South Carolina's justice system has been the method by which information is transferred or shared. There is not one coordinated system for sharing data with justice partners that does not involve entering or reentering information from paper copies. The South Carolina Legislature has appropriated funding for some forms of justice information to be automated but that project is expected to extend for years.⁴

Notably, the three agencies were awarded the grant and are working to increase their collaboration efforts.

As expressed in the grant application, the various state and local agencies comprising South Carolina's criminal justice system have individual case management systems with varying levels of interaction with one another. In recent years, funding has been provided by the General Assembly to update case management systems at some agencies (e.g., Commission on Prosecution Coordination, solicitors' offices, and Court Administration). Also, the Attorney General's Office is "seeking to develop a better case management system" that can connect with the different case management systems utilized by solicitors to electronically obtain information, when necessary (e.g., appeals and conflict case transfers).⁵

However, there is still no consensus among prosecutors, courts, and public defenders on (1) how cases will be counted (e.g., defendant, warrant, indictment) or (2) minimum ways in which information on cases will be stored. As noted in the House Legislative Oversight Committee's

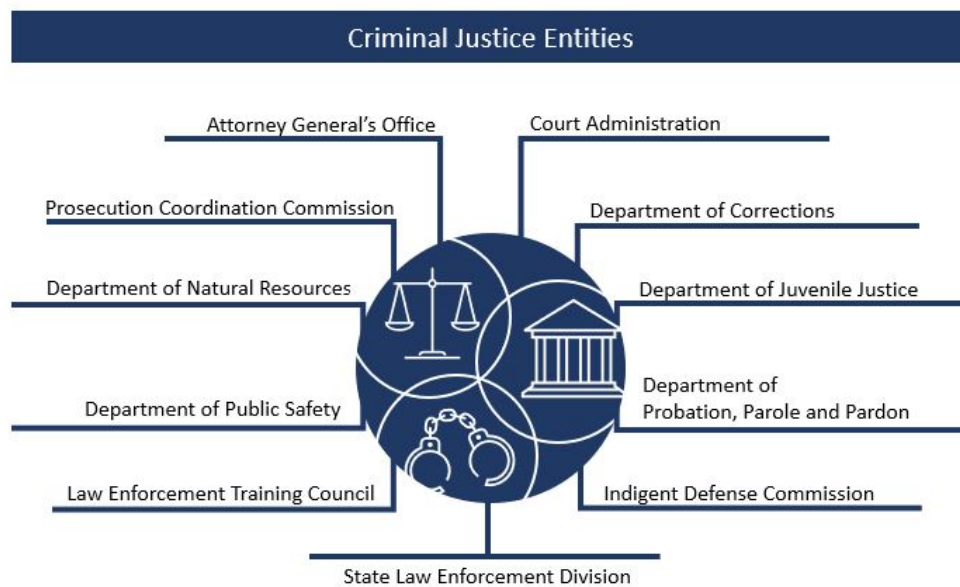
2022 study of the Department of Probation, Parole and Pardon Services:

Agencies focus on their own individual operations when purchasing technology (e.g., case management and other data management systems). While understandable, this siloed focus facilitates duplication of efforts across multiple agencies using the same information. If the General Assembly desires increased efficiency across all of state government operations, it will need to create incentives or provide consequences to change current agency purchasing practices.⁶

FINDING #3. Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.).

Currently, there is not a single landing page with an overview of the criminal justice system. For those who do not understand how the criminal justice process works, an overview (i.e., single landing page) may help them know which entity to contact for what information. See Figure 1 for examples of the many agencies that make up the criminal justice system. Examples of information that may be helpful on the landing page can be found in Recommendations #1-#5.

During the study, agency personnel were asked to provide pros and cons of having a single landing page for criminal justice matters.⁷ Pros listed centered on public convenience (e.g., “one-stop location for the public to understand



the criminal justice system” and “save time . . . in trying to find the proper entity”).⁸ Additionally, it may be helpful to have statistics from the various entities more easily available. For example, the Revenue and Fiscal Affairs Office provides statistics statewide on household, employment, and health, which can be seen at various lower levels (e.g., county), on their public dashboard.⁹ Cons listed pertained to details with execution (i.e., sustaining, funding, and central responsibility) rather than the concept itself.¹⁰

FINDING #4. Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims.

All states have provisions acknowledging victims’ rights, and most states have included victims’ rights into their state constitution.¹¹ When presented the issue in 1996, qualified electors in South Carolina overwhelmingly (i.e., more than 80%) supported inclusion of victims’ rights in the State Constitution.¹² In 1998, the South Carolina Constitution was amended to include a Victims’ Bill of Rights.¹³ The twelve enumerated rights are listed in Figure 2.

Opportunities exist to streamline and confirm appropriate contact of victims is occurring.¹⁴ Figure 3 illustrates examples of recommendations the House Legislative Oversight Committee has already approved.¹⁵

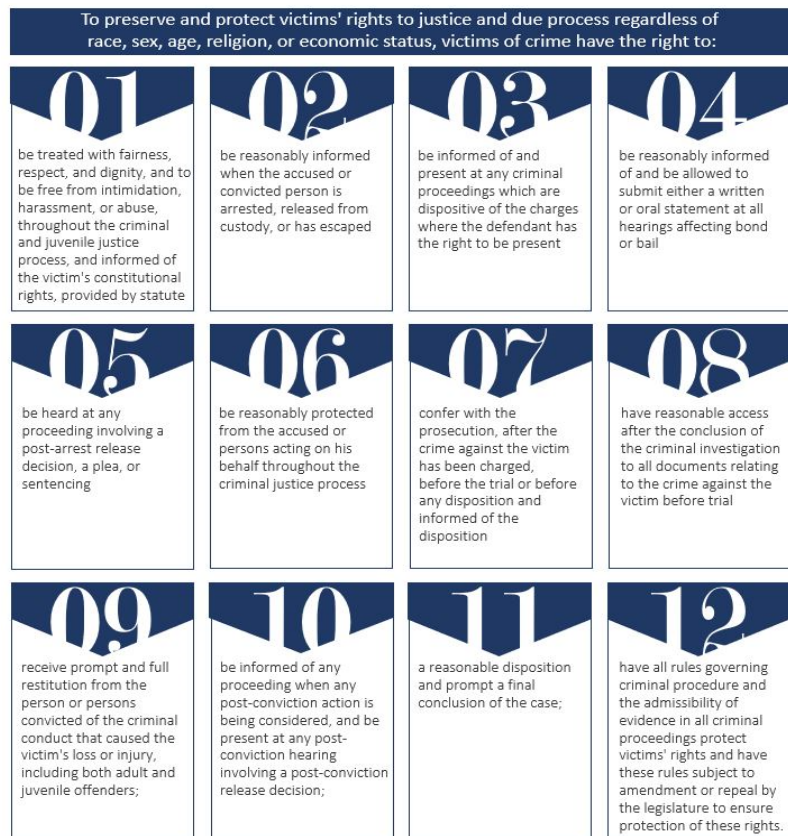


Figure 2. Victims’ Bill of Rights listed in South Carolina Constitution¹⁶

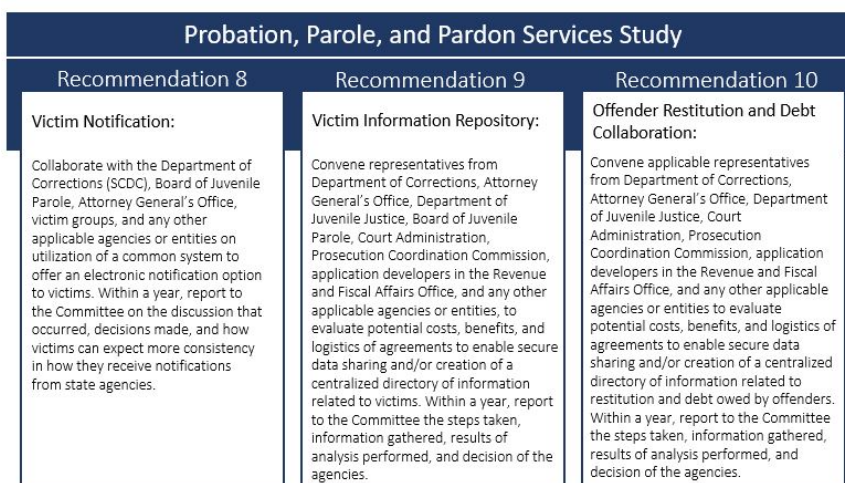


Figure 3. Examples of recommendations the House Legislative Oversight Committee has approved relating to victims¹⁷

FINDING #5. Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks.

Multiple examples of opportunities to improve efficiency and accuracy of the transmission of information have been observed during prior agency studies.¹⁸ Accordingly, the House Legislative Oversight Committee collaborated with the Executive Budget Office within the Department of Administration to collect information from agencies on the type of data they receive that they manually input into their own database/system, from whom the data is received, and the cost to manually enter the data into the agency's system.

According to an internal poll the Attorney General's Office conducted during the study, 137 of the 217 respondents (i.e., 63% of its agency personnel) indicated they manually enter data as part of their regular duties.¹⁹ Of the 137 respondents, 94 (69%) cited another state agency as the source of the data.²⁰ The total cost to the agency of manually entering data is \$3,164,983.²¹

FINDING #6. During the study, agency personnel note lack of a clear definition of "unconscionable price" makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.

Two decades ago, after the tragic events of September 11, 2001, the General Assembly enacted the "South Carolina Homeland Security Act."²² Among other things, this legislation included provisions to prevent price gouging during an emergency.²³ Below is the current definition of the term "unconscionable price" as provided in state statute:

"Unconscionable price" means an amount charged which:

(i) represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends; or

(ii) grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends.²⁴

During the study, agency personnel expressed concern that the existing definition is “vague and provides 12 jurors to each define unconscionable.”²⁵ Agency personnel noted that “percentages have been applied in other states to create an objective standard.”²⁶ Figure 4 highlights the states, noted by agency personnel, that have less ambiguity in statute.

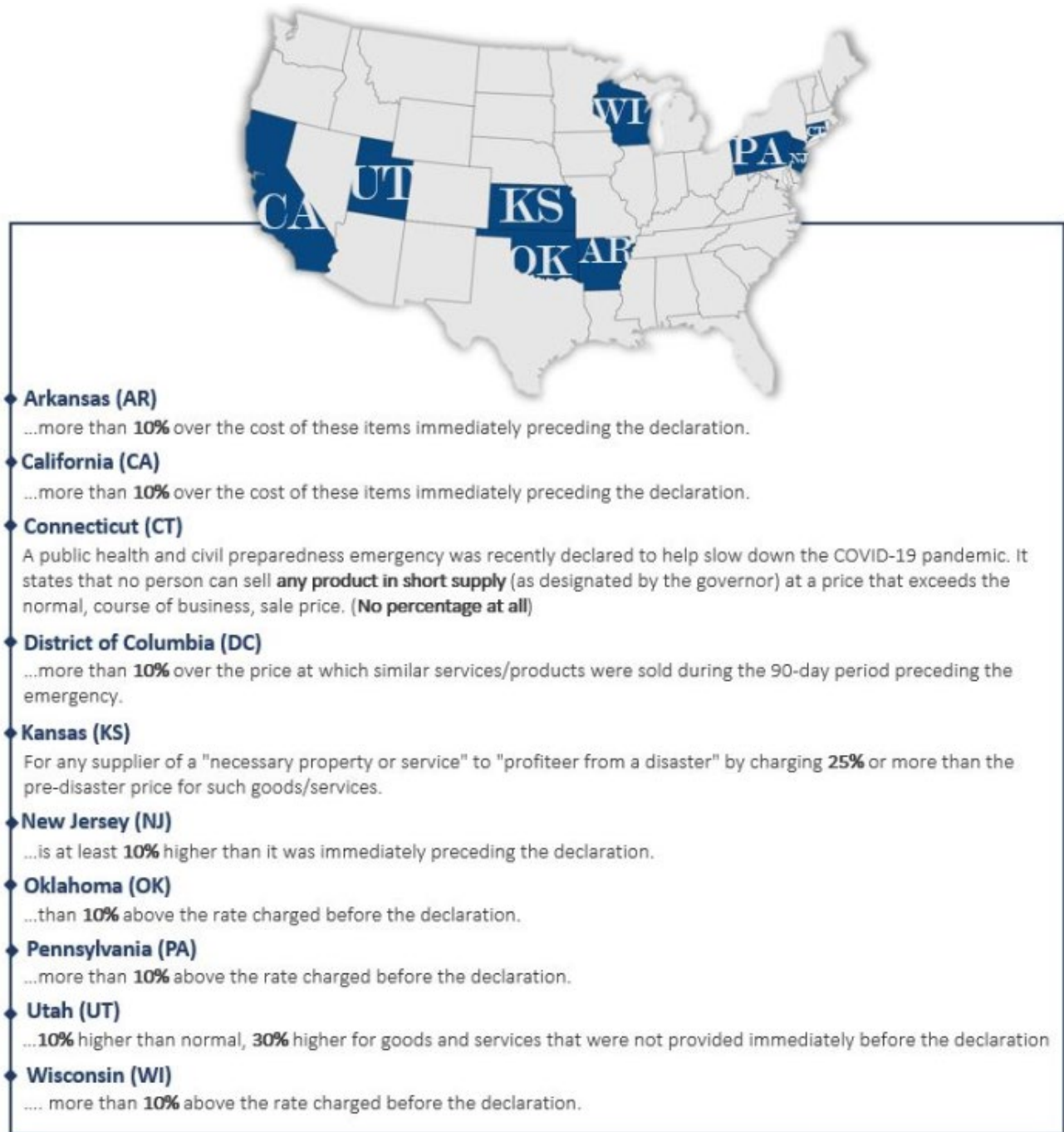


Figure 4. States identified by the Attorney General’s Office personnel as having less ambiguity in their price gouging statutes²⁷

Operations

The six findings relating to agency operations are summarized in Table 2.

Table 2. Summary of findings relating to agency operations

OPERATIONS	
	7. Annual briefings conducted by the Attorney General’s Office may be a best practice all state agencies consider adopting.
	8. Recruitment and retention of employees is an issue with the Attorney General’s Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award). ^{See Recommendations #16 and #22}
	9. The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state’s chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).
	10. Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.
	11. Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths. ^{See Recommendation #14}
	12. Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant.

FINDING #7. Annual briefings conducted by the Attorney General’s Office may be a best practice all state agencies consider adopting.

Annually, in August, the Attorney General receives briefings about agency operations from each section leader.²⁸ When first implemented in 2011, agency personnel were wary about the burden of a new process.²⁹ However, agency personnel now acknowledge the benefits outweigh the burdens. The briefings provide “a mandated period for managers to self-assess” and seek information from managers about section successes and concerns. Results reported include, but are not limited to, “section personnel . . . aware[ness] of their key performance indicators.”³⁰

Over the past decade, this “method for managing resources” has evolved to have a set structure, which facilitates assessment of performance.³¹ The timing of the briefings (i.e., six weeks after the close of the fiscal year) helps inform leadership strategic planning “before beginning the accountability and budgeting cycles of the state government” (e.g., resource

needs noted in section briefings may be included in budget requests, etc.).³² Additionally, having support areas (i.e., information technology, human resources, and finance) personnel present during the briefings allows sections to identify any technical barriers (e.g., incompatible software, security threats, etc.) related to requests or provide for immediate resolutions to issues.³³

FINDING #8. Recruitment and retention of employees is an issue with the Attorney General's Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award).

A benefit of the House Legislative Oversight Committee's process is the ability for members to observe issues that affect multiple state agencies. Overcoming barriers to employee recruitment and retention is a challenge expressed by many state agency leaders during the House's oversight review process.³⁴

A frequent barrier mentioned during reviews is competitive employee compensation. Notably, the 2022-2023 General Appropriations Act included a three percent raise for state employees, the largest pay raise in six years, a \$1,500 bonus; and fully covered state employee health and dental insurance increase.³⁵

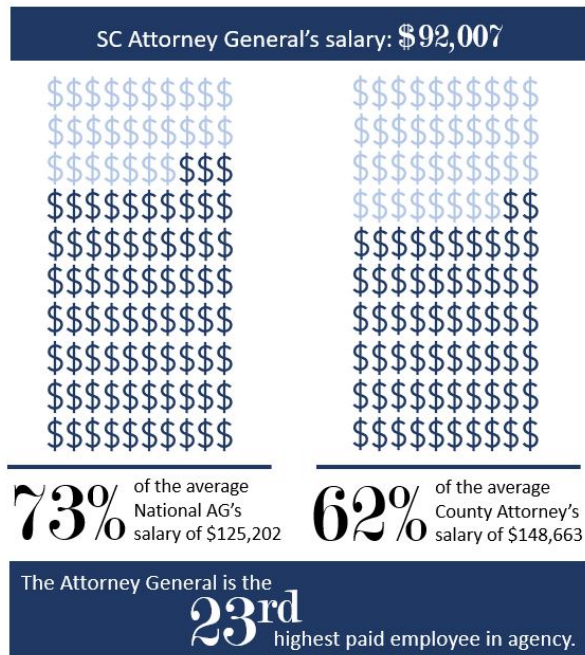
A barrier to recruitment and retention to the Attorney General's Office is the unique subject matter. For example, there is high turnover in the Internet Crimes Against Children (ICAC) Unit due to the traumatic nature of the material; during the study, the ICAC section manager noted it takes around 14 months to fill an attorney vacancy.³⁶ To help mitigate this barrier, the agency has an Employee Assistance Program that offers free short-term counseling.³⁷ As another example, the Post-Conviction Relief Unit personnel have high caseloads (e.g., 205 cases per attorney if fully staffed) that are increasing in complexity.³⁸ To help mitigate this barrier, the agency is no longer viewing this as an entry level position.

Another barrier to recruitment and retention at the Attorney General's Office is lack of convenient parking for all agency personnel that desire it.³⁹ The Attorney General's Office is located on the capitol complex grounds, which has an underground parking facility administered by the Department of Administration for executive state agencies.⁴⁰ Parking in this facility is assigned on a first come, first served basis (i.e., seniority at the agency), and allotments to the agency are limited. Multiple state entities, including the legislature, utilize this parking facility.⁴¹ Also, surface parking lots, without assigned parking (i.e., first come, first served), are available. Accordingly, an employee who arrives later in the morning may have to walk farther to work. To help mitigate this barrier of lack of convenient parking for all personnel, the agency leases additional parking spots.⁴² These are allotted on a seniority basis.

A specific barrier to retention noted by agency leadership is the limitations on how state agencies can recognize employees.⁴³ Recommendation 22 discusses this issue in more detail and recommends the General Assembly consider increasing the \$50 limitation on tokens of appreciation for employees.

FINDING #9. The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state’s chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).

See Figure 5 for a visual comparison of the South Carolina’s Attorney General’s salary with his national counterparts, within the agency, and with attorneys representing large counties.⁴⁴



For nearly three decades, salaries of South Carolina constitutional officers have remained stagnant. With the passage of Act No. 76 of 2021, now salaries of certain constitutional officers, including the Attorney General, must be based on recommendations by the Agency Head Salary Commission to the General Assembly. Beginning with fiscal year 2022-2023, the Agency Head Salary Commission “shall authorize a study be conducted every four years to recommend a salary range for each state constitutional officer . . . based on their job duties and responsibilities as well as the pay of state constitutional officers in other states.”⁴⁵

Figure 5. Visual comparison of the South Carolina’s Attorney General’s salary with his national counterparts, within the agency, and with attorneys representing large counties in South Carolina⁴⁶

FINDING #10. Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.

During the study, agency personnel shared the following:

Federal government estimates are that fraud totals related to the Paycheck Protection Program are as high as \$80 billion. Federal prosecutors are calling this theft of taxpayer money intended to help those harmed by the coronavirus pandemic “the largest fraud in U.S. history” as it

represents approximately 10 percent of the \$800 billion handed out to small businesses in low-interest uncollateralized loans from April 3, 2020, through May 31, 2021.⁴⁷

Also, agency personnel estimated inmate gang activity within the Department of Corrections has been funded for the next decade through misuse of the federal Paycheck Protection Act program.⁴⁸ It is agency personnel’s understanding that between five to seven percent of the inmate population benefited from this program because they were able to apply for the funding directly from prison.⁴⁹ Fast-tracked processes with “little guidance about what verifications could or should be done “resulted in little applicant vetting and a relaxation of internal fraud controls institutions generally utilize”⁵⁰

To help prevent fraud in future financial situations, agency personnel recommended requiring “approved financial institutions (i.e., those allowed to disburse funds) to verify the existence of the requesting company prior to disbursement, and to do other basic checking, just as the institutions would if an applicant came in to apply for a loan that was not going to be fully indemnified against risk of loss by the federal government.”⁵¹

FINDING #11. Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths.

Figure 6 shows different processes used for review of officer involved shootings, crimes, or in-custody death.⁵² Figure 7 highlights counties in which the local solicitor has referred officer involved shootings matters to the Attorney General’s Office for review.⁵³ Solicitors’ opinions on this issue may vary. Some solicitors may prefer a completely independent review and resolution, and others may prefer local review and resolution.⁵⁴

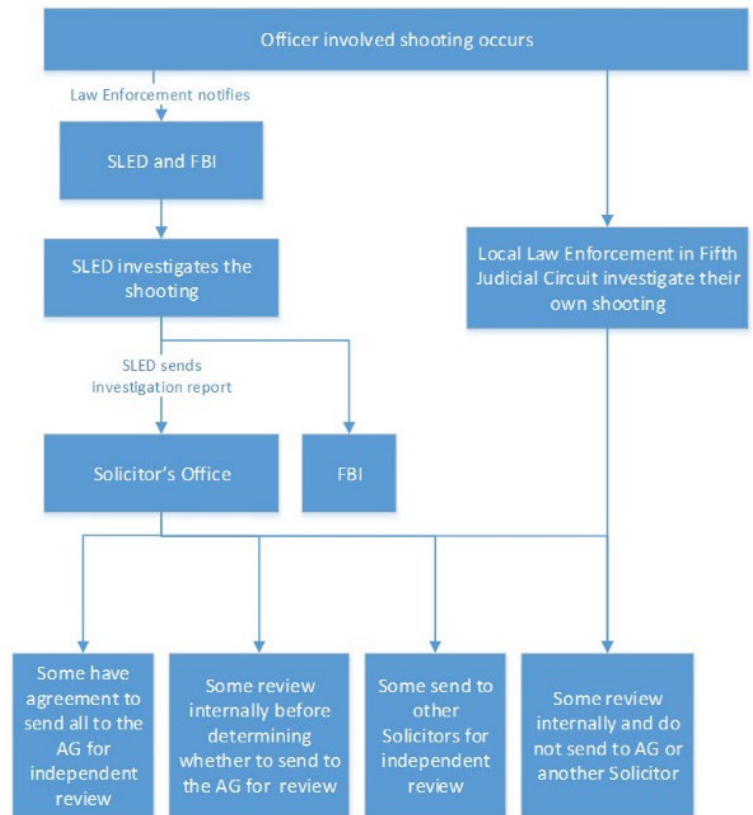


Figure 6 (larger version is available in Appendix A). Agency presentation – excerpt - Different processes utilized for review of officer involved shootings, crimes, or in-custody death⁵⁵

Table Note: Fifth judicial circuit is comprised of Kershaw and Richland Counties

Officer Involved Shooting Cases in which Solicitor Sent Cases to AG for Review

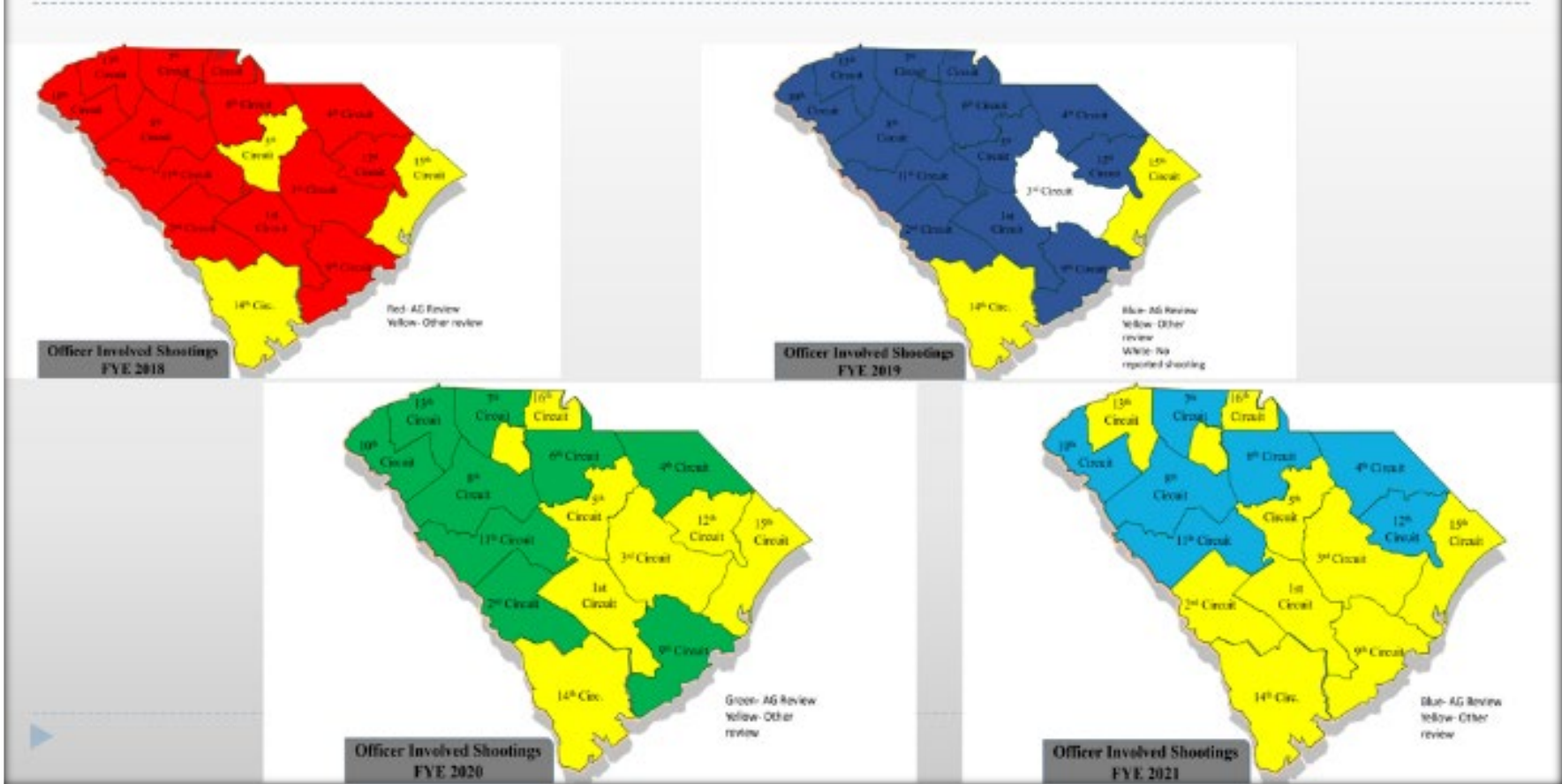


Figure 7. Agency presentation excerpt -counties in which officer involved shootings in which the local solicitor referred the matter to the Attorney General's Office for review⁵⁶

During the study, agency personnel noted two potential benefits of a uniform, statewide process. First, “[t]his would allow for record keeping as to what the trends are showing in these cases that could facilitate training,” and second this would create “the ability to create awareness among law enforcement and the community of what happens in these cases and how they are handled.”⁵⁷

“It is the position of the Attorney General’s Office that at a minimum, all officer involved shootings that result in injury or death should be reviewed by the Attorney General’s Office.”⁵⁸ Notably, the Attorney General’s Office personnel consult with a nationally recognized expert, and agency personnel testified that some states do have a requirement for an independent review by their respective Attorney Generals’ Offices.⁵⁹

FINDING #12. Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant.

S.C. Code of Laws Section 17-13-140 provides that “[a] warrant issued hereunder shall be issued **only** (emphasis added) upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant.” During the study, agency personnel noted “other states have methods where law enforcement can apply to obtain search warrants via electronic means, and this would be more efficient for all parties⁶⁰.”

Resources

The five findings relating to agency resources are summarized in Table 3.

Table 3. Summary of findings relating to agency resources

<p>AGENCY RESOURCES</p>	<p>13. Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down. <small>See Recommendation #28</small></p> <p>14. The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General’s Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel.</p> <p>15. While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.</p> <p>16. Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.</p> <p>17. Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility.</p>
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FINDING #13. Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down.

Figure 8 shows how the number of these cases have increased.⁶¹ Investigation of tips relating to internet crimes against children is “split amongst 100+ other agencies.”⁶² Agency personnel estimate that “approximately half of all cyber tips are being investigated,” and “[m]any of these investigations are not as thorough as desired.” To adequately investigate all cyber tips, agency personnel estimate a need of an additional 20 full-time investigators as well as proportional increases in additional prosecutors, forensic investigators, and support staff. During the study, agency personnel emphasized quality investigations over quantity and noted legislative changes (i.e., administrative subpoena power) would increase investigation efficiency.⁶³

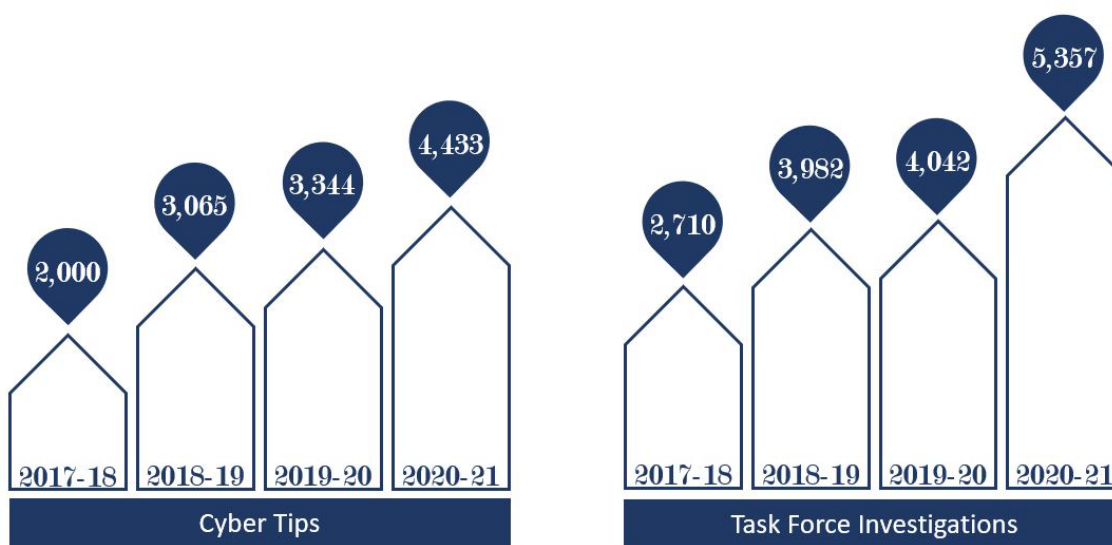


Figure 8. Increasing number of cyber tips and task force investigations relating to internet crimes against children⁶⁴

FINDING #14. The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General’s Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel.

“Today, the PCR section is among the largest sections in the [Attorney General’s Office], even though the mandate is unclear.”⁶⁵ While there may be historical reasons (e.g., all PCR cases were originally heard near the Attorney General’s Office in Richland County), during the study, agency personnel emphasized now “the taxpayer funds travel from the [Attorney General’s Office] to the courthouses across the state that are walking distance for the solicitor.”⁶⁶

FINDING #15. While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.

During the 124th General Assembly, the House of Representatives approved and sent to the Senate legislation requiring the Attorney General or his designee to be included as a member of the Commission on Prosecution Coordination.⁶⁷ The legislation was approved unanimously in the House of Representatives, and it received a favorable report from the Senate Judiciary Committee.⁶⁸ While the legislation received second reading in the Senate on May 11, 2022, it did not receive the requisite third reading on May 12, 2022, (the last day of the second regular session of the 124th General Assembly).⁶⁹

During the study, agency personnel expressed support for the legislation that would add the Attorney General or his designee to the Commission on Prosecution Coordination.⁷⁰ Conversely, when asked for what reasons, if any, support the Attorney General not serving as a member of the Commission on Prosecution Coordination, the commission opined:

If the Attorney General is placed on the SCCPC as a commission member, he will immediately become the de facto chair of the commission. The responsibility of representing the sixteen solicitors will go to the Attorney General and away from a commission that has been representing the solicitors for thirty-two years. ***The Attorney General does not have the perspective nor the understanding of the unique challenges of the solicitors***; nevertheless, he would become the sole voice for the solicitors. (emphasis added)⁷¹

FINDING #16. Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.

“Prosecutors have absolute immunity for all actions that fall within their normal prosecution function.”⁷² However, during the study, agency personnel note “the lack of absolute immunity causes prosecutors to hesitate to act in pre-arrest situations where absolute immunity does not exist.”⁷³

Figure 9 includes examples of when legal advice may be desired during an investigation.⁷⁴ Notably, prior inquiry by the House Legislative Oversight Committee indicates that some law enforcement entities employ in-house counsel which could assist with the examples included in Figure 9, but as agency personnel noted during the study “it may be impracticable to hire such an individual for periodic advice.”⁷⁵









Examples of when legal advice may be desired:	
	Advice on search warrant language and advice on whether probable cause to search exists
	The use of search warrants
	Subpoenas or court orders in certain investigative situations concerning digital evidence
	Arrest warrant language and applicability of particular crime to the factual situation or legal alternatives and whether probable cause to arrest exists
	Legal advice on types of entry without warrant due to exigent circumstances
	Legal advice on whether it is appropriate and the authority and procedure for seeking of wiretaps
	Decisions on whether to seek an arrest or directly indict through the county grand jury
	Decisions on whether or not to use the State Grand Jury to assist in investigation

Figure 9. Examples of when legal advice may be desired during an investigation⁷⁶

Agency personnel noted an advantage for seeking advice from the prosecuting attorney, rather than in house counsel, is the prosecutor decides if the case should proceed.⁷⁷

FINDING #17. Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility.

S.C. Code of Laws Section 1-7-330 states:

The solicitors shall attend the courts of general sessions for their respective circuits. **Preparation of the dockets for general sessions courts shall be exclusively vested in the circuit solicitor and the solicitor shall determine the order in which cases on the docket are called for trial.** Provided, however, that no later than seven days prior to the beginning of each term of general sessions court, the solicitor in each circuit shall prepare and publish a docket setting forth the cases to be called for trial during the term. (emphasis added)

In 2012, the S.C. Supreme Court held this statute unconstitutional and determined “setting the trial docket . . . is the prerogative of the court.”⁷⁸

RECOMMENDATIONS

The Subcommittee has 49 recommendations directed to multiple entities.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, and/or eliminate agency programs, areas for potential improvement, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency’s self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee’s website.

Criminal Justice Processes

Recommendations #1 - #3 seek collaboration among state agencies to continue to advance transparency about the criminal justice processes. These recommendations are summarized in Table 4.

Table 4. Summary of recommendations requesting collaboration among state agencies to continue to advance transparency about the criminal justice system

CRIMINAL JUSTICE SYSTEM PROCESS CHARTS	1. Law Enforcement Training Council -Approve process charts related to the criminal justice and collect a list of any IT projects that relate to storage or exchange of criminal justice information (e.g., court cases, offender data, victims) that are ongoing or funded for internal use by stakeholders (e.g., agency personnel, legislators, etc.). ^{Collaboration; See Findings #1 - #3}
CRIME VICTIM PROCESS CHARTS	2. Maintain accuracy of crime victim process charts. ^{Collaboration; See Findings #1 - #3}
PROSECUTION AND APPEALS PROCESS CHARTS	3. Maintain accuracy of prosecution and appeal process charts. ^{Collaboration; See Findings #1 - #3}

Table Note: Unless otherwise noted, all recommendations are to the Attorney General’s Office.

As referenced in Finding #1, over the years, the House Legislative Oversight Committee, with the assistance of the personnel with various state agencies, has developed process flow charts illustrating the complexity of the criminal justice system.⁷⁹ Likewise, during the study of the Attorney General’s Office, additional process flow charts were created. Publication of these flows charts is a way the Committee seeks to meet its mission to inform the public about state agencies.⁸⁰ Also, the Committee recognizes increased understanding about the criminal justice system may help inform stakeholder (e.g., agency personnel, legislators, etc.) decisions. The Committee has approved recommendations in prior studies requesting collaboration among various law enforcement agencies to maintain (i.e., update as appropriate) the accuracy of these process flow charts.⁸¹

These process charts should, going forward, be updated annually, reference, to the extent possible, applicable statutes, judicial rules, and statistics, and be available in a single interactive and/or printable online resource.

Criminal Justice System Process Charts

RECOMMENDATION #1. LAW ENFORCEMENT TRAINING COUNCIL- Approve process charts related to the criminal justice and collect a list of any IT projects that relate to storage or exchange of criminal justice information (e.g., court cases, offender data, victims) that are ongoing or funded for internal use by stakeholders (e.g., agency personnel, legislators, etc.).

This recommendation tasks the Law Enforcement Training Council, which consists of the leaders of various local and state law enforcement agencies, including the Attorney General as noted in Figure 10, to

confirm and approve in an annual meeting the accuracy of these general, criminal justice system charts.⁸² To the extent possible, the charts should be combined into a single interactive and/or printable online resource, which includes pertinent authority (e.g., statutes, court rules, etc.) and statistics (e.g., number of death penalty direct appeals, etc.).



Figure 10. Law Enforcement Training Council membership⁸³

Crime Victim Process Charts

RECOMMENDATION #2. Maintain accuracy of crime victim process charts.

In 2017, the General Assembly implemented a recommendation from the House Legislative Oversight Committee and placed crime victim compensation responsibilities under the Attorney General’s Office.⁸⁴

During the study of the Attorney General’s Office, agency personnel noted there are annual events (e.g., Victims’ Rights Week, Law Enforcement Victim Advocate Conference, and South Carolina Solicitors Conference) that bring together various personnel from across the state that interact with victims.⁸⁵ During these annual events, Recommendation #2 requests agency personnel seek input from the Victim Services Coordinating Council, victim advocates, and other applicable entities to maintain the accuracy of the crime victim process charts developed during the study. The version of the charts available for stakeholders, as opposed to victims, should reference, to the extent possible, applicable statutes, judicial rules, and statistics. Examples statistics may include victim to victim advocate ratios so the crime victim services division and victim coordinating council has reliable data on the supply (i.e., number of victim advocates) available to meet the demand (i.e., number of victims) in various entities and locations (e.g., detention centers, police departments, sheriff’s offices, solicitors’ offices, and state agencies) and may make recommendations on resources needed throughout the state to ensure victim rights are upheld. Another example statistic may be (a) percentage of victim notices provided via U.S. mail that are returned and undeliverable; (b) annual travel time for victim advocates by type of hearing and case; and (c) number of notices provided in total and by type (e.g., motion, hearing, etc.).⁸⁶ The charts should be available as an interactive and/or printable online resource.

Prosecution and Appeal Process Charts

RECOMMENDATION #3. Maintain accuracy of prosecution and appeal process charts.

This recommendation requests the Attorney General’s Office collaborate with Commission on Prosecution Coordination, Commission on Indigent Defense, and Court Administration to review and update process charts created during this study as well as create additional charts as needed, to illustrate the prosecution and appeal processes of the criminal justice system. See Figure 11 for a list of examples of process charts created during the study of the Attorney General’s Office; see also, Appendix A for the full charts.

Examples of Process Flow Charts:				
General	Post-Adjudication	Civil Litigation	Prosecution	Victim
<ul style="list-style-type: none"> Attorney (at all agencies) hire and compensation approval process 	<ul style="list-style-type: none"> Appeal of non-death penalty conviction to S.C. Court of Appeals and S.C. Supreme Court Murder Convictions - Appeal and PCR Process Post-Conviction Relief (PCR) Action Sexually Violent Predator Proceedings 	<ul style="list-style-type: none"> Unfair Trade Practices Enforcement Action Nonprofit Corporation Investigation Securities Enforcement Case - Life Cycle Money Services 	<ul style="list-style-type: none"> Transfer of Cases - Solicitors and Attorney General Officer Involved Shooting or Crime - Investigation and Prosecutor Review Internet Crimes Against Children - Background, Terminology, and Case Flow Medicaid Fraud - Recipient and Provider Insurance Fraud - Indictment Process State Grand Jury 	<ul style="list-style-type: none"> Individuals on whom victims rely Crime Victim Service Provider (individuals that serve crime victims) Crime Victim Assistance Grants (for entities that serve crime victims) Crime Victim Compensation (for victims) Crime Victim Ombudsman Processes

Figure 11. Examples of process flow charts

Victim Services

Recommendations #4 - #11 seeks to advance effectiveness, efficiency, and transparency in the provision of victim services. These recommendations are summarized in Table 5.

Table 5. Summary of recommendations to advance effectiveness, efficiency, and transparency in the provision of victim services

CREATE RESOURCE MATERIALS TO AID IN UNDERSTANDING THE CRIMINAL JUSTICE SYSTEM	4. Create interactive crime victim statistics dashboard. ^{Effectiveness; See Findings# 1 and #3}
	5. Create a publication to help victims understand the complex criminal justice system. ^{Collaboration; See Findings #1 and #3}
GAIN EFFICIENCIES IN THE PROVISION OF VICTIM SERVICES	6. Department of Probation, Parole and Pardon Services -Collaborate about victim information issues to support a centralized victim information repository. ^{Efficiency; See Finding #4}
	7. Streamline process for victims to obtain services (i.e., co-enrollment). ^{Efficiency}
	8. Create a victim service provider directory and track performance of the service providers. ^{Effectiveness}
	9. Annually publish information on crime victim grants issued and utilized. ^{Transparency}
	10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year. ^{Efficiency}
	11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities. ^{Efficiency; See Finding #14}

Table Note: Unless otherwise noted, all recommendations are to the Attorney General’s Office.

Create resource materials to aid in understanding the criminal justice system

RECOMMENDATION #4. Create interactive crime victim statistics dashboard.

This recommendation requests the Attorney General’s Office collaborate with the State Law Enforcement Division (SLED), application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to create an interactive crime victim dashboard for other agencies, researchers, and the public to access. Within a year of publication of the Committee’s study, personnel with the Attorney General’s Office are asked to report to the Committee on the steps taken, information gathered, results of analysis performed, and any decisions made. This interactive dashboard may serve as a compliment to the over 150-page annual, comprehensive report on crime in South Carolina SLED has published for many years.⁸⁷

RECOMMENDATION #5. Create a publication to help victims understand the complex criminal justice system.

This recommendation requests the Attorney General’s Office create a publication (i.e., online reference materials) to help victim advocates explain South Carolina’s criminal justice system to crime victims. In creating this publication, the Attorney General’s Office is asked to collaborate with the Victim Services Coordinating Council, victim advocates, and other applicable entities. A similar recommendation (i.e., creation of an “Understanding Paroles” and “Understanding Pardons” document) was approved in the House Legislative Oversight Committee’s 2022 study of the Department of Probation, Parole and Pardon Services.⁸⁸ Notably, while the Attorney General’s Victim Advocacy Division personnel have materials explaining the post-adjudication process, they do not currently have any written materials to provide victims that explain the prosecution process.⁸⁹

Gain efficiencies in the provision of victim services

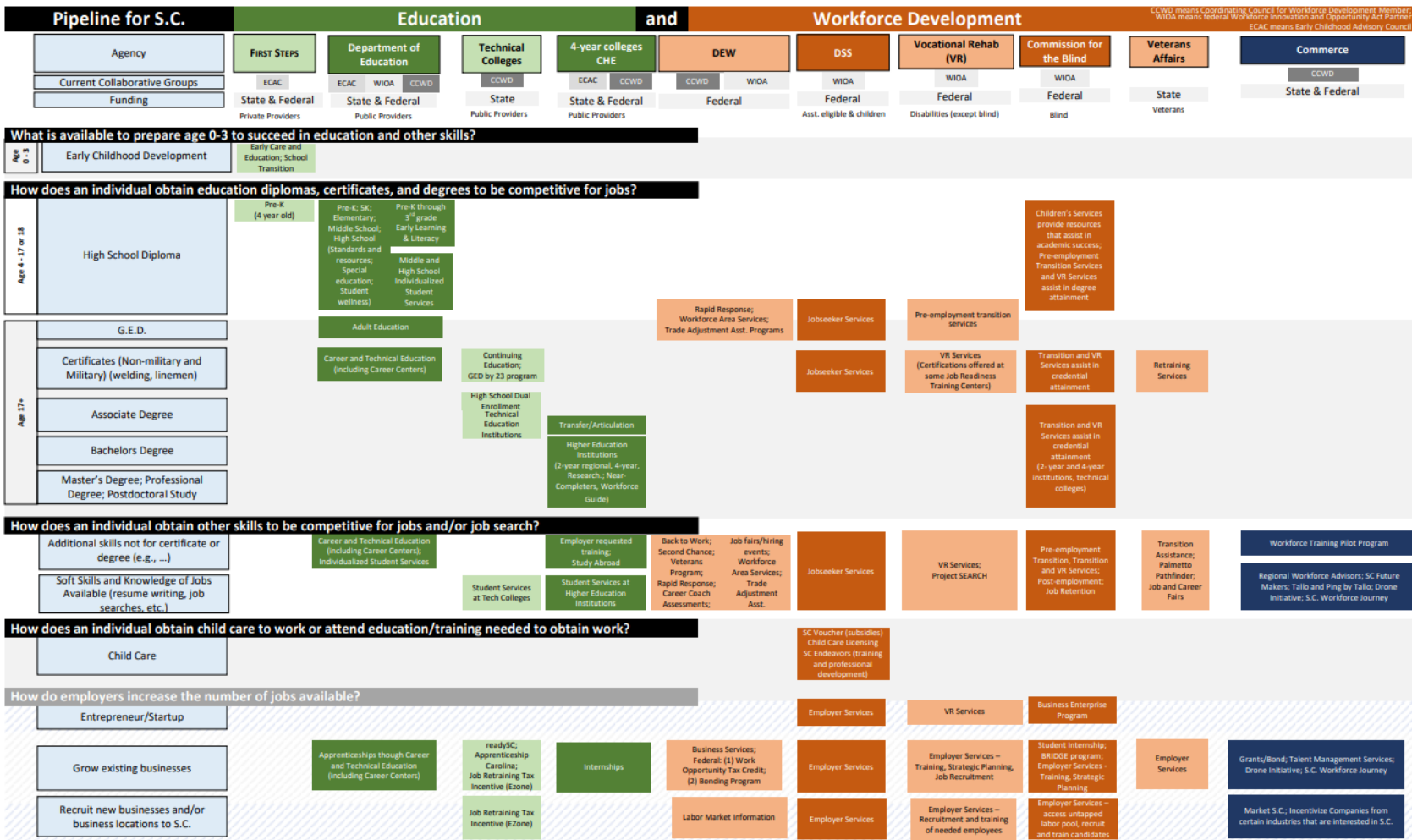
RECOMMENDATION #6. DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES- Collaborate about victim information issues to support a centralized victim information repository.

As noted in Finding #4, opportunities exist to streamline and confirm appropriate contact of victims is occurring. Figure 3 includes examples of recommendations the House Legislative Oversight Committee has already approved in the 2022 study of the Department of Probation, Parole and Pardon Services (PPP) encouraging evaluation of a centralized victim information repository.

The purpose of this recommendation is to request inclusion of the Restitution Task Force in the collaboration efforts led by PPP personnel to evaluate a victim information repository (i.e., centralized directory of information related to victims) and offender restitution. While the Attorney General’s Office has no official role with the Restitution Task Force, some agency personnel do participate on it in an individual capacity.⁹⁰

RECOMMENDATION #7. Streamline process for victims to obtain services (i.e., co-enrollment).

This recommendation requests agency personnel collaborate with South Carolina’s Education and Workforce Pipeline, which is illustrated in Figure 12, and others to streamline the process for victims to obtain desired services. As part of this collaboration the feasibility of co-enrollment should be considered. Co-enrollment for purpose of this discussion is a secure data sharing system offering crime victims the opportunity to voluntarily input their information to learn about state services and enroll in programs without the need to re-enter common information (e.g., name, etc.).



Compiled as part of the House Legislative Oversight Process. Confirmed accurate by agencies listed herein as of February 2022.

Figure 12. South Carolina's Education and Workforce Pipeline

RECOMMENDATION #8. Create a victim service provider directory and track performance of the service providers.

As shown in Figure 13, there are a myriad of state agencies and applicable services to whom victims may be referred.⁹¹ Currently, the Attorney General’s Office Crime Victim Services Division does not have a comprehensive directory of services and entities.⁹²

This recommendation requests agency personnel collaborate with personnel with other stakeholders (e.g., state agencies, nonprofits, etc.), including but not limited to, the Commission on Prosecution Coordination, Commission for Minority Affairs, and application developers in the Revenue and Fiscal Affairs Office to evaluate the feasibility of a centralized directory of information related to victim service providers and how to measure the impact those providers services have on victims. A part of this collaboration, the feasibility of secure data sharing should be discussed. Within a year, agency personnel should report to the Committee on the steps taken, information gathered, results of analysis performed (e.g., potential costs, benefits, and logistics of agreements, etc.) and any decisions made.



- ALL 16 CIRCUIT SOLICITORS** – Victim Services Divisions
- COMMISSION FOR THE BLIND** – Resources for people with disabilities
- COMMISSIONER OF BANKING** - Complaints about banks in fraud cases
- CONSUMER AFFAIRS** – Identity theft and fraud investigation and assistance
- CONTINUUM OF CARE** – Victims whose children have serious emotional / behavioral problems
- ALCOHOL AND OTHER DRUG ABUSE SERVICES** – Assistance to locate information and treatment for addiction
- DISABILITIES AND SPECIAL NEEDS** - Disability referrals
- HEALTH AND HUMAN SERVICES** – Medicaid issues
- INSURANCE** - Fraud
- CHILDREN’S ADVOCACY** – Concerns regarding children involved in child welfare programs within state agencies
- HEALTH AND ENVIRONMENTAL CONTROL** – Complaints about hospitals and their employees
- JUVENILE JUSTICE** - Victim Services Division
- PROBATION, PAROLE AND PARDON SERVICES** – Victim Services Division
- SOCIAL SERVICES** – Child welfare concerns, vulnerable adults, programs to maintain financial stability
- AGING** - Long-Term Care Ombudsman
- HUMAN AFFAIRS COMMISSION** - Employment discrimination complaints
- JUDICIAL DEPARTMENT** – Complaints against attorneys and judges
- LABOR LICENSING AND REGULATION** – Complaints about licensed professionals acting improperly; attempts to “revoke a license”
- OFFICE OF THE INSPECTOR GENERAL** – Allegations of fraud, waste, mismanagement, misconduct, abuse
- OFFICE OF OMBUDSMAN** – Complaints related to local and state agencies
- CORRECTIONS** – Victim Services Division; Services for victims who have questions about an incarcerated offender
- EMPLOYMENT AND WORKFORCE** – Complaints that unemployment checks are improperly mailed
- MENTAL HEALTH** – Community Crisis Response and Intervention; information and treatment for mental health issues
- HIGHWAY PATROL** – Victim Services Division
- OFFICE OF ECONOMIC OPPORTUNITY** – Services to individuals with low income.
- LAW ENFORCEMENT DIVISION** – Victim Service Providers (VSPs)
- ETHICS COMMISSION** – Complaints about ethics violations by public officials
- HOUSING FINANCE AND DEVELOPMENT AUTHORITY** – Assistance with mortgage and rent
- VOCATIONAL REHABILITATION** – Victims who have been injured and need work training

Figure 13. Examples of state agencies and applicable services to whom victims may be referred⁹³

RECOMMENDATION #9. Annually publish information on crime victim grants issued and utilized.

During the study, agency personnel expressed they were not opposed to annually publishing information on crime victim grants issued and utilized.⁹⁴ Information published should include, but is not limited to, the items listed in Figure 14.

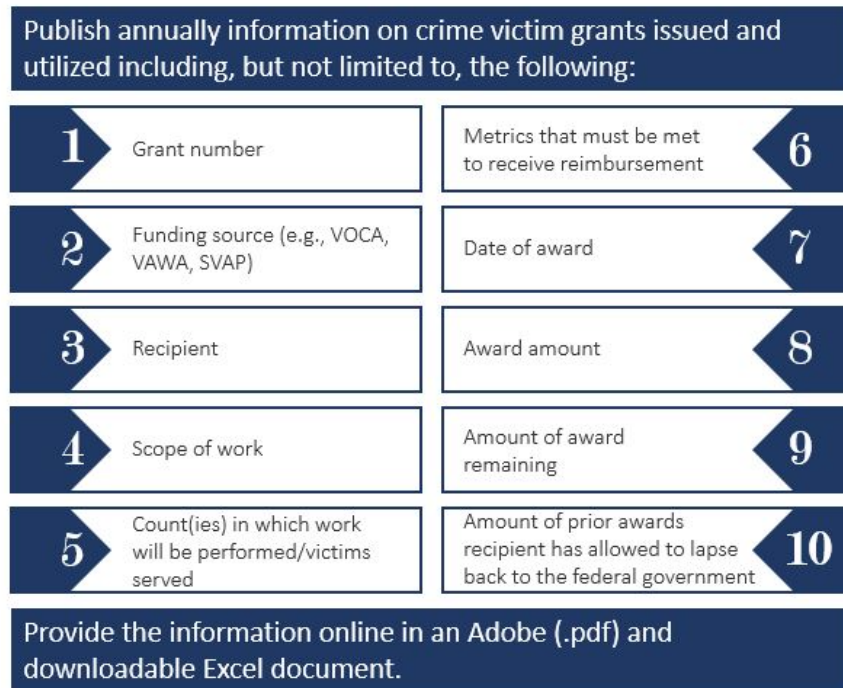


Figure 14. Crime victim grants information for publication

RECOMMENDATION #10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year.

During the study, agency personnel noted from 2018 – 2020 an average of \$4.14 million in allotted federal grant funding for crime victims annually lapsed to the federal government and cannot be reallocated due to the grant ending.⁹⁵ Figure 15 shows the specific amount of annual lapsed allocated grant funding from 2018 – 2020.



Figure 15. Amount of annual lapsed allocated crime victim grant funding from 2018 - 2020⁹⁶

Of interest, listed below is an explanation obtained from agency personnel about the reimbursable federal grant for crime victims.

All federal Department of Justice (“DOJ”), Victims of Crime Act (“VOCA”) and Violence Against Women Act (“VAWA”) awards are reimbursable grants. Funds are drawn (generally quarterly) for actual expenses incurred only. These reimbursements are for actual expenses incurred by the Office of the Attorney General Crime Victim Services Division (“SC-CVS”) through internal operations (salary/fringe/other for grant administration) and sub-grant reimbursements.

These DOJ awards are active for 3-4 years (dependent on ability to receive extensions). During this active period, we allocate this funding to sub-grantees throughout the state by competitive solicitation on a yearly (federal fiscal year [Oct 1-Sept 30]) basis. These sub-awards are also reimbursable and sub-grantees request reimbursement for actual expenses on a monthly or quarterly basis from the AG-CVS. Any sub-grant funding from awards that are not reimbursed by the end of the one-year award period are deemed “lapsed” and return into the AG-CVS funding pot for the next annual sub-award solicitation cycle.

On the last year of the federal award active period, any funds that have not been “drawn down” by the SC-CVS (for either AG internal operating expenses or sub-grant expenses) will be “lapsed” to DOJ. These lapsed funds will be returned to the Federal Government General Fund. Funds are generally lapsed to the Federal Government due to being unspent by the sub-grantee in the last year of award and cannot be reallocated due to the grant ending. All allowed grant extensions are pursued by the AG-CVS when available. Funds are also lapsed in some cases due to left over planning and administration “P&A” allocations (internal overhead). DOJ allows P&A costs of 5% of VOCA awards and 10% of VAWA.⁹⁷

RECOMMENDATION #11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities.

This recommendation requests agency personnel establish a regular set-aside of victim grant funding for the purpose of collaborative information and service sharing by multiple entities to further leverage the limited resources available to serve victims. According to agency personnel, it is possible to designate a certain amount of funds for joint grant proposals from multiple direct service agencies.⁹⁸ The availability of this type of funding may incentivize collaboration and innovation among entities serving victims to increase the efficiency in which they share information among one other and how they provide services.

Data

The Subcommittee makes two recommendations relating to data, and a summary is in Table 6.

Table 6. Summary of data recommendations

DATA	<p>12. Attorney General’s Office, Commission on Prosecution Coordination, Commission on Indigent Defense, Department of Probation, Parole and Pardon Services, Department of Juvenile Justice, Department of Social Services, Department of Corrections, Department of Public Safety, State Law Enforcement Division, Department of Natural Resources, Department of Insurance, Department of Revenue, and Department of Employment and Workforce - Reach agreement on set data standards for criminal justice entities.^{Collaboration; See Findings #2 and #5}</p> <p>13. Link Attorney General’s Office and circuit solicitor case management systems^{Collaboration; See Findings #2 and #5}</p>
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Table Note: Unless otherwise noted, all recommendations are to the Attorney General’s Office

RECOMMENDATION #12. ATTORNEY GENERAL’S OFFICE, COMMISSION ON PROSECUTION COORDINATION, COMMISSION ON INDIGENT DEFENSE, DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, DEPARTMENT OF JUVENILE JUSTICE, DEPARTMENT OF SOCIAL SERVICES, DEPARTMENT OF CORRECTIONS, DEPARTMENT OF PUBLIC SAFETY, STATE LAW ENFORCEMENT DIVISION, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF INSURANCE, DEPARTMENT OF REVENUE, AND DEPARTMENT OF EMPLOYMENT AND WORKFORCE- Reach agreement on set data standards for criminal justice entities.

During the study, Court Administration personnel expressed a desire to “engage South Carolina’s state agencies on a set of data standards, such as those defined by the National Center for State Courts, that are comparable across state agencies and state courts.”⁹⁹ This may assist in the wholesale connection of data for efficient analysis and information sharing across the criminal justice system, as opposed to only within certain aspects of the system.

As the Attorney General serves as South Carolina’s chief prosecutor, this recommendation requests his office lead this collaboration effort among the various executive agencies.¹⁰⁰

RECOMMENDATION #13. Link Attorney General’s Office and circuit solicitor case management systems.

As discussed in Finding #2, the various state and local agencies comprising South Carolina’s criminal justice system have individual case management systems with varying levels of interaction with one another. For example, the sixteen solicitors’ offices do not all utilize the same type of case management system. Notably, the Prosecution Coordination Commission has “developed a long-range technology plan for the collection and reporting of information and data from” solicitors’ offices statewide.¹⁰¹ However, as discussed in Finding #15, the Attorney General is not a member of the Prosecution Coordination Commission.

During the study, agency personnel noted the Attorney General’s Office is “seeking to develop a better case management system” that can connect with the different case management systems utilized by solicitors to electronically obtain information when necessary (e.g., appeals and conflict case transfers).¹⁰² This recommendation reflects support for the agency personnel’s ongoing efforts to collaborate with solicitors’ offices to ensure the new case management system can improve efficiency in the transfer of the information.

Law Enforcement

The Subcommittee makes two recommendations relating to law enforcement issues, and a summary is in Table 7.

Table 7. Summary of law enforcement issues recommendations

REVIEWS	14. Discuss feasibility of a uniform statewide process for officer involved shooting reviews. ^{Accountability;}
TRAINING	15. Determine feasibility of a central learning portal. ^{Effectiveness; See Finding #3}

RECOMMENDATION #14. Discuss feasibility of a uniform statewide process for officer involved shooting reviews.

As discussed in Finding #11, presently there is no uniform process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths. According to Attorney General personnel,

Currently, solicitors have the discretion to review officer involved shootings themselves, request transfer of review of the case to the Attorney General’s Office, or request transfer of review of the case to another solicitor. Some solicitors have adopted a policy that all officer involved shootings that occur in their jurisdiction will be reviewed by the Attorney General’s Office.¹⁰³

During the study, agency personnel noted two potential benefits of a uniform, statewide process. First, “[t]his would allow for record keeping as to what the trends are showing in these cases that could facilitate training,” and second this would create “the ability to create awareness among law enforcement and the community of what happens in these cases and how they are handled.”¹⁰⁴

Also, “[i]t is the position of the Attorney General’s Office that at a minimum, all officer involved shootings that result in injury or death should be reviewed by the Attorney General’s Office.”¹⁰⁵ According to agency personnel, benefits of this setup may include, review of all cases “using the same process by attorneys who have specialized training in the subject matter and who have reviewed hundreds of these cases,” as well as, “public perception of any bias in review would

be minimized since these attorneys would not be reviewing the actions of law enforcement officers with whom they work closely on a regular basis.”¹⁰⁶

Accordingly, this recommendation requests agency personnel discuss with personnel from the Law Enforcement Training Council and Commission on Prosecution Coordination the pros and cons of creating a statewide uniform system for review of officer involved shootings. Within a year, Attorney General Office personnel are asked to report to the Committee on the information gathered, discussion, and any decisions made.

RECOMMENDATION #15. Determine feasibility of a central learning portal.

Personnel with the Attorney General’s Office offer trainings on diverse topics (e.g., human trafficking, postconviction relief, victim services, prosecution, criminal appeals, capital litigation, securities, etc.).¹⁰⁷

This recommendation requests agency personnel collaborate with other stakeholder (e.g., Law Enforcement Training Council and Criminal Justice Academy, Department of Administration, etc.) personnel about the feasibility of having a central portal in which state employees may access applicable criminal justice related training videos. A part of this collaboration discussion topics may include, but are not limited to, creating a list of different trainings available from the various agencies and, for each, intended audience, frequency in which updates are necessary. Within a year, Attorney General Office personnel should report to the Committee on the information gathered, discussion, and any decisions made.

State Employees

The Subcommittee makes one recommendation to improve the state employee performance management system, and a summary is in Table 8.

Table 8. Summary of recommendation to improve the state employee performance management system

STATE EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM	16. Department of Administration - Improve meaning and usability of Employee Performance Management System. ^{Effectiveness; See Finding #8}
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RECOMMENDATION #16. DEPARTMENT OF ADMINISTRATION - Improve meaning and usability of Employee Performance Management System.

The Employee Performance Management System (EPMS) is a “management tool used to formally document an employee’s performance.”¹⁰⁸ Generally, the system has three levels of performance: exceptional, successful, and unsuccessful. During the study, inquiry was made to the Department of Administration (DOA) about this process, and DOA personnel noted a

“successful by default” rating is generated “after an administrative period of 30 days has lapsed without a EMPS rating being entered for an employee.”¹⁰⁹ Figure 16 shows improvement and decline by some agencies in providing annual employee reviews (i.e., “successful by default” percentage reflects employees not receiving reviews). DOA personnel noted the “successful by default” rating avoids penalizing [e.g., reduction in force plans include

“Successful by default” percentage for past 5 years					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	July 25 2022
Attorney General’s Office	1.7%	3.2%	0.0%	1.6%	1.2%
Improving:					
Adjutant General’s Office	25.2%	28.4%	20.2%	14.2%	6.1%
Department of Disabilities and Special Needs	38.3%	14.7%	11.5%	12.3%	10.4%
Declining:					
Commission of Minority Affairs	9.1%	16.7%	50.0%	80.0%	80.0%
Public Service Commission	7.1%	11.1%	53.9%	66.7%	61.5%

Figure 16. Improvement and decline by some agencies in providing annual employee reviews (i.e., “successful by default” percentage reflects employees not receiving reviews)

performance review ratings in the calculations] the employee for a situation beyond their control.”¹¹⁰ However, potentially, this may create an inaccurate perception that the employee’s performance was successful.

During the study, Attorney General Office personnel had recommendations for EPMS improvement. One of these related to technology updates to streamline the workflow process involved in the review (e.g., automatic uploads of the rating and updated review dates).¹¹¹

Notably, DOA personnel indicated “[t]he EPMS process is currently under review to make the process more meaningful and user friendly.”¹¹² This recommendation requests DOA personnel provide the Committee with the agency’s timeline for this continual improvement initiative.

Specialized Prosecutions

The Subcommittee makes three recommendations to encourage collaboration with other state agencies for specialized prosecutions, and a summary is in Table 9.

Table 9. Summary of collaborations with other state agencies for specialized prosecutions

DEPARTMENT OF SOCIAL SERVICES	17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution. ^{Efficiency}
DEPARTMENT OF HEALTH AND HUMAN SERVICES	18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution. ^{Efficiency}

RECOMMENDATION #17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution.

This recommendation requests personnel with the Attorney General's Office meet with personnel from the Department of Social Services to discuss the potential benefits of the Department of Social Services referring Supplemental Nutrition Assistance Program (SNAP) fraud cases to the Attorney General's Office. There was a previous collaboration during the tenure of a prior Department of Social Services director.¹¹³ During the study, some potential benefits (e.g., expertise, focus, coordination with federal partners, creation of a task force, and generation of cases against retailers) to having a SNAP unit with the Attorney General's Office were identified.¹¹⁴ Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion and decisions made.

RECOMMENDATION #18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution.

This recommendation requests personnel with the Attorney General's Office meet with personnel from the Department of Health and Human Services to analyze the effectiveness of the current process for Medicaid recipient fraud prosecution. During the study, it was noted that some difficulties (e.g., differing priorities and understandings) may be resolved through increased communication among personnel at both agencies.¹¹⁵ The purpose of the discussion is to determine if any changes may be warranted to improve the overall effectiveness of the investigation and prosecution. Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion and decisions made.

RECOMMENDATION #19. Determine appropriate parties for regulation versus prosecution of money services businesses.

This recommendation requests personnel with the Attorney General's Office collaborate with personnel from the State Board of Financial Institutions and State Treasurer's Office to determine the entity in which certain aspects of the state's Anti-Money Laundering Act is best suited (i.e., administration, as opposed to prosecution). During the study, Attorney General's Office personnel opined "[r]egulation under this act is more appropriately conducted by the state agency that currently regulates a similar industry . . ."¹¹⁶ Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion, decisions, and any consensus recommendations to the General Assembly.¹¹⁷

Laws

General Recommendations

The Subcommittee makes several general recommendations for revisions to state law, and a summary is in Table 10. These are all to the General Assembly.

Table 10. Summary of general recommendations for revisions to state statutes

GENERAL	20. Consider eliminating bonds for positions or identify entity responsible for enforcement.
	21. Consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products.
	22. Consider increasing the limitation on tokens of recognition for state employees.
	23. Consider establishing a victim address confidentiality program.
	24. Consider updating statutes related to the Sexually Violent Predator Act.
	25. Consider establishing a federal Department of Health and Human Services Office of the Inspector General approved False Claims Act.
	26. Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.
	27. Consider updating statutes to add a fentanyl trafficking provision.
	28. Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.
	STATE GRAND JURY
29. Consider updating statutes related to venue for State Grand Jury cases.	
30. Consider updating statutes to enable more potential State Grand Jury review of cases with possible health effects on the community.	

Table Note: All of these recommendations are to the General Assembly.

RECOMMENDATION #20. GENERAL ASSEMBLY- Consider eliminating bonds for positions or identify entity responsible for enforcement.

The General Assembly may wish to consider eliminating bonds for positions or identify an entity responsible for enforcement.

Figure 17 illustrates the bond process for election winners and how three different agencies, including the Attorney General’s Office, are involved. S.C. Code Sections 8-3-60 and 8-3-70 provide penalties for assuming office without posting the required bonds which include “not entitled to receive any pay,” being “guilty of a misdemeanor,” and being “subject to a fine of five hundred dollars or imprisonment for not less than three months, in the discretion of the court.”

During the study, inquiry was made to the Secretary of State’s Office about reporting by the various positions required by state statute to post bond before assuming duties of office.¹¹⁸ Figure 18 reflects compliance with reporting is limited, and thus, actual compliance is questionable.

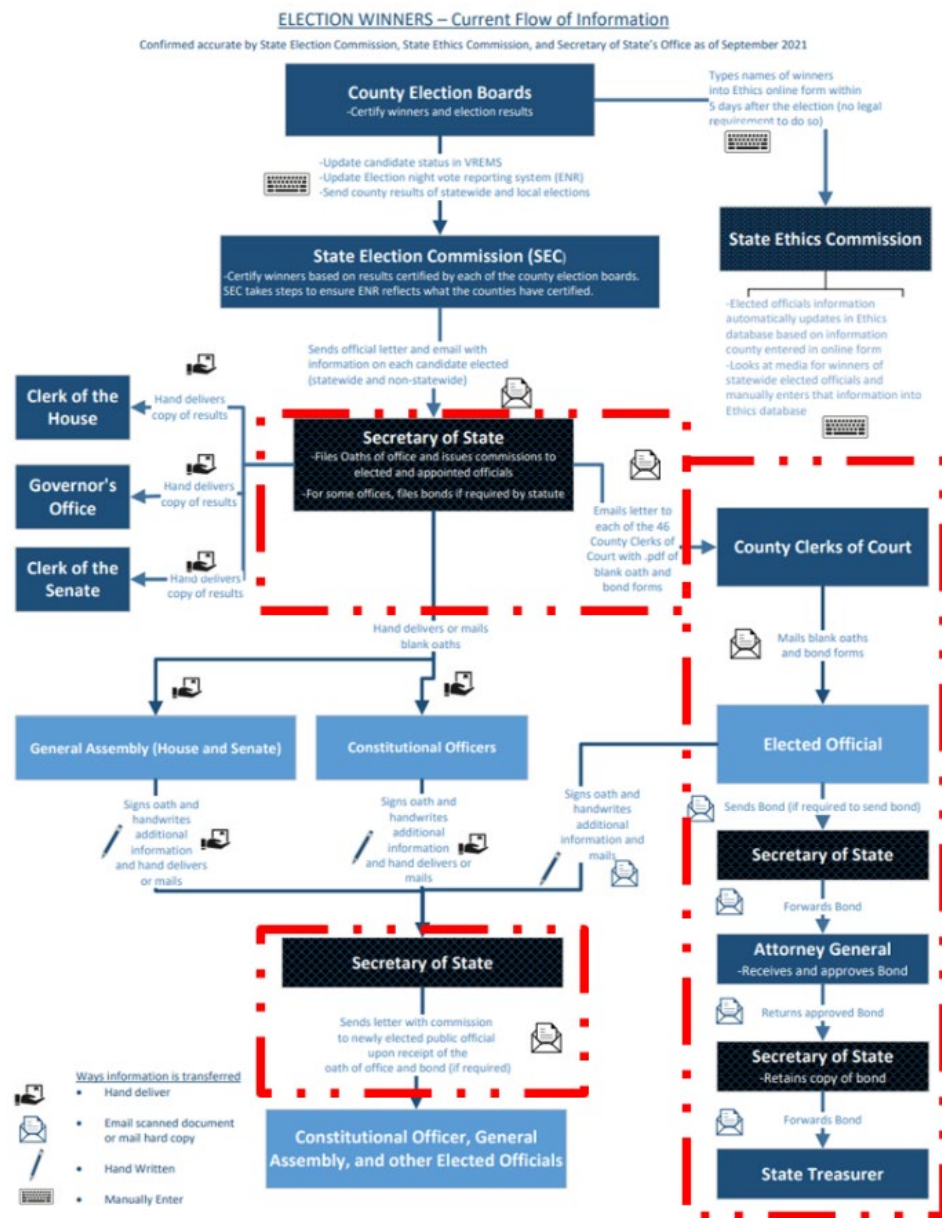


Figure 17. Bond process for election winners is noted in the red¹¹⁹

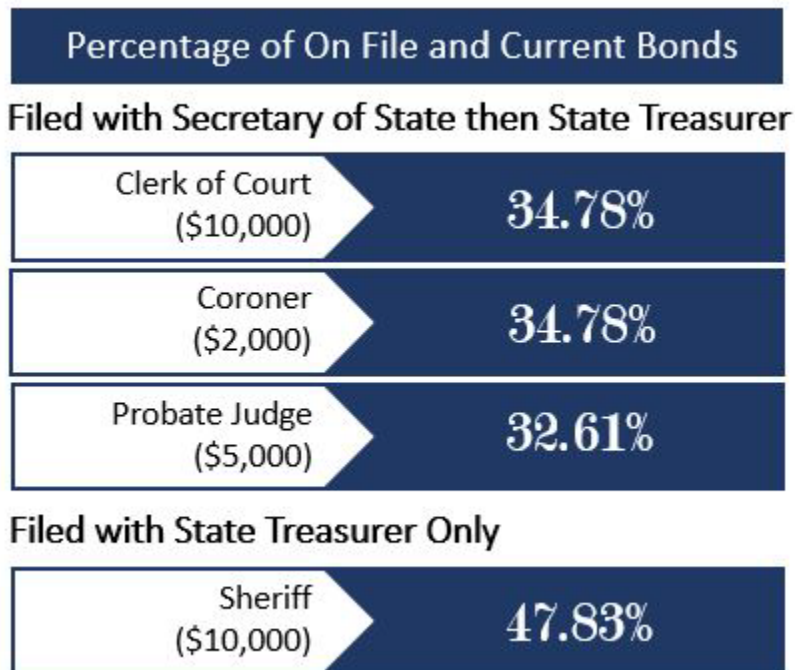


Figure 18. Aggregate data from the Secretary of State’s Office pertaining to bond filings for county officials¹²⁰

Notably, records from the Secretary of State’s Office indicate only one in every three clerks of court, coroners, and probate judges have the required bond current and on file. Additionally, less than 50% of sheriff’s have their required bond current and on file.¹²¹

Identifying a specific entity responsible for enforcement may increase compliance. However, the requirement of posting a bond by an elected official is an old concept that may no longer be necessary as explained by Attorney General’s Office personnel.

The term “bond” is very broad and encompasses a number of different types of bond. Generally, the bond is required of officers to provide a source of recovery for certain acts of the person being bonded. It may also be an old concept, whereby if a person of low moral or ethical background was elected or appointed to office, the inability to be bonded would preclude the individual from taking that seat and having the ability to act nefariously. In this context, we believe the bond is referred to as a “fidelity bond,” or covering the government or others for the official’s potential embezzlement, larceny, or gross negligence in the position of trust with the government. This may have been necessary when sovereign immunity protected government officials except for extreme circumstances. With a Tort Claims Act which is a relatively modern introduction, the Act allows limited circumstances and period to sue the government for a lesser threshold. Therefore, the underlying need for the bond may no longer exist.¹²²

The House Legislative Oversight Committee also recommended modernization of laws relating to the bond of an agency head in its 2017 study of the Department of Agriculture.¹²³

RECOMMENDATION #22. GENERAL ASSEMBLY- Consider increasing the limitation on tokens of recognition for state employees.

During this study, and in other studies, agency leadership identified employee retention and recruitment as an issue. Competitive wages are essential to building and maintaining a tenured staff. The Department of Administration’s website includes examples of compensation options (e.g., additional skills/knowledge increases, etc.) available to state agencies.¹²⁹ Agency leadership should use the levers within their control to address and reduce turnover.

One of those levers is employee recognition efforts, which the Attorney General Office utilizes. To maximize the impact on agency retention efforts, the General Assembly may wish to consider amending S.C. Code Section 8-1-180 to increase the limitation on tokens of recognition and other rewards for state employees (e.g., increase \$50 to \$150).¹³⁰ The current “\$50 limit on the amount that can be spent on each employee per award” has not been increased in almost three decades.¹³¹ As noted in the 2022 studies of the Attorney General’s Office and Department of Health and Human Services, a reasonable recognition program may help with employee retention efforts. However, as Attorney General’s Office personnel noted the “actual amount limited by the state is not just modest, but trivial.”¹³²

RECOMMENDATION #23. GENERAL ASSEMBLY- Consider establishing a victim address confidentiality program.

The General Assembly may wish to consider creating a victim address confidentiality program, which “[p]rotects the location of victims of domestic and sexual violence, stalking, and human trafficking forced to flee abusive and dangerous situations.”¹³³ During the study, agency personnel noted South Carolina is one of only 12 states without a program that allows victims to receive mail at a confidential address and not disclose their actual address in public records.¹³⁴ Figure 20 shows the states that have enacted an address confidentiality program.¹³⁵ During the study, inquiry was made about the potential fiscal impact of creation of a victim address confidentiality program, and agency personnel noted that North Carolina administers their program with one full time employee and associated administrative costs (e.g., postage, etc.).¹³⁶

Flow charts outlining the Sexually Violent Predator process are included in Appendix A.

Table 11. Attorney General Office personnel's proposed revisions to South Carolina's Sexually Violent Predator Act¹⁴⁰

<p>Section 44-48-30 (new item)</p>	<p>“() ‘Resident’ means a person who has been committed as a sexually violent predator for the purposes of long-term control, care, and treatment.”</p>
<p>Section 44-48-30(9)</p>	<p>“(9) ‘Likely to engage in acts of sexual violence’ means <u>that a person is predisposed to engage in acts of sexual violence and more probably than not will engage in the</u> person’s propensity to commit acts of sexual violence is of to such a degree as to pose a menace to the health and safety of others.”</p>
<p>Section 44-48-40(B)</p>	<p>“(B) If a person has been convicted of a sexually violent offense and the Board of Probation, Parole and Pardon Services or the Board of Juvenile Parole intends to grant the person a parole or the South Carolina Department of Corrections or the Board of Juvenile Parole intends to grant the person a conditional release <u>or supervised re-entry</u>, <u>then the parole, or the conditional release, or the supervised re-entry</u> must be granted to be effective one hundred eighty days after the date of the order of parole, or conditional release, <u>or supervised re-entry</u>. The Board of Probation, Parole and Pardon Services, the Board of Juvenile Parole, or the South Carolina Department of Corrections immediately must send notice of the parole, or conditional release, <u>or supervised re-entry</u> of the person to the multidisciplinary team, the victim, and the Attorney General. If the person is determined to be a sexually violent predator pursuant to this chapter, <u>then</u> the person is subject to the provisions of this chapter even though the person has been released on parole, or conditional release, <u>or supervised re-entry</u>.”</p>
<p>Section 44-48-50</p>	<p>“Section 44-48-50. <u>(A)</u> The Director of the Department of Corrections must appoint a multidisciplinary team to review the records of each person referred to the team pursuant to Section 44-48-40. These records may include, but are not limited to, the person’s criminal offense record, any relevant medical and psychological records, treatment records, victim’s impact statement, and any disciplinary or other records formulated during confinement or supervision. The team, within thirty days of receiving notice as provided for in Section 44-48-40, must assess whether or not <u>there is probable cause to believe</u> the person satisfies the definition of a sexually violent predator. If it is determined <u>that probable cause does exist</u> that the person satisfies the definition of a sexually violent predator, <u>then</u> the multidisciplinary team must forward a report of the assessment to the prosecutor’s review committee and notify the victim. The assessment must be accompanied by all records relevant to the assessment. Membership of the team must include:</p> <ol style="list-style-type: none"> (1) a representative from the Department of Corrections; (2) a representative from the Department of Probation, Parole and Pardon Services; (3) a representative from the Department of Mental Health who is a trained, qualified mental health clinician with <u>education, training, or experience in assessing, examining, or treating sex</u> expertise in treating sexually violent offenders; (4) a retired judge appointed by the Chief Justice who is eligible for continued judicial service pursuant to Section 2-19-100; and (5) an attorney with substantial experience in the practice of criminal defense law to be appointed by the Chief Justice to serve a term of one year.

	<p>(B) The Director of the Department of Corrections or his designee appointed pursuant to item (1) <u>subsection (A)(1)</u> shall be the chairman of the team.”</p>
<p>Section 44-48-80(D)</p>	<p>“(D) If the probable cause determination is made, <u>then</u> the court must direct that, upon completion of the criminal sentence, the person must be transferred to a local or regional detention facility pending <u>the</u> conclusion of the proceedings under this chapter. The court must further direct that the person be transported to an appropriate facility of the South Carolina Department of Mental Health for an evaluation as to whether the person is a sexually violent predator <u>and must order the person to comply with all testing and assessments deemed necessary by a court-appointed evaluator. The evaluation must be conducted by a qualified expert appointed by the court at the probable cause hearing.</u> The expert <u>court-appointed evaluator</u> must complete the evaluation within sixty <u>ninety</u> days after the <u>Department of Mental Health provides written certification to the Attorney General’s Office and the person’s legal counsel that it has received all medical, psychological, criminal offense, and disciplinary records and reports concerning the person but not greater than one hundred eighty days after the probable cause order is filed completion of the probable cause hearing.</u> The court may grant one extension upon request of the <u>court-appointed evaluator</u> expert and a showing of <u>good cause.</u> Any further extensions only may be granted for extraordinary circumstances. After the evaluation by the court-appointed evaluator, if the person or the Attorney General seeks an independent evaluation by a qualified independent evaluator, pursuant to Section 44-48-90(C), then that evaluation must be completed within ninety days after receipt of the report by the court-appointed evaluator. The court may grant an extension upon request of the independent evaluator and a showing of extraordinary circumstances. Any evaluator who will be submitted as an expert at either a hearing or trial must submit a written report available to both parties.”</p>
<p>Section 44-48-90(B) and (C)</p>	<p>“(B) Within thirty days after the determination of probable cause by the court pursuant to Section 44-48-80, the person or the Attorney General may request, in writing, that the trial be before a jury. If no request is made, the trial must be before a judge in the county where the offense was committed within ninety days of the date the <u>qualified independent evaluator requested by the person or Attorney General pursuant to Section 44-48-90(C)</u> court appointed expert <u>issues a report the evaluation</u> as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter, <u>and the case shall be treated as a priority case. If neither party seeks an independent evaluation a request is made, then the court trial must be schedule a trial</u> before a <u>judge, or a jury if a jury trial is requested,</u> in the county where the offense was committed within ninety days of the date the court appointed <u>evaluator</u> expert <u>issues the evaluation report</u> as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and only if the respondent will not be substantially prejudiced. <u>All cases pursuant to this chapter shall be given priority status for the purposes of scheduling any hearings and trials.</u> The Attorney General must notify the victim, in a timely manner, of the time, date, and location of the trial. At all stages of the proceedings under this chapter, a person subject to this chapter is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel <u>designated by the Office of Indigent Defense to handle sexual predator cases</u> to assist the person.</p>

	<p>(C) Upon receipt of the evaluation issued by the court appointed <u>evaluator expert</u> as to whether the person is a sexually violent predator pursuant to Section 44-48-80(D), the person or the Attorney General may retain a qualified <u>independent evaluator expert</u> to perform a subsequent examination. <u>If the court-appointed evaluator determines that the person is not a sexually violent predator, then the Attorney General, with notice to the person, may seek an independent evaluation pursuant to this section. If the court-appointed evaluator determines that the person is a sexually violent predator, then the person, with notice to the Attorney General, may seek an opinion by a qualified independent evaluator pursuant to this section. All examiners are permitted to have reasonable access to the person for the purpose of the examination, as well as access to all relevant medical, psychological, criminal offense, and disciplinary records and reports. In the case of an indigent person who requests would like an independent evaluator expert of his own choosing, the indigent person must file and serve upon the Attorney General a motion requesting payment and costs court must determine whether the services are necessary. The Attorney General shall have ten days from the date of service to file a response to the motion. If the court determines that the services are necessary and the expert's requested compensation for the <u>qualified independent evaluator services</u> is reasonable, <u>then</u> the court must assist the person in obtaining the <u>qualified independent evaluator expert</u> to perform an <u>evaluation examination</u> or participate in the trial on the person's behalf <u>and must approve all reasonable expenses associated with the evaluation. All evaluators are permitted to have reasonable access to the person for the purpose of the examination, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports.</u> The court shall <u>order must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person to comply with any testing and assessments deemed necessary by the evaluator for a thorough evaluation, and compensation received in the case or for the same services from any other source.</u>"</u></p>
Section 44-48-100(B)	<p>"(B) If the person charged with a sexually violent offense has been found incompetent to stand trial and is about to be released and the person's commitment is sought pursuant to subsection (A), <u>then</u> the court first shall <u>conduct a non-jury hearing, where it will</u> hear evidence and determine whether the person committed the act or acts with which he is charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal <u>hearings trials, except other than</u> the right not to be tried while incompetent <u>and the right to a jury trial</u>, apply. After hearing evidence on this issue, the court must make specific findings on whether the person committed the act or acts with which he is charged; the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; the extent to which the evidence could be reconstructed without the assistance of the person; and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds beyond a reasonable doubt that the person committed the act or acts with which he is charged, <u>then</u> the court must enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter."</p>
Section 44-48-110	<p>"Section 44-48-110. <u>(A)(1)</u> A <u>person resident</u> committed pursuant to this chapter must have an <u>evaluation examination</u> of his mental condition performed <u>by a Department of</u></p>

Mental Health-designated evaluator within one ~~once every~~ year from the filing date of the initial commitment order. Thereafter, a Department of Mental Health-designated evaluator will evaluate the resident's mental condition within one year after a pending review is resolved by a filed court order indicating:

(a) a finding of no probable cause;

(b) a waiver by the resident; or

(c) an order of continued commitment after a periodic review trial.

(2) The designated evaluator's report is admissible as evidence at any hearing and must be provided to the clerk of the court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, and the solicitor who prosecuted the resident.

(B) The resident ~~person~~ may retain or, if the resident ~~person~~ is indigent and so requests, the court may appoint a qualified evaluator ~~expert~~ to evaluate ~~examine~~ the resident ~~person~~, and the resident's evaluator ~~expert~~ must have reasonable access to all medical, psychological, criminal offense, ~~and~~ disciplinary, ~~and~~ treatment records and reports concerning the resident ~~person~~.

(C) The annual report must be provided to the court which committed the person pursuant to this chapter, the Attorney General, the solicitor who prosecuted the person, and the multidisciplinary team. The ~~After~~ the designated evaluator's report is filed, the court must conduct a ~~an~~ annual hearing to review the resident's status of the committed ~~person~~, unless the resident waives the hearing in writing. The committed person is not prohibited from petitioning the court for release at this hearing.

(D) The ~~Director of the~~ Department of Mental Health must provide the resident ~~committed person~~ with an annual written notice of the resident's ~~person's~~ right to petition the court for release ~~without the Department of Mental Health's authorization and over the director's objection; the notice must contain~~ a waiver of rights form, within one year of the last periodic review order or waiver of rights. The ~~department~~ director must forward the designated evaluator's report with the notice and waiver form to the clerk of court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, and the solicitor who prosecuted the resident ~~with the annual report~~.

(E) The resident ~~committed person~~ has a right to have an attorney represent him at the periodic review hearing, but the resident ~~committed person~~ is not entitled to be present at the hearing. The resident may only be present at the hearing upon issuance of a transport order received by the Department of Mental Health within not less than fifteen days of the hearing date. The Department of Mental Health-designated evaluator will only be required to be present at the hearing if subpoenaed by the resident's attorney in accordance with the South Carolina Rules of Civil Procedure.

(F) If the court determines that probable cause exists to believe that the resident's ~~person's~~ mental abnormality or personality disorder has so changed that the resident ~~person~~ is safe to be at large and, if released, is not likely to commit acts of sexual violence, the court must schedule a trial on the issue. At the trial, the resident ~~committed person~~ is entitled to be present ~~and~~ is entitled to the benefit of all constitutional protections that were afforded the resident ~~person~~ at the initial commitment proceeding. The Attorney General must notify the victim of all proceedings. The Attorney General must represent the State and has the right to have the resident ~~committed person~~ evaluated by a qualified evaluator ~~experts~~ chosen by the State. The trial must be before a jury if requested by either the resident ~~person~~, the Attorney General, or the solicitor. The resident ~~committed person~~ also has the right to have a qualified evaluator ~~experts~~ evaluate the resident ~~person~~ on the resident's ~~person's~~ behalf, and the court must appoint an evaluator ~~expert~~ if the resident ~~person~~ is indigent and requests the appointment. The burden of proof at the trial is upon the State to prove beyond a reasonable doubt that the resident's ~~committed person's~~ mental abnormality or personality disorder remains such that the

	<p>resident person is not safe to be at large and, if released, is likely to engage in acts of sexual violence.”</p>
<p>Chapter 48, Title 44</p>	<p>“Section 44-48-115. (A) A resident committed to the South Carolina Sexually Violent Predator Treatment Unit shall have the right to challenge the commitment and subsequent periodic reviews based on the ineffective assistance of counsel during the resident’s commitment trial or periodic review proceedings.</p> <p>(B) Petitions shall be filed in the original jurisdiction of the South Carolina Supreme Court under the South Carolina Appellate Court Rules within thirty days of the date that any appeals from the commitment or periodic review proceedings are final. Upon receipt of the petition, the Clerk of Court of the Supreme Court shall issue an order designating a circuit court or appellate court judge as a referee to make appropriate findings of fact and conclusions of law and shall report the findings and conclusions to the Supreme Court. The designated judge shall have the statewide authority to issue orders as necessary.</p> <p>(C) Except as provided in this chapter, the South Carolina Rules of Civil Procedure and the South Carolina Rules of Evidence apply to cases filed pursuant to this section, in evidentiary hearings before the designated hearing judge.</p> <p>(D) The named respondent shall be the Department of Mental Health. A copy of the petition shall be served on the Department of Mental Health and the South Carolina Attorney General’s Office.</p> <p>(E) Upon the filing of a petition alleging that the resident is indigent and desires appointed counsel, the designated judge shall appoint an attorney to represent the resident. Counsel shall be appointed from the contract attorney list of post-conviction counsel maintained by the South Carolina Commission on Indigent Defense, or such other list of attorneys as the Executive Director of the South Carolina Commission on Indigent Defense shall designate to the court. If no attorney is available from this list, then the designated circuit court judge shall appoint an attorney from the Appointment of Lawyers for Indigents. The designated judge shall not appoint an attorney who previously represented the resident in any prior criminal proceedings underlying the commitment or state post-conviction relief proceedings or appeals therefrom, in the original sexually violent predator civil commitment proceeding or appeal therefrom, or in any previous or present periodic reviews or appeals therefrom.</p> <p>(F)The designated judge shall authorize by court order to the particular county clerks of court the disclosure of any pleadings, evidence, transcript, or other document filed in any circuit court or appellate court clerk’s office of this State in any case in which the resident was a defendant, respondent, or party to a criminal action or an action under the Sexually Violent Predator Act that has been ordered sealed. These materials shall be unsealed for the limited purpose of providing items to appointed counsel for the resident, to the resident himself if he elects to proceed pro se, and the Department of Mental Health and its attorneys.</p> <p>(G) Regardless of whether the resident indicates that he has served the Department of Mental Health, the Clerk of Court of the South Carolina Supreme Court shall forward the filed petition and all accompanying papers to the Department of Mental Health’s Office of General Counsel as the agent for service of process for the Department of Mental Health, and a copy to the Attorney General’s office. The Department of Mental Health, through the Attorney General’s Office acting as its representative, shall file its responsive pleading within thirty days of receipt of the order appointing counsel, or within thirty days of the receipt of the petition if counsel is retained, or receipt of the petition if the resident is proceeding pro se without a request for counsel at the time of the filing.</p> <p>(H) In the event that a habeas petition alleging ineffective assistance of counsel claims relating to the resident’s commitment or periodic review is filed before the conclusion of</p>

	<p>the resident’s appeal therefrom, the Clerk of the Supreme Court shall dismiss the petition without prejudice and without requiring a response from the Department of Mental Health.</p> <p>(I) Within thirty days of assignment, the designated judge shall issue a scheduling order, including a discovery schedule and shall set a hearing within not more than one hundred eighty days from the filing of the petition. A final report to the Supreme Court shall be submitted within thirty days from the conclusion of the hearing, including findings of fact and conclusions of law pursuant to the standard set forth in <u>In the Matter of the Treatment and Care of Chapman</u>, 419 S.C. 172, 796 S.E.2d 843 (2017). This does not preclude the designated judge from recommending to the Supreme Court that the petition be denied on the basis of the pleadings without a hearing when appropriate upon motion by the Department of Mental Health.</p> <p>(J) Upon receipt of the findings and conclusions of the designated judge to the Supreme Court by the designated judge, the Clerk of the Supreme Court may set forth an appropriate briefing schedule. The clerk may consider expediting the matter to determine whether the writ of habeas corpus should be granted and the appropriate relief therefrom. The court may also issue, as appropriate, orders relating to whether intervening and on-going statutory status review proceedings or appeals therefrom are affected in any manner by the habeas corpus actions in its original jurisdiction.”</p>
<p>Section 44-48-120(B)</p>	<p>“(B) The court, upon receipt of the petition for release <u>filed pursuant to Section 44-48-120(A)</u>, must order a hearing within thirty days unless the Attorney General, <u>with notice to the resident</u>, requests an examination by a qualified <u>evaluator expert</u> as to whether the <u>resident’s petitioner’s</u> mental abnormality or personality disorder has so changed that the <u>resident petitioner</u> is safe to be at large and, if released, is not likely to commit acts of sexual violence, or the <u>resident petitioner</u> or the Attorney General requests a trial before a jury. The Attorney General must represent the State and has the right to have the <u>resident petitioner</u> examined by <u>a qualified evaluator experts</u> chosen by the State. If the <u>petition is filed with the authorization of the Department of Mental Health provided by this section</u>, then the <u>Department of Mental Health-designated evaluator shall appear as a witness at the hearing or trial</u>. If the Attorney General’s evaluator determines that the resident still meets the criteria for confinement as a sexually violent predator, then the resident may seek another evaluation at his own expense. All evaluators are permitted to have reasonable access to the person for the purpose of the examination, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports, and the court shall order the person to comply with any testing and assessments deemed necessary by an evaluator. Attorney General retains a qualified expert who concludes that the petitioner’s mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and, if released, is likely to commit acts of sexual violence, the petitioner may retain a qualified expert of his own choosing to perform a subsequent examination. In the case of an indigent petitioner who would like an expert of his own choosing, the court must determine whether the services are necessary. If the court determines that the services are necessary and the expert’s requested compensation for the services is reasonable, the court must assist the petitioner in obtaining the expert to perform an examination or participate in the hearing or trial on the petitioner’s behalf. The court must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the petitioner, and compensation received in the case or for the same services from any other source. The burden of proof is upon the Attorney General to show beyond a reasonable doubt that the <u>resident’s petitioner’s</u> mental abnormality</p>

	or personality disorder remains such that the <u>resident petitioner</u> is not safe to be at large and, that if released, is likely to commit acts of sexual violence. <u>All cases pursuant to this chapter shall be given priority status for the purposes of scheduling any hearings and trials.</u> ”
Section 44-48-150	“Section 44-48-150. Psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records, or victim impact statements which have been submitted to the court or admitted into evidence under this chapter must be part of the record, but must be sealed and opened only on order of the court. <u>Nothing in this section prohibits the release of records to the Attorney General and counsel of record for the person.</u> ”
Section 24-21-32(C)	“(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence-based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director. <u>However, if, under the Sexually Violent Predator Act, the multidisciplinary team finds probable cause to believe that an inmate is a sexually violent predator pursuant to Section 44-48-50, then the inmate is not eligible for the supervised re-entry program until resolution of the proceedings pursuant to the Sexually Violent Predator Act.</u> ”

RECOMMENDATION #25. GENERAL ASSEMBLY – Consider establishing a federal Health and Human Services Office of the Inspector General approved False Claims Act.

The General Assembly may wish to consider establishing an HHS-OIG (i.e., federal Health and Human Services Office of the Inspector General) approved False Claims Act (FCA). During the study, agency personnel note that ratifying an HHS-OIG approved FCA would generate more cases and increase

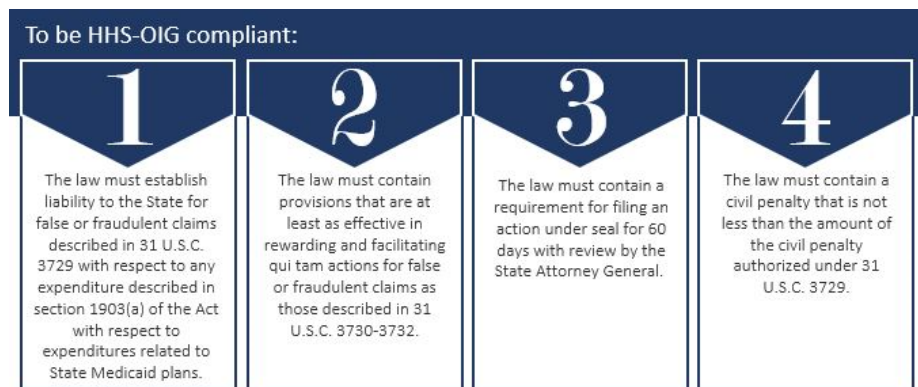


Figure 21: HHS-OIG compliant factors¹⁴¹

the opportunities to participate in national cases that are only open to states with FCA. This is a concept recommendation offered by Attorney General’s Office personnel for a “ ‘Medicaid Only’ False Claims Act that qualifies for the Section 1909 incentive, similar to that in Colorado, Georgia, Oklahoma, Texas, and Washington.”¹⁴² Also, agency personnel noted to be HHS-OIG

compliant the factors listed in Figure 21 must be present.¹⁴³ Other states with HHS-OIG approved laws include Florida, North Carolina, Tennessee, and Virginia.¹⁴⁴

RECOMMENDATION #26. GENERAL ASSEMBLY – Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.

The General Assembly may wish to consider providing Internet Crimes Against Children (ICAC) investigators at the Attorney General’s Office the power to subpoena subscriber information from internet and electronic service providers. During the study ICAC personnel opined:

The current process of requiring orders and search warrants slows law enforcement down dramatically. With over 3,000 cyber tips alone in the 2018-2019 fiscal year, each case requires law enforcement obtain an order or a search warrant from a circuit court judge.¹⁴⁵

Figure 22 illustrates the current process ICAC personnel follow to obtain subscriber information (e.g., subscriber name, address, length of service, account number, etc.).¹⁴⁶



Figure 22. Current process Internet Crimes Against Children personnel follow to obtain subscriber information (e.g., subscriber name, address, length of service, account number, etc.) as described by agency personnel¹⁴⁷

RECOMMENDATION #27. GENERAL ASSEMBLY – Consider updating statute to add a fentanyl trafficking provision.

Currently, South Carolina does not have a fentanyl trafficking provision in statute.¹⁴⁸

During the study, agency personnel note the “availability of imported and cheap fentanyl is fueling the opiate epidemic.”¹⁴⁹ Accordingly, the General Assembly may wish to consider adding a specific subsection of the statute defining a fentanyl related substance, the penalty for each subsequent offense, and the weight for different charges. Table 12 includes agency personnel’s suggested revisions.

Table 12. Attorney General Office personnel’s proposed revisions to South Carolina Code Sections 44-53-190 and Section 44-53-370¹⁵⁰

<p>Section 44-53-190(B) (new item)</p>	<p>(). Fentanyl-related substance. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:</p> <p>(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;</p> <p>(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;</p> <p>(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;</p> <p>(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or</p> <p>(E) Replacement of the N-propionyl group by another acyl group.</p> <p>This definition includes, but is not limited to, the following substances: <u>Methylacetyl fentanyl, Alpha-methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta-hydroxyfentanyl, Beta-hydroxy-3-methylfentanyl, 3-Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetylfentanyl, Butyrylfentanyl, Beta-Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl Fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fenantyl,</u></p>
<p>Section 44-53-370(e)(3)</p>	<p>“(3) four grams or more of any morphine, opium <u>opiate</u>, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44-53-190 or 44-53-210, <u>or four grams or more of any fentanyl or fentanyl-related substance as described in Section 44-53-190 or 44-53-210,</u> or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as “trafficking in illegal drugs” and, upon conviction, must be punished as follows if the quantity involved is:</p> <p>(a) for a first offense, a term of imprisonment of not more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;</p>

(b) for a second or subsequent offense, a term of imprisonment of not more than thirty years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(c) for an offense that results in a fatal overdose, the term of imprisonment must be increased by an additional sentence of up to twenty years to run consecutively.”

RECOMMENDATION #28. GENERAL ASSEMBLY- Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.

As background, both code sections were originally enacted in the 1990s about seven years apart.¹⁵¹ S.C. Code Section 44-35-85 is the later enacted provision as amendments were last made in 2010.¹⁵² Listed below is a comparison of the two statutes as provided by agency personnel.¹⁵³

Ramifications/Similarities: The incarceration periods and fines provided in section 43-35-85 are identical to those in section 16-3-1050. Both section 16-3-1050(F) and section 43-35-85(F) are classified as serious offenses to qualify for life without parole under the two or three strikes statute of section 17-25-45(C)(2).

Ramifications/Differences: Sections 43-35-85(E) and (F) are both designated violent crimes under section 16-1-60 of the South Carolina Code. However, the corresponding crimes found in sections 16-3-1050(E) and (F) are not designated violent crimes. Section 43-35-85(E) is classified by statute as a serious offense, but the corresponding section 16-3-1050(E) is not specifically listed and so would not be considered a serious offense for calculation of strikes for life without parole under 17-25-45(C). The final difference, mentioned previously, is that section 16-3-1050(A) retains the provision allowing for disciplinary action while that provision was removed from section 43-35-85(A).¹⁵⁴

RECOMMENDATION #29. GENERAL ASSEMBLY- Consider updating statutes related to venue for State Grand Jury cases.

Current law states State Grand Jury (SGJ) charges should be venued (i.e., heard) in the county where appropriate. As noted by Attorney General’s Office personnel in the agency’s Program Evaluation Report submitted to the Committee, “crime often transcends county lines.”¹⁵⁵ The General Assembly may wish to consider amending state statute to allow related charges indicted by the SGJ to be tried together in one county where at least one of the related charges occurred (i.e., allow all related crimes of a multi-county criminal enterprise or spree to be tried together in one county). Table 13 includes agency personnel’s suggested revisions to update S.C. Code Section 14-7-1750.¹⁵⁶ The General Assembly may wish to consider their proposal.

Table 13. Attorney General Office personnel's proposed revisions to S.C. Code Section 14-7-1750¹⁵⁷

SECTION 14-7-1750	<p>In order to return a "true bill" of indictment, twelve or more state grand jurors must find that probable cause exists for the indictment and vote in favor of it. Upon indictment by a state grand jury, the indictment must be returned to the presiding judge. If the presiding judge considers the indictment to be within the authority of the state grand jury and otherwise in accordance with the provisions of this article, he shall return the indictment by order to the county where venue is appropriate under South Carolina law for prosecution by the Attorney General or his designee; <u>provided, however, that related offenses indicted by the State Grand Jury which occurred in different counties may be tried together in one of the counties in which at least one of the related offenses occurred, and venue shall not be a basis for acquittal in such a circumstance as long as venue was appropriate for at least one of the related offenses in the county in which the trial occurred.</u> The presiding judge may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon, the clerk of the state grand jury shall seal the indictment, and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant.</p>
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RECOMMENDATION #30. GENERAL ASSEMBLY- Consider updating statute to enable more potential State Grand Jury review of cases with possible health effects on the community.

For the State Grand Jury to review cases with possible health effects on the community, current law requires a \$2M threshold as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control (DHEC).¹⁵⁸ During the study, agency personnel note lowering the threshold, but maintaining a significant amount (e.g., \$500,000), and providing that certification can be done by any “environmental engineer,” may enable more cases for possible State Grand Jury review that have possible health effects on the community.¹⁵⁹ In particular, the agency noted it is difficult to find someone in state who meets the definition of “independent environmental engineer.”¹⁶⁰ During the study, agency personnel testified that DHEC personnel agree with the recommended law change.¹⁶¹

Table 14 includes agency personnel’s suggested revisions to update S.C. Code Section 14-7-1630(A)(12).¹⁶² The General Assembly may wish to consider their proposal.

Table 14. Attorney General Office personnel's proposed revisions to S.C. Code Section 14-7-1630(A)(12)¹⁶³

SECTION 14-7-1630(A)(12)	<p>(12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or</p>
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	conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages including, but not limited to, the cost of remediation, are one two million dollars or more, as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control. If the knowing and wilful crime is a violation of federal law, then a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section.
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Modernization – Repeal Recommendations

The Committee’s review process provided an opportunity for agency personnel to offer suggestions to streamline the agency’s statutory framework. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel, which are summarized in Table 15.

Table 15. Summary of modernization recommendations to repeal statutes, which were requested by the Attorney General’s Office

MODERNIZATION- REPEAL	<p>31. Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General’s Office.</p> <p>32. Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General’s Office devolved to another state agency.</p> <p>33. Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General’s Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.</p> <p>34. Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers’ bonds by the Attorney General.</p> <p>35. Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General’s “school safety phone line” when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.</p>
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Table Note: All of these recommendations are to the General Assembly.

RECOMMENDATION #31. GENERAL ASSEMBLY- Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General’s Office.

This is an inactive program. Additionally, agency personnel assert solicitors offer similar, local diversion programs for youthful offenders, and “[t]here is no incentive for the solicitor to use a statewide program when there are local programs available.”¹⁶⁴

RECOMMENDATION #32. GENERAL ASSEMBLY- Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General’s Office devolved to another state agency.

S.C. Code Section 1-7-117 inaccurately states the Division of the Public Charities of the Office of the Secretary of State are devolved upon the Attorney General’s Office. Two years after adoption of this provision, 1998 Act No. 368 returned these duties, functions, and responsibilities to the Secretary of State’s Office, where they remain.

RECOMMENDATION #33. GENERAL ASSEMBLY- Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General’s Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.

RECOMMENDATION #34. GENERAL ASSEMBLY- Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers’ bonds by the Attorney General.

Historically, the Attorney General’s Office was the only source of legal work for the state.¹⁶⁵ Recommendation #33 pertains to legal work for the Department of Mental Health. Likewise, Recommendation #34 relates to legal work for the Department of Education. Both the Department of Mental Health and the Department of Education employ attorneys.¹⁶⁶ Notably, the Attorney General approves the hiring of attorneys for executive branch agencies, and S.C. Code Section 1-7-160 provides that “[a]ll of these attorneys at all times are under the supervision and control of the Attorney General. . . .”

RECOMMENDATION #35. GENERAL ASSEMBLY- Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General’s “school safety phone line” when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.

This is a notification only statute (i.e., does not provide for any action by the Attorney General’s Office once notice is received). During the study, agency personnel stated, “It is a requirement of law enforcement who already have enough requirements without sending us notification.”¹⁶⁷

Modernization – Amend Recommendations

The Committee’s review process provided an opportunity for agency personnel to offer suggestions to update the agency’s statutory framework. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel, which are summarized in Table 16.

Table 16. Summary of modernization recommendations to amend statutes, which were requested by the Attorney General's Office

MODERNIZATION-AMEND	AGENCY OPERATIONS
	36. Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General's website to serve as notice to Department of Revenue and Secretary of State's Office.
	37. Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a "grandfather provision" exempting victim service providers employed prior to 2008 from taking a basic certification course.
	38. Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.
	STATUTE INCONSISTENCY
39. Consider amending S.C. Code Section 16-3-910 to delete the final phrase, "unless sentenced for murder as provided in Section 16-3-20." During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.17-12	
40. Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term "criminal offense" a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.	
TECHNICAL UPDATES	
41. Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading "except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)". S.C. Code Section 16-3-655(3) no longer exists.	
42. Consider amending S.C. Code Section 14-1-211.5 (A) and (B) to correct a reference (i.e., replace references to the "Department of Crime Victim Assistance Grants" with references to the "Department of Crime Victim Compensation").	
43. Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to "S.C. Code Section 16-3-1110(8)" with references to "S.C. Code Section 16-3-1110(9)").	
S.C. Code Section 16-3-1420	
44. Consider amending S.C. Code Section 16-3-1420(1)(b) by adding "mental health clinician licensed in South Carolina" to the list of exemptions of professionals that are not included in the definition of "victim service provider."	
45. Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).	

S.C. Code Section 16-3-1430

- 46. Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).
- 47. Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.
- 48. Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General’s Office and renamed the Department of Crime Victim Compensation.

Table Note: All of these recommendations are to the General Assembly.

Agency Operations

Recommendations #36 -38 are to the General Assembly requesting consideration of legislation to modernize statutes affecting agency operations. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

RECOMMENDATION #36. GENERAL ASSEMBLY- Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General’s website to serve as notice to Department of Revenue and Secretary of State’s Office.

RECOMMENDATION #37. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a “grandfather provision” exempting victim service providers employed prior to 2008 from taking a basic certification course.

RECOMMENDATION #38. GENERAL ASSEMBLY- Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.

Statute Inconsistency

Recommendations #39 and #40 request the General Assembly consider reviewing inconsistencies identified by agency personnel in statutes. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

RECOMMENDATION #39. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-910 to delete the final phrase, “unless sentenced for murder as provided in Section 16-3-20.” During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.

RECOMMENDATION #40. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term “criminal offense” a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.

Technical Updates

Recommendations #41 - #48 request the General Assembly consider making technical updates identified by agency personnel. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

RECOMMENDATION #41. GENERAL ASSEMBLY- Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading “except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)”. S.C. Code Section 16-3-655(3) no longer exists.

RECOMMENDATION #42. GENERAL ASSEMBLY- Consider amending S.C. Code Section 14-1-211.5 (A) and (B) to correct a reference (i.e., replace references to the “Department of Crime Victim Assistance Grants” with references to the “Department of Crime Victim Compensation”).

RECOMMENDATION #43. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to “S.C. Code Section 16-3-1110(8)” with references to “S.C. Code Section 16-3-1110(9)”).

S.C. Code Section 16-3-1420

RECOMMENDATION #44. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1420(1)(b) by adding “mental health clinician licensed in South Carolina” to the list of exemptions of professionals that are not included in the definition of “victim service provider.”

RECOMMENDATION #45. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).

S.C. Code Section 16-3-1430

RECOMMENDATION #46. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).

RECOMMENDATION #47. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.

RECOMMENDATION #48. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General’s Office and renamed the Department of Crime Victim Compensation.

Regulations

As part of the House Legislative Oversight Committee’s process, inquiry is made about the various laws, including regulations, that impact agency operation.

Table 17. Summary regulations

MODERNIZATION - REGULATIONS	49. Provide the House Regulations and Administrative Procedures Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.
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Table Note: This recommendation is to the House Legislative Oversight Committee.

RECOMMENDATION #49. HOUSE LEGISLATIVE OVERSIGHT COMMITTEE- Provide the House Regulations Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.

During the study, the Committee was informed that regulations pertaining to the now defunct Budget and Control Board remain in the Code of Regulations.

During the study process, there are two internal changes implemented relating to participation in the study process. Those changes are listed below.

Internal Changes Made by Attorney General's Office

1. Updated process for agency's internal regulations review.¹⁶⁸
2. Clarified language in the agency's litigation retention agreements.¹⁶⁹

SELECTED AGENCY INFORMATION

Attorney General’s Office. “Program Evaluation Report (PER) – Complete Report (March 9, 2020)”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20PER%20-%20Complete%20report.pdf>

Attorney General’s Office. “Restructuring and Seven-Year Plan Report, 2015.”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Attorney%20General.pdf>

Attorney General’s Office. “Agency Accountability Report, 2020-2021.”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/aar2021/E200.pdf>

S.C. House of Representatives, Legislative Oversight Committee. “Survey Results.”

https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public_Survey_Responses_2020.PDF

REPORT ACTIONS

FULL COMMITTEE OPTIONS STANDARD PRACTICE 27.2.3	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
<ul style="list-style-type: none"> (1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) Approve the Subcommittee’s study; or (3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight. 	<ul style="list-style-type: none"> Subcommittee study report available for consideration Subcommittee study presentation and discussion Approval of the Subcommittee’s study 	

APPENDIX A – CRIMINAL JUSTICE SYSTEM FLOW CHARTS

Flow charts and other information on the next pages are from the study of the Attorney General’s Office and other law enforcement agencies.¹⁷⁰ The information includes the following:

<p>Criminal Justice Process Overview</p> <ol style="list-style-type: none"> 1. Crime to Release 2. Sentencing to Release <p>Entities Involved and Representation</p> <ol style="list-style-type: none"> 3. Entities Involved 4. Who does each entity represent? 5. Who represents the state and offender in each step of prosecution and post-adjudication? <p>Prosecution</p> <ol style="list-style-type: none"> 6. Entry into System 7. Authority to Prosecute (Other Agencies) 8. Transferring Criminal Case: Solicitors and Attorney General 9. Officer Involved Shooting or Crime: Investigation and Prosecutor Review 10. Internet Crimes Against Children: Background, Terminology, and Case Flow 11. Medicaid Fraud Prosecution <ol style="list-style-type: none"> a. Recipient, Provider, and Patient Abuse 12. Insurance Fraud Prosecution 13. State Grand Jury Process: <ol style="list-style-type: none"> a. Investigation through Trial b. Jury Panel Selection c. Pre-Indictment Warrant and Bond Hearing 	<p>Post-Adjudication</p> <ol style="list-style-type: none"> 14. Criminal Appellate Process Overview 15. Murder Convictions <ol style="list-style-type: none"> a. Appeal and Post-Conviction Relief (PCR) Process 16. Non-death penalty conviction <ol style="list-style-type: none"> a. Appeal to S.C. Court of Appeals and S.C. Supreme Court a. PCR Action <ol style="list-style-type: none"> i. Overview, Summary Dismissal Track, Hearing Track ii. Appeal PCR Decision 17. Sexually Violent Predator Proceedings (Civil) <p>Civil Litigation</p> <ol style="list-style-type: none"> 18. Unfair Trade Practice and Antitrust: <ol style="list-style-type: none"> a. Sources and Stages of Case b. Private Action v. Enforcement Action 19. Nonprofit Corporation Investigation 20. Securities Enforcement Case 21. Money Services (e.g., Paypal, square, Coinbase crypto currency, etc.) 	<p>Victims</p> <ol style="list-style-type: none"> 22. Who is a victim? 23. Individuals on whom victims rely 24. How government entities share victim information 25. Government entities that contact the victim of a crime 26. Certifications applicable to those who serve crime victims 27. Crime victim service provider certification and class accreditation processes 28. Crime victim assistance grants (for entities that serve crime victims) 29. Crime victim compensation claim process 30. Crime victim ombudsman processes (referral, assist, and formal complaints) <p>State Government Hiring Attorneys</p> <ol style="list-style-type: none"> 31. In-house attorney (full-time employee) approval process 32. Contract attorney approval process
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Insert AG Process Charts PDF

Report Recommendation #31 - (Agency Law Change Recommendation #1)

LAW CHANGE #1 (Executive)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 63-19-1430. Youth Mentor Act.	<p><u>Current Law:</u> This was a small program established several administrations ago, and became formalized as part of an omnibus bill establishing the Children's Code (Title 63).</p> <p><u>Recommendation:</u> Delete this code section.</p>	Since its inception, it has become duplicative of existing programs. Other programs are grant based and have appropriate staff for such activities. It is better suited to local entities. There is no funding or separate FTEs, and it is ineffective at present and not suited for existing AG staff. At present the program is dormant.	N/A
Current Law Wording:			
SECTION 63-19-1430. Youth Mentor Act.			
<p>(A) This section may be cited as the "Youth Mentor Act".</p> <p>(B) The Attorney General's Office shall establish a Youth Mentor Program to serve juvenile offenders under the jurisdiction of the family court. The program shall consist of a church mentor program and a community mentor program. Participation in the program may be required as a pretrial diversion option by a solicitor or as an optional, alternative disposition by a family court judge. The circuit solicitor may charge a juvenile offender who participates in the Youth Mentor Program a fee to offset the actual cost of administering the program; however, no juvenile offender is barred from the program because of indigence. This program must be available for juveniles who commit nonviolent offenses. For purposes of this subsection, nonviolent offenses mean all offenses not listed in Section 16-1-60.</p> <p>(C) When a child is charged with a nonviolent offense which places him under the jurisdiction of the family court and the solicitor is of the opinion that justice would be better served if the child completed a church mentor program, the solicitor may divert the child to such a program. Upon completion of the program, the proceedings in family court must be dismissed.</p> <p>Participation in the church mentor program is voluntary, and the child or his parents or guardians may refuse to participate based upon their religious beliefs or for any other reason.</p> <p>The Attorney General must establish guidelines for the program, the mentors, and the churches, mosques, masjids, synagogues, and other religious organizations that participate in the church mentor program.</p> <p>(D) When a child is adjudicated delinquent for a nonviolent offense in family court, the family court judge may order the child to participate in the community mentor program. When a child is ordered to participate in the community mentor program, he must be assigned to a community organization which shall assign a mentor to the child. The mentor shall monitor the academic and personal development of the child for a minimum period of six months and a maximum period not exceeding one year as ordered by the court. Failure to complete the program shall result in the child being brought before the family court for appropriate sanctions or revocation of suspended commitment.</p> <p>The Attorney General must establish guidelines for the program, the mentors, and the community organizations that participate in the community mentor program.</p> <p>HISTORY: 2008 Act No. 361, Section 2.</p>			

Report Recommendation #32 - (Agency Law Change Recommendation #6)

LAW CHANGE # 6 (CPAT)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 1-7-117 - Duties of Division of Public Charities devolved upon Attorney General.	<p>Current Law: Devolved duties, functions, and responsibilities of the Public Charities Division to the Attorney General's Office in 1996.</p> <p>Recommendation: Repeal entire statute</p>	1998 Act No. 368 devolved the duties, functions, and responsibilities of the Public Charities Section of the Attorney General's Office upon the Secretary of State's Office on July 1, 1998. The Public Charities Division has remained with the Secretary of State's Office since that time, and Section 1-7-117 is no longer accurate.	<p>Other entities potentially impacted: Secretary of State</p> <p>NOTE: This issue was previously addressed in the Secretary of State's Legislative Oversight review. There is pending legislation for this correction</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 1-7-117. Duties of Division of Public Charities devolved upon Attorney General.</p> <p>(A) The duties, functions, and responsibilities of the Division of Public Charities of the office of the Secretary of State are devolved upon the Attorney General's office on July 1, 1996. All personnel, appropriations, and full-time equivalent positions of the Division of Public Charities also are transferred to the Attorney General's office on July 1, 1996.</p> <p>(B) The Attorney General shall administer the "South Carolina Solicitation of Charitable Funds Act" as contained in Chapter 56 of Title 33 of the 1976 Code.</p> <p>HISTORY: 1996 Act No. 458, Part II, Section 28A, B.</p>		<p>SECTION 1-7-117. Duties of Division of Public Charities devolved upon Attorney General.</p> <p>(A) The duties, functions, and responsibilities of the Division of Public Charities of the office of the Secretary of State are devolved upon the Attorney General's office on July 1, 1996. All personnel, appropriations, and full-time equivalent positions of the Division of Public Charities also are transferred to the Attorney General's office on July 1, 1996.</p> <p>(B) The Attorney General shall administer the "South Carolina Solicitation of Charitable Funds Act" as contained in Chapter 56 of Title 33 of the 1976 Code.</p> <p>HISTORY: 1996 Act No. 458, Part II, Section 28A, B.</p>	

Report Recommendation #33 - (Agency Law Change Recommendation #7)

LAW CHANGE #7 (CPAT)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 44-11-110. Easements and rights of way on grounds of facilities.	<p>Current Law: Requires written approval from the Attorney General for any grant of easements, permits or rights of way on, over or under the grounds of Department of Mental Health facilities.</p> <p>Recommendation: Repeal entire statute</p>	The Department of Mental Health has its own attorneys who are in a position to review and evaluate easements, permits, or rights of way	<p>Other entities potentially impacted:</p> <p>Department of Mental Health</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>Section 44-11-110. Easements and rights of way on grounds of facilities.</p> <p>Universal Citation: SC Code § 44-11-110 (2012)</p> <p>The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.</p> <p>HISTORY: 1962 Code Section 32-941; 1952 Code Sections 32-981, 32-982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. '22 Section 5107; Civ. C. '12 Section 3372; Civ. C. '02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.</p>		<p>Section 44-11-110. Easements and rights of way on grounds of facilities.</p> <p>Universal Citation: SC Code § 44-11-110 (2012)</p> <p>The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.</p> <p>HISTORY: 1962 Code Section 32-941; 1952 Code Sections 32-981, 32-982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. '22 Section 5107; Civ. C. '12 Section 3372; Civ. C. '02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.</p>	

Report Recommendation #34 - (Agency Law Change Recommendation #9)

LAW CHANGE # 9 (Opinions)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 59-31-560	<p>Current Law: "The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer."</p> <p>Recommendation: Remove requirement for Attorney General approval.</p>	<p>This statute was written over a century ago when the AG office was the only source of legal work for the state. It is an anachronistic formality in the modern era where the Dep't of Ed. employs attorneys.</p>	<p>Presented and approved by agency's governing body:</p> <p>Other entities potentially impacted: Department of Education</p> <p>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly: N/A</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>"The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer."</p>		<p>"The State Board of Education or its designee shall place in the custody of the State Treasurer any bond that is entered by the State and the publisher pursuant to S.C. Code Ann. §59-31-550(5)."</p>	

Report Recommendation #35 - (Agency Law Change Recommendation #27)

LAW CHANGE #27 (Sp Pros)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 59-63-350	<p>Current Law: Local law enforcement must call Attorney General's Office to tell about certain crimes occurring at school or at a school-sanctioned event</p> <p>Recommendation: Remove the statute</p>	This statute does not provide any action for the AG office. It is a requirement of law enforcement who already have enough requirements without sending us a notification. Other agencies get these reports and keep up with them.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.		Delete	

Report Recommendation #36 - (Agency Law Change Recommendation #2)

LAW CHANGE # 2 (Legal Services)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 35-1-604(f). Administrative Enforcement.	<p><u>Current Law:</u> In part, Subsection (f) requires that the Securities Commissioner forward final orders issued under §35-1-604 of the SC Uniform Securities Act of 2005 to the SC Department of Revenue and the SC Secretary of State.</p> <p><u>Recommendation:</u> Modify to delete the final sentence in this section requiring forwarding of final orders to the Department of Revenue and Secretary of State.</p>	The Department of Revenue and Secretary of State have indicated that they believe publication of final orders on our website sufficiently puts them on notice of an action. They do not object to this change.	Other entities potentially impacted: SC Department of Revenue, SC Secretary of State
<u>Current Law Wording</u>		<u>Proposed Revisions to Law Wording</u>	
SECTION 35-1-604. Administrative Enforcement.		SECTION 35-1-604. Administrative Enforcement.	
(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.		(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.	

Report Recommendation #37 - (Agency Law Change Recommendations #15 and 36)

LAW CHANGE #15 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 16-3-1050 S.C. Code Ann. § 43-35-85	<p>Current Law: Both of these statutes appear to criminalize the same acts. However, there are very different ramifications for violations based on which statute is used for charging.</p> <p>Recommendation: Review the two statutes, as well as the ramifications under sections 16-1-60, 17-25-45, 17-22-50, and 63-7-2350 to determine whether one statute needs to be amended or removed and to make the collateral consequences the same.</p>	A review of sections 16-3-1050 and 43-35-85 showed they penalized the same behaviors. However, they have different collateral consequences with one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent among other differences.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>S.C. Code Ann. § 16-3-1050</p> <p>(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.</p> <p>(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.</p> <p>(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.</p>		<p>S.C. Code Ann. § 16-3-1050</p> <p>Repealed (We ask that the Act repealing the statute contain a standard savings clause: The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.)</p> <p>(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.</p>	

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 43-35-85

Penalties

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a

~~(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.~~

~~(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.~~

~~(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.~~

~~(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.~~

~~(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.~~

~~(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.~~

~~(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.~~

~~As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.~~

Section 43-35-85

To amend the caption of the section to read:

Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

LAW CHANGE #36 (CVS)

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1410(C)(2)	<p><u>Current Law:</u> Victim Service Providers (VSP) employed on the effective date of this article are exempt from basic certification requirements, but must meet annual continuing education requirements.</p> <p><u>Recommendation:</u> Remove the first sentence of 16-3-1410(C)(2)</p>	<p>This was language from 2008 when VSP certification was first codified. VSPs employed prior to 2009 were “grandfathered” meaning they did not have to take the basic certification course. However, the law is not clear that this was for those employed as VSPs prior to 2009, and over a decade later the “grandfathering” process is no longer relevant.</p>	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>(2) Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification. Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.</p>		<p>(2) Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification. Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.</p>	

LAW CHANGE #16 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 17-13-140	<p>Current Law: Allows for law enforcement to obtain search warrants and allows for judges to issue search warrants for property within their jurisdiction, which would limit a magistrate to a county and a circuit court judge to statewide jurisdiction.</p> <p>Recommendation: The statute needs to be expanded to address today's digital age and allow a circuit court judge to issue a search warrant which would allow for access to digital or electronic data stored outside the state of South Carolina and be consistent with section 18 USC 2703 of the Stored Communications Act.</p>	Currently, it is questionable whether law enforcement has a means to obtain digital and electronic data stored outside the state of South Carolina by an entity such as Google or Facebook. It is possible law enforcement could obtain that information pursuant to the Federal Stored Communications Act, but it would be preferable to allow access under state law and section 17-13-140.	N/A
Current Law Wording:		Proposed Revisions to Law Wording:	
<p>Any magistrate or recorder or city judge having the powers of magistrates, or any judge of any court of record of the State having jurisdiction over the area where the property sought is located, may issue a search warrant to search for and seize (1) stolen or embezzled property; (2) property, the possession of which is unlawful; (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered; (4) property constituting evidence of crime or tending to show that a particular person committed a criminal offense; (5) any narcotic drugs, barbiturates, amphetamines or other drugs restricted to sale, possession, or use on prescription only, which are manufactured, possessed, controlled, sold, prescribed, administered, dispensed or compounded in violation of any of the laws of this State or of the United States.</p>		<p>Add a section to the current law allowing for circuit court judges to have jurisdiction to issue a warrant for digital or electronic evidence to the same extent and in the same manner as allowed under federal law pursuant to section 18 USC 2703. One possible reading which would be added as the second paragraph of the statute could be:</p> <p>In addition, any judge of any court of record of the State may issue a search warrant to search for and seize electronic or digital data or information from any provider of electronic communication services or remote computing services as defined in the Stored Communications Act at 18 U.S.C. §2701 et seq., even if such data or information is not located in South Carolina to the same extent allowed under federal law pursuant to section 18 U.S.C. § 2703. This authority extends to any data or information stored in the United States and its Territories, and any data or information stored by any business located in the United States and its Territories.</p>	

LAW CHANGE #12 (Cap Lit & Appeals)

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>S.C. § 16-3-910 Kidnapping</p>	<p><u>Current Law:</u> Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.</p> <p><u>Recommendation:</u> Remove the final phrase: "unless sentenced for murder as provided in Section 16-3-20."</p>	<p>The same result may be reached by designating concurrent service. Deleting the language leaves discretion with the sentencing judge to impose sentence as the crime demands.</p>	<p>Other entities potentially impacted: Crime Victims, Victim Services and Advocates</p>
<p>Current Law Wording</p>		<p>Proposed Revisions to Law Wording</p>	
<p>Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.</p>		<p>Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.</p>	

Report Recommendation #40 - (Agency Law Change Recommendation #41)

LAW CHANGE #41 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<u>§16-3-1510 (3)</u>	<p><u>Current Law:</u> The definition of “criminal offense” involving victim’s stolen or destroyed property includes a minimum dollar amount for losses. Criminal offense also excludes fraudulent checks or other offenses contained in Title 56 that do not involve personal injury or death.</p> <p><u>Recommendation:</u> Remove references to dollar amount, and the last sentences of both paragraphs in this section.</p>	<p>When the state amended the South Carolina Constitution to ratify legal rights for crime victims in 1998 (Act No. 343, “Victims’ Bill of Rights”), it superseded sections of <u>SC Code Ann. 16-3-1510(3)</u>, which had been enacted in 1997 (Act No. 141). Legislative amendments must be made to correct the statute to align with the Constitution, which is silent on any monetary amount to be lost, or type of crime to endure, to be legally identified as a crime victim in South Carolina.</p>	<p><u>Other entities potentially impacted:</u> Most agencies ignore this outdated statute. However, law enforcement and Solicitors’ Offices will likely support this clarification.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>(3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.</p> <p>For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.</p>		<p>3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or against the property of an individual when the value of the property is is stolen, damaged or destroyed. , or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.</p> <p>For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law. except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.</p>	

Report Recommendation #41 - (Agency Law Change Recommendation #14)

LAW CHANGE #14 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code § 17-25-45(C)(1)	<p><u>Current Law:</u> Includes as a most serious offense criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)</p> <p><u>Recommendation:</u> Remove the portion of the statute reading "except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)"</p>	Section 16-3-655(3) no longer exists after amendments to section 16-3-655 and the State Constitution was amended to remove the age of consent at 14, so the provision is no longer applicable and should be removed in its entirety.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>"Most serious offense" means: . . . 16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)</p>		<p>"Most serious offense" means: . . . 16-3-655 Criminal sexual conduct with minors</p>	

Report Recommendation #42 - (Agency Law Change Recommendation #34)

LAW CHANGE #34 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 14-1-211.5 Training and technical assistance.	<p><u>Current Law:</u> Assigns training and technical assistance for priority one and priority two funds to the Department of Crime Victim Assistance Grants</p> <p><u>Recommendation:</u> Attribute training and technical assistance for priority one and priority two funds to the Department of Crime Victim Compensation</p>	Section 14.1.211.5 (A) & (B) incorrectly attributes duties to the Department of Crime Victim Assistance Grants when those duties should be conferred upon the Department of Crime Victim Compensation. References to the Department of Crime Victim Assistance Grants should be replaced with the Department of Crime Victim Compensation.	N/A
<u>Current Law Wording:</u>		<u>Proposed Revisions to Law Wording:</u>	
SECTION 14-1-211.5. Training and technical assistance. The Department of Crime Victim Assistance Grants shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid. HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.A, eff July 1, 2017.		SECTION 14-1-211.5. Training and technical assistance. The Department of Crime Victim Assistance Grants <u>Department of Crime Victim Compensation</u> shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid. HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.A, eff July 1, 2017.	

Report Recommendation #43 - (Agency Law Change Recommendation #35)

LAW CHANGE #35 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1200	<p><u>Current Law:</u> References "victim" definition</p> <p><u>Recommendation:</u> Update to reference "intervenor" definition</p>	Section 16-3-1200 the statute refers to the intervenor and references Section (8) of Section 16-3-1110 which is the definitions section. The statute should refer to Section (9), which provides the definition for an "intervenor."	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 16-3-1200. Conduct of victim or intervenor contributing to infliction of injury; reduction of award; rejection of claim.</p> <p>In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) of Section 16-3-1110.</p> <p>HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.</p>		<p>SECTION 16-3-1200. Conduct of victim or intervenor contributing to infliction of injury; reduction of award; rejection of claim.</p> <p>In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) (9) of Section 16-3-1110.</p> <p>HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.</p>	

LAW CHANGE #37 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION: 16-3-1420(1)(b) SECTION: 16-3-1420(2)	<p>Current Law:</p> <p>1. The current law includes a listing of professionals that are not included in the definition of "Victim service provider" (VSP), we recommended adding "mental health clinician licensed in South Carolina" to this list of exemptions.</p> <p>2. The current law provides definitions for Victim Service Provider and Witness. The definition for Victim Service Provider is relevant to this section and the definition for Witness is not relevant to this section. The definition is actually verbatim in another code section where it is relevant (16-3-1510(4)).</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Add "mental health clinician licensed in South Carolina" to the existing list of exceptions in 16-3-1420(1)(b) 2. Remove 16-3-1420(2) regarding the definition of witness 	<p>1. There is precedent for adding exceptions to the definition of VSP through an amendment in 2010 which states that judges are not considered VSPs under this section (16-3-1420 (1)(B). Implementation over the past 10+ years leads us to recommend that licensed mental health clinicians should be added to this listing. Licensed mental health clinicians receive specialized training in their field of practice which does not always align with VSP training intended for advocates. We do not want the law to unintentionally put unnecessary requirements on unintended professions. This change would only be in reference to the definition of victim services provider in terms of certification.</p> <p>2. 16-3-1420(2) is out of place and likely was mistakenly placed in this section. The same language is referenced in 16-3-1510(4). There is no reference for "witness" in this 16-3-1420, so there is no need to define "witness" for the purposes of the article. It is recommended to remove this section from 16-3-1420.</p>	<p>Other entities potentially impacted: Agencies falling under (16-3-1420 (1)(B) that employ mental health clinicians licensed in South Carolina</p>
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 16-3-1420. Definitions. For purposes of this article: (1) "Victim service provider" means a person:		SECTION 16-3-1420. Definitions. For purposes of this article: (1) "Victim service provider" means a person:	
(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a		(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable	

certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.

HISTORY: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Formerly Section 16-3-1400, renumbered by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

Editor's Note

Prior Laws: Former Section 16-3-1420 was titled Director, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009.

organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a mental health clinician licensed in South Carolina, a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

~~(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.~~

HISTORY: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Formerly Section 16-3-1400, renumbered by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

Editor's Note

Prior Laws: Former Section 16-3-1420 was titled Director, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009.

LAW CHANGE #38 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
16-3-1430(A)(1)	<p><u>Current Law:</u> The Department of Crime Victim Services Training, Provider Certification and Statistical Analysis (CVST), in collaboration with the Department of Crime Victim Compensation (DCVC) is authorized contingent upon availability of funds from DCVC to provide various services.</p> <p><u>Recommendation:</u> Amend language for accuracy.</p>	<p>Some of the language is worded in a redundant and outdated manner.</p> <p>Recommended to remove redundant language and change "spouse abuse" to "domestic violence" to reflect current technical language.</p>	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation, is authorized to provide the following victim assistance services, contingent upon the availability of funds in the Victim Compensation Fund:</p> <p>(1) provide information, training, and technical assistance to state and local agencies and groups involved in victim and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters;</p> <p>(2) provide recommendations to the Governor and General Assembly on needed legislation and services for victims;</p> <p>(3) serve as a clearinghouse of victim information;</p> <p>(4) develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles;</p> <p>(5) provide staff support for a Victim Services Coordinating Council representative of all agencies and groups involved in victim and domestic violence services to improve coordination efforts, suggest policy and procedural improvements to those agencies and groups as needed, and recommend needed statutory changes to the General Assembly; and</p> <p>(6) coordinate the development and implementation of policy and guidelines for the treatment of victims with appropriate agencies.</p>		<p>(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation, is authorized to provide the following victim assistance services, contingent upon the availability of funds in the Victim Compensation Fund:</p> <p>(1) provide information, training, and technical assistance to state and local agencies and groups involved in victim and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse <u>domestic violence</u> shelters;</p> <p>(2) provide recommendations to the Governor and General Assembly on needed legislation and services for victims;</p> <p>(3) serve as a clearinghouse of victim information;</p> <p>(4) develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles;</p> <p>(5) provide staff support for a Victim Services Coordinating Council representative of all agencies and groups involved in victim and domestic violence services to improve coordination efforts, suggest policy and procedural improvements to those agencies and groups as needed, and recommend needed statutory changes to the General Assembly; and</p> <p>(6) coordinate the development and implementation of policy and guidelines for the treatment of victims with appropriate agencies.</p>	

Report Recommendation #47 - (Agency Law Change Recommendation #39)

LAW CHANGE #39 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1430 (B)(6)	<p><u>Current Law:</u> Lists three departments of the Crime Victim Services Division separately from the Ombudsman</p> <p><u>Recommendation:</u> Update the law to reflect the four departments of the Crime Victim Services Division</p>	(6) lists three departments and the Ombudsman, when actually Act 96 of 2017 established four departments, one of which was the Department of the Crime Victim Ombudsman (Section 1-7-1110 (A)(1). It is recommended that (6) be amended to read: the deputy directors of the four departments under the Office of the Attorney General, South Carolina Crime Victim Services Division.	N/A
<u>Current Law Wording:</u>		<u>Proposed Revisions to Law Wording:</u>	
(6) the deputy directors of the three departments and the ombudsman under the Office of the Attorney General, South Carolina Crime Victim Services Division;		(6) the deputy directors of the three departments and the ombudsman <u>departments</u> under the Office of the Attorney General, South Carolina Crime Victim Services Division;	

Report Recommendation #48 - (Agency Law Change Recommendation #40)

LAW CHANGE #40(CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1430 (B)(14)	<p><u>Current Law:</u> References the State Office of Victim Assistance</p> <p><u>Recommendation:</u> Move responsibility to the chair of the Victim Services Coordinating Council, who is also the Director of the Crime Victim Services Division</p>	Section 16-3-1430 (14) has the State Office of Victim Assistance listed as appointing three members to the Victim Services Coordinating Council. SOVA was the agency previously under the SCDOA until it was moved into the SCAG, Crime Victim Services Division, in July 2017 and renamed the Department of Crime Victim Compensation. It is recommended that the Chair of the Victim Services Coordinating Council, or the Attorney General, make these appointments.	<p><u>Other entities potentially impacted:</u> Victim Services Coordinating Council</p>
<u>Current Law Wording</u>		<u>Proposed Revisions to Law Wording</u>	
(14) three representatives appointed by the State Office of Victim Assistance for a term of two years and until their successors are appointed and qualified for each of the following categories:		(14) three representatives appointed by the State Office of Victim Assistance <u>chair of the Victim Services Coordinating Council</u> for a term of two years and until their successors are appointed and qualified for each of the following categories:	
(a) one representative of university or campus services;		(a) one representative of university or campus services;	
(b) one representative of a statewide child advocacy organization; and		(b) one representative of a statewide child advocacy organization; and	
(c) one crime victim; and		(c) one crime victim; and	

¹ Figure 1 is compiled from information in the Department of Commerce study materials available online under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and then under “Attorney General, Office of” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/AttorneyGeneral.php> (accessed September 21, 2022). Hereinafter, “Study Materials – Attorney General’s Office.”

² S.C. House of Representatives, House Legislative Oversight Committee, “Crime to Sentencing (Flow Chart),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Committee Studies of Agencies and Issues,” under “Flow Charts,” and under “Criminal Justice,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/CJ%201%20-%20Crime%20to%20Sentencing%20Flow%20Chart%20\(7.23.18\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/CJ%201%20-%20Crime%20to%20Sentencing%20Flow%20Chart%20(7.23.18).pdf) (accessed August 17, 2022). Hereinafter “Crime to Sentencing (Flow Chart).”

S.C. House of Representatives, House Legislative Oversight Committee, “Sentencing to Supervision to Release (Flow Chart),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Committee Studies of Agencies and Issues,” under “Flow Charts,” and under “Criminal Justice,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Crime%20-%20Sentencing%20to%20Supervision%20to%20Release%20Flow%20Chart%20\(8.18.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Crime%20-%20Sentencing%20to%20Supervision%20to%20Release%20Flow%20Chart%20(8.18.21).pdf) (accessed August 17, 2022). Hereinafter “Sentencing to Supervision to Release (Flow Chart).”

³ S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 13, 2022). See responses to questions #12 and #15. Hereinafter “Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022).”

⁴ S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Department of Probation, Parole and Pardon Services to Subcommittee (September 27, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Probation, Parole and Pardon, Department of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20\(9.27.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20(9.27.21).pdf) (accessed September 21, 2022). See responses to question #76 and Attachment Question 76-JRI Data sharing Grant Narrative.

⁵ Correspondence from Attorney General’s Office to Subcommittee (August 8, 2022). See response to question #17.

⁶ S.C. House of Representatives, House Legislative Oversight Committee, “Department of Probation, Parole and Pardon Services 2022 Study (Full Report),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Reports, Recommendations, and Implementation” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/4.27.22%20-%20PPP%20Full%20Committee%20Report.pdf> (accessed September 13, 2022). See finding #11. Hereinafter, “Department of Probation, Parole and Pardon Services 2022 Study (Full Report).”

⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #67.

⁸ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #67.

⁹ South Carolina Revenue and Fiscal Affairs Office, “RFA Public Dashboard,” https://public.tableau.com/views/RFAPublicDashboard/Household?%3Adisplay_count=no&%3AshowVizHome=no#1 (accessed September 13, 2022).

¹⁰ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #67.

¹¹ National Conference of State Legislatures, “Enhancing Victims’ Rights After Conviction (LegisBrief, June 2019, Vol. 27, No. 20) by Victor Palace, https://www.ncsl.org/Portals/1/Documents/legisbriefs/2019/JuneLBs/Victims-Rights_20.pdf (accessed September 13, 2022).

¹² South Carolina State Election Commission, “South Carolina Election Report, 1995-1996 (May, 1997),” https://scvotes.gov/wp-content/uploads/2022/08/Election_Report_1995-1996.pdf (accessed September 13, 2022). See page 70.

¹³ S.C. Const. art. 1, §24.

¹⁴ Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

¹⁵ Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

¹⁶ S.C. Const. art. 1, §24.

¹⁷ Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

¹⁸ Note: For example, it costs the Commission on Indigent Defense almost \$2 million annually in employee time manually entering information, that may be available directly from Court Administration, into the statewide public defender case management system (i.e., Defender Data). This occurs at two points in the criminal process: (1) when the file is opened (i.e., when defendant and charge identifiers are entered into Defender Data) and (2) when the case is closed (i.e., when information from the sentencing sheet is entered into Defender Data). If a defendant receives additional charges during the case, the information regarding those new charges is also manually entered into Defender Data. Two, information from a handwritten, sometimes difficult to read, form is transcribed manually by several agencies (e.g., solicitors’ offices, public defenders, SCDC, Department of Probation, Pardon, and Parole, and Department of Motor Vehicles) into different databases.

As another example, the Department of Probation, Parole and Pardon Services spends \$2.2 million annually for manual data reentry.

¹⁹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #8.

²⁰ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #8.

²¹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #8.

²² 2002 Act No. 339.

²³ 2002 Act No. 339, Section 21.

²⁴ S.C. Code Section 39-5-145(5)(a).

²⁵Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #125.

²⁶ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #125.

²⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #125.

²⁸ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

²⁹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

³⁰ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

³¹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

³² Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

³³ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #3.

³⁴ Note: Discussion about issues with employee retention and recruitment and occurred with agency personnel with the Department of Corrections; Department of Disabilities and Special Needs; Human Affairs Commission; Department of Health and Human Services; Department of Mental Health; Department of Motor Vehicles; Department of Public Safety; Department of Social Services; and State Housing Finance and Development Authority.

³⁵ 2022 Act No. 239.

See also, S.C. House of Representatives, House Ways and Means Committee, “FY22-23 Budget Briefing,” [https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2022-23/FY%202022-23%20Budget%20Briefing%20\(WM%20Version\).pdf](https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2022-23/FY%202022-23%20Budget%20Briefing%20(WM%20Version).pdf) (accessed September 13, 2022).

³⁶ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 14, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20-%20June%202014,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12410>. See video beginning at 04:37:49. Hereinafter, “Meeting Minutes and Video (June 14, 2022).”

³⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #29.

³⁸ Meeting Minutes and Video (June 14, 2022). See video beginning at 01:10:58.

³⁹ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 22, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20->

%20June%2022,%202022%20-%20Meeting%20Minutes.pdf (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11331>. See video beginning at 02:28:08. Hereinafter, “Meeting Minutes and Video (June 22, 2022).”

⁴⁰ Note: The Attorney General’s Office is in the Rembert Dennis Building on the capitol complex, and the Furman E. McEachern Jr. Parking Facility is the underground parking garage for the capitol complex.

⁴¹ S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Department of Administration to Subcommittee (July 29, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Dept.%20of%20Administration%20Letter%20to%20Subcommittee%20\(7.29.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Dept.%20of%20Administration%20Letter%20to%20Subcommittee%20(7.29.22).pdf) (accessed September 13, 2022). See responses to question # 1 under the “Facilities Management Heading.”

See also, Meeting Minutes and Video (June 22, 2022). See video beginning at 02:39:59.

⁴² Meeting Minutes and Video (June 22, 2022). See video beginning at 02:39:59.

⁴³ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #5.

⁴⁴ S.C. House of Representatives, House Legislative Oversight Committee, “Agency Overview (March 8, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Presentation%20-%20Overview%20\(3.8.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Presentation%20-%20Overview%20(3.8.22).pdf) (accessed September 13, 2022). See slides 92 – 105. Hereinafter “Agency Presentation - Overview (March 8, 2022).”

⁴⁵ S.C. Code Ann. Section 8-11-160(C).

⁴⁶ “Agency Presentation - Overview (March 8, 2022). See slides 92 -105.

⁴⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #21.

⁴⁸ Meeting Minutes and Video (June 14, 2022). See video beginning at 02:02:29.

Note: Attorney General Office personnel met with Department of Corrections personnel on December 8, 2021, to discuss this issue.

⁴⁹ Meeting Minutes and Video (June 14, 2022). See video beginning at 02:02:29.

Note: Attorney General Office personnel met with Department of Corrections personnel on December 8, 2021, to discuss this issue.

⁵⁰ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #21.

⁵¹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #21.

⁵² S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Special Prosecution” (June 14, 2022), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Special%20Prosecution.pdf> (accessed September 18, 2022). Hereinafter, “Agency Presentation – Special Prosecution (June 14, 2022).”

⁵³ Agency Presentation – Special Prosecution (June 14, 2022). See slide #34.

⁵⁴ Meeting Minutes and Video (June 14, 2022). See video beginning at 05:28:09.

⁵⁵ Agency Presentation – Special Prosecution (June 14, 2022).

⁵⁶ Agency Presentation – Special Prosecution (June 14, 2022). See slide #34.

⁵⁷ S.C. House of Representatives, House Legislative Oversight Committee, “South Carolina Sheriffs’ Association Correspondence to Subcommittee (September 13, 2018),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Prosecution Coordination, Commission on,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20Sheriff's%20Association%20to%20Oversight%20Subcommittee%20\(Sept.%2017,%202018\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20Sheriff's%20Association%20to%20Oversight%20Subcommittee%20(Sept.%2017,%202018).pdf) (accessed September 14, 2022). See response to question 3. Hereinafter, “South Carolina Sheriffs’ Association Correspondence to Subcommittee (September 13, 2018).”

Note: In 2018, according to this correspondence less than a dozen attorneys worked directly for the elected sheriff in South Carolina.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Attorney General’s Office Program Evaluation Report (March 9, 2020),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Reports, Recommendations, and Implementation” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20PER%20-%20Complete%20report.pdf> (accessed September 13, 2022). See Agency Law Recommendation #24. Hereinafter “Attorney General’s Office Program Evaluation Report (March 9, 2020).”

⁵⁸ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #25.

⁵⁹ Meeting Minutes and Video (June 14, 2022). See video beginning at 05:32:18.

⁶⁰ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #29.

⁶¹ S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Internet Crimes Against Children (June 14, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Internet%20Crimes%20Against%20Children.pdf> (accessed September 13, 2022). See slide 12. Hereinafter “Agency Presentation – Internet Crimes Against Children (June 14, 2022).”

⁶² Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #30.

See also, Meeting Minutes and Video (June 14, 2022). See video at beginning at 04:11:20.

⁶³ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See responses to question #31 and #35.

⁶⁴ Agency Presentation – Internet Crimes Against Children (June 14, 2022). See slide 12.

⁶⁵ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #45.

⁶⁶ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #45.

⁶⁷ Note: The primary sponsor of H.3788, filed in the 124th General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, www.scstatehouse.gov, by bill number and session number.

⁶⁸ Note: The primary sponsor of H.3788, filed in the 124th General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, www.scstatehouse.gov, by bill number and session number.

⁶⁹ Note: The primary sponsor of H.3788, filed in the 124th General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, www.scstatehouse.gov, by bill number and session number.

⁷⁰ Meeting Minutes and Video (June 22, 2022). See video beginning at 03:02:06.

⁷¹ S.C. House of Representatives, House Legislative Oversight Committee, "Correspondence from South Carolina Commission on Prosecution Coordination to Subcommittee (July 28, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/SCCPC%20Letter%20to%20Subcommittee%20\(7.28.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/SCCPC%20Letter%20to%20Subcommittee%20(7.28.22).pdf) (accessed September 13, 2022). See responses to question #1.

⁷² Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #25.

⁷³ Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, August 23, 2022.

⁷⁴ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

⁷⁵ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

See also, S.C. House of Representatives, South Carolina Sheriffs' Association Correspondence to Subcommittee (September 13, 2018). See response to question 3.

⁷⁶ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

⁷⁷ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

⁷⁸ State v. Langford, 400 S.C. 421, 435, 735 S.E.2d 471, 478 (2012).

⁷⁹ Crime to Sentencing (Flow Chart).

See also, Sentencing to Supervision to Release (Flow Chart).

⁸⁰ Note: The House Legislative Oversight Committee’s mission is to “[d]etermine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. Inform the public about state agencies.”

⁸¹ Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #5, #34, #36, and #38.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Department of Corrections 2020 Study (Full Report),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Reports, Recommendations, and Implementation” and under “Correspondence,”
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Corrections/SCDC%20Full%20Committee%20Report%20-%20Full%20Version.pdf> (accessed September 13, 2022). See recommendation #43.

⁸² S.C. Code Section 22-23-30.

Note: All entities collaborate to create process charts that explain their areas, then present and have them approved at Law Enforcement Training Council annual meeting, so that when they are disseminated thereafter for use during the year, everyone in the criminal justice system is utilizing the same information. This understanding may enable future efficiencies as entities see how others are involved in the system. Also, entities and individuals may include state agencies and/or elected officials and staff.

⁸³ S.C. Code Section 23-23-30.

⁸⁴ 2017 Act No. 96.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Committee 122nd General Assembly Transparency Report to Citizens,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “How the Committee Serves You” and under “Transparency reports to citizens,”
[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/LOC%20-%20122nd%20General%20Assembly%20Transparency%20Report%20to%20Citizens%20\(PDF\).PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/LOC%20-%20122nd%20General%20Assembly%20Transparency%20Report%20to%20Citizens%20(PDF).PDF) (accessed September 13, 2022). See slide #4.

⁸⁵ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #84.

⁸⁶ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #53.

⁸⁷ South Carolina State Law Enforcement Division, “Crime Statistics,” <https://www.sled.sc.gov/crimestatistics> (accessed September 14, 2022).

⁸⁸ Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendation #6.

⁸⁹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #50.

⁹⁰ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #63.

⁹¹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #70.

⁹² Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #69.

⁹³ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #70.

⁹⁴ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #92.

⁹⁵ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to questions #88 and #89.

⁹⁶ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #89.

⁹⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #88.

⁹⁸ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #93.

⁹⁹ S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Court Administration to Subcommittee (August 5, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Ct.%20Administration%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Ct.%20Administration%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 15, 2022). See response to question #5. Hereinafter “Correspondence from Court Administration to Subcommittee (August 5, 2022).”

¹⁰⁰ S.C. Const. art. 1, §24.

¹⁰¹ South Carolina Commission on Prosecution Coordination, “FY 22 Budget Requests – House Ways & Means Law Enforcement and Criminal Justice Subcommittee Budget Hearing January 6, 2021,” [https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansMeetingHandouts/Law%20Enforcement/SC%20Commission%20on%20Prosecution%20Coordination%20\(SCCPC\)%20FY%202021-22.pdf](https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansMeetingHandouts/Law%20Enforcement/SC%20Commission%20on%20Prosecution%20Coordination%20(SCCPC)%20FY%202021-22.pdf) (accessed September 15, 2022). See page 18.

¹⁰² Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #17.

¹⁰³ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #26.

¹⁰⁴ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #24.

¹⁰⁵ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #25.

¹⁰⁶ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #28.

¹⁰⁷ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #10 and accompanying attachment, “Trainings Offered.”

¹⁰⁸ University of South Carolina, “A Step-by-Step Guide to the Employee Performance Management System (EPMS),” https://www.sc.edu/study/colleges_schools/artsandsciences/internal/documents/faculty_staff/epms_stepbystepguide.pdf (accessed September 15, 2022).

¹⁰⁹ Correspondence from Court Administration to Subcommittee (August 5, 2022). See response to question #2 under “State Human Resources Division” heading.

¹¹⁰ Correspondence from Court Administration to Subcommittee (August 5, 2022). See feedback to Recommendation #18.

¹¹¹ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #7.

¹¹² Correspondence from Court Administration to Subcommittee (August 5, 2022). See feedback to Recommendation #18.

¹¹³ S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Department of Social Services to Subcommittee (August 5, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DSS%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DSS%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 16, 2022).

¹¹⁴ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #20.

¹¹⁵ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #37.

¹¹⁶ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #5.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 1, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/June%201,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 18, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12406> (accessed September 18, 2022). See video beginning at 01:45:40. Hereinafter, “Meeting Minutes and Video (June 1, 2022).”

¹¹⁷ Note: During the study, Attorney General’s Office personnel testified as to concerns legislation regulating the industry was outdated when enacted. See Meeting Minutes and Video (June 1, 2022). See video beginning at 01:45:40.

¹¹⁸ S.C. House of Representatives, House Legislative Oversight Committee, “Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Secretary%20of%20State%20letter%20to%20Subcommittee%20\(7.28.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Secretary%20of%20State%20letter%20to%20Subcommittee%20(7.28.22).pdf) (accessed September 18, 2022). Hereinafter, “Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).”

¹¹⁹ Note: This process flow chart was prepared by House Legislative Oversight Committee as part of the 2020 study of the Secretary of State’s Office.

¹²⁰ Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).

¹²¹ Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).

¹²² Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #115.

Note: The legislative history for S.C. Code Section 8-3-60 dates to 1901. During the study, Attorney General’s Office personnel noted the present-day nonsensical nature of the \$10,000 bond requirement for the Attorney General “when he oversees a \$100,000,000 budget with grants included.”

¹²³ S.C. House of Representatives, House Legislative Oversight Committee, “Department of Agriculture 2017 Study (Full Report),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full and Subcommittee Reports” (accessed September 18, 2022). See recommendation #1.

Note: The bond requirement for the Commissioner of Agriculture has not been updated in more than 60 years. During the study process, the Commissioner of Agriculture testified this provision in law is no longer necessary as other statutes address liability and property insurance for the agency (e.g., S.C. Code of Laws, section 1-11-140 relating to the Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority and S.C. Code of Laws, section 46-40- 10 et seq. relating to the South Carolina Grain Dealers Guaranty Fund).

¹²⁴ Tax Foundation, “Vapor Taxes by State, 2022,” by Adam Hoffer, July 5, 2022, <https://taxfoundation.org/vapor-taxes-2022/> (accessed September 18, 2022).

¹²⁵ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (May 25, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations”
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/May%2025,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 18, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12405> (accessed September 18, 2022). See video at 03:51:40 – 03:53:34.

¹²⁶ S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Tobacco Division” (May 25, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the ,” and under “Meetings and Agency Presentations”
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Tobacco.pdf> (accessed September 18, 2022). See slide #5.

¹²⁷ Tax Foundation, “Vapor Taxes by State, 2022,” by Adam Hoffer, July 5, 2022, <https://taxfoundation.org/vapor-taxes-2022/> (accessed September 18, 2022).

¹²⁸ S.C. House of Representatives, House Legislative Oversight Committee, “Department of Health and Environmental Control’s Correspondence to Subcommittee (July 29, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of,” and under “Correspondence,”
[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DHEC Letter to Subcommittee \(7.29.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DHEC Letter to Subcommittee (7.29.22).pdf) (accessed September 18, 2022).

¹²⁹ Department of Administration, “Types of Pay,” https://www.admin.sc.gov/sites/default/files/state_hr/Types%20of%20Pay.pdf (accessed September 16, 2022).

¹³⁰ Note: Agency personnel note an option that may offer the ability to monitor this type of spending may include allowing agencies to develop a separate fund to create an agency in-house employee development/enhancement program which allows meals or other types of recognition.

¹³¹ Department of Administration, "Employee Reward and Recognition," https://admin.sc.gov/dshr/employee_reward_and_recognition (accessed September 16, 2022).

¹³² Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #5.

¹³³ S.C. House of Representatives, House Legislative Oversight Committee, "Agency Presentation – Crime Victim Services" (April 26, 2022)", under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the ," and under "Meetings and Agency Presentations" [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Crime%20Victim%20Services%20\(4.22.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Crime%20Victim%20Services%20(4.22.22).pdf) (accessed September 18, 2022). See slide #36. Hereinafter, "Agency Presentation – Crime Victim Services" (April 26, 2022)."

¹³⁴ Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

¹³⁵ Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

¹³⁶ Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

¹³⁷ Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

¹³⁸ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #49.

¹³⁹ Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #17.

¹⁴⁰ Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #17.

¹⁴¹ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

¹⁴² Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

¹⁴³ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

¹⁴⁴ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

¹⁴⁵ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

¹⁴⁶ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

¹⁴⁷ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

¹⁴⁸ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

¹⁴⁹ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

¹⁵⁰ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

¹⁵¹ Note: 1999 Act No. 56 created S.C. Code Section 16-3-1050 and amended provisions in S.C. Code Section 43-35-85. 1993 Act No. 110 created S.C. Code Section 43-35-85.

¹⁵² 2010 Act No. 223.

¹⁵³ Note: For ease of comparison the full text of the referenced statutes are listed below.

SECTION 16-3-1050. Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person

cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1999 Act No. 56, Section 5.

SECTION 43-35-85.. Penalties.

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 1999 Act No. 56, Section 1, eff June 1, 1999; 2010 Act No. 223, Section 7, eff June 7, 2010.

SECTION 17-25-45. Life sentence for person convicted for certain crimes.

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

(1) one or more prior convictions for:

(a) a most serious offense; or

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

(2) two or more prior convictions for:

(a) a serious offense; or

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

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

(1) a serious offense;

(2) a most serious offense;

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

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

(C) As used in this section:

(1) "Most serious offense" means:

16-1-40 Accessory, for any offense enumerated in this item 16-1-80 Attempt, for any offense enumerated in this item 16-3-10 Murder 16-3-29 Attempted Murder 16-3-50 Voluntary manslaughter 16-3-85(A)(1) Homicide by child abuse 16-3-85(A)(2) Aiding and abetting homicide by child abuse 16-3-210 Lynching, First degree 16-3-210(B) Assault and battery by mob, First degree 16-3-620 Assault and battery with intent to kill 16-3-652 Criminal sexual conduct, First degree 16-3-653 Criminal sexual conduct, Second degree 16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3) 16-3-656 Assault with intent to commit criminal sexual conduct, First and Second degree 16-3-910 Kidnapping 16-3-920 Conspiracy to commit kidnapping 16-3-1075 Carjacking 16-3-2020 Trafficking in persons 16-11-110(A) Arson, First degree 16-11-311 Burglary, First degree 16-11-330(A) Armed robbery 16-11-330(B) Attempted armed robbery 16-11-540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results 24-13-450 Taking of a hostage by an inmate 25-7-30 Giving information respecting national or state defense to foreign contacts during war 25-7-40 Gathering information for an enemy 43-35-85(F) Abuse or neglect of a vulnerable adult resulting in death 55-1-30(3) Unlawful removing or damaging of airport facility or

equipment when death results 56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation 58-17-4090 Obstruction of railroad, death results.

(2) "Serious offense" means:

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

(b) those felonies enumerated as follows:

16-3-220 Lynching, Second degree 16-3-210(C) Assault and battery by mob, Second degree 16-3-600(B) Assault and battery of a high and aggravated nature 16-3-810 Engaging child for sexual performance 16-9-220 Acceptance of bribes by officers 16-9-290 Accepting bribes for purpose of procuring public office 16-11-110(B) Arson, Second degree 16-11-312(B) Burglary, Second degree 16-11-380(B) Theft of a person using an automated teller machine 16-13-210(1) Embezzlement of public funds 16-13-230(B)(3) Breach of trust with fraudulent intent 16-13-240(1) Obtaining signature or property by false pretenses 16-25-20(B) Domestic violence, First degree 16-25-65 Domestic violence of a high and aggravated nature 38-55-540(3) Insurance fraud 44-53-370(e) Trafficking in controlled substances 44-53-375(C) Trafficking in ice, crack, or crack cocaine 44-53-445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school 56-5-2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16-1-40 Accessory before the fact for any of the offenses listed in subitems (a) and (b) 16-1-80 Attempt to commit any of the offenses listed in subitems (a) and (b) 43-35-85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

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

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

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

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

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

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

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

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

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

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

(G) The decision to invoke sentencing under this section is in the discretion of the solicitor.

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

HISTORY: 1982 Act No. 358, Sections 1, 2; 1986 Act No. 462, Section 37; 1995 Act No. 83, Section 18; 1997 Act No. 113, Section 4; 1997 Act No. 136, Section 4; 1998 Act No. 402, Section 3; 2002 Act No. 176, Sections 1, 2, eff March 5, 2002; 2006 Act No. 342, Section 9, eff July 1, 2006; 2007 Act No. 72, Section 3, eff June 13, 2007; 2010 Act No. 273, Section 20, eff June 2, 2010; 2010 Act No. 289, Section 7, eff June 11, 2010; 2015 Act No. 7 (S.196), Section 6.C, eff April 2, 2015; 2015 Act No. 58 (S.3), Pt II, Section 7, eff June 4, 2015.

Code Commissioner's Note

Section 16-11-540, referenced in subsection (C)(1), was repealed by 2000 Act No. 237. Section 16-3-220, referenced in subsection (C)(2)(b), and Section 16-3-620, referenced in subsection (C)(1), were repealed by 2010 Act No. 273.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

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

Effect of Amendment

2015 Act No. 7, Section 6.C, in (C)(1), substituted "16-3-2020" for 16-3-930".

2015 Act No. 58, Section 7, in (C)(2)(b), added 16-25-20(B), domestic violence, first degree, and 16-25-65, domestic violence of a high and aggravated nature.

¹⁵⁴ Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #119.

¹⁵⁵ Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

¹⁵⁶ Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

¹⁵⁷ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

¹⁵⁸ S.C. Code Section 14-7-1630(A)(12).

¹⁵⁹ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 8, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,”
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/June%208,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12407>. See video beginning at 05:50:32. Hereinafter, “Meeting Minutes and Video (June 8, 2022).”

¹⁶⁰ Meeting Minutes and Video (June 8, 2022). See video beginning at 05:50:32.

¹⁶¹ Meeting Minutes and Video (June 8, 2022). See video beginning at 05:52:04.

¹⁶² Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #33.

¹⁶³ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #33.

¹⁶⁴ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #124.

¹⁶⁵ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #9.

¹⁶⁶ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendations #7 and #9.

¹⁶⁷ Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #27.

¹⁶⁸ Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #130.

¹⁶⁹ S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations”
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Consumer%20Protection%20and%20Antitrust.pdf> (accessed September 21, 2022). See slide #12. Hereinafter, “Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022).”

Additional Evolution Occurring

In the event the Attorney General terminates this Agreement without cause, Special Counsel shall be reimbursed only from the litigation's gross recovery for all properly documented expenses and costs, as defined in Article V of this Agreement rendered prior to termination, and Special Counsel shall be awarded appropriate attorneys' fees as determined by the Attorney General.

- In the event the AG fires outside counsel without cause, those lawyers are still legally entitled to attorney's fees and costs on a *quantum meruit* basis.
- The AG would then determine a fair fee based on the work performed and pay that to former outside counsel.
 - No fees would be paid at all unless there is a monetary recovery.
- While the AG would never pay more under this paragraph than the contract rates, our Office will amend this language to clarify that.

Endnote Figure 1. Excerpt (Slide 12) from Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022)

¹⁷⁰ Study Materials – Attorney General's Office.

Note: Some of the materials were produced solely by personnel with the Attorney General's Office and others were created during the House Legislative Oversight Committee's reviews of other law enforcement agencies (e.g., Department of Probation, Parole and Pardon Services; Commission on Prosecution Coordination, etc.)