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CHAPTER 22.

 CLASSIFICATION SYSTEM AND ADULT CRIMINAL OFFENDER MANAGEMENT SYSTEM

**SECTION 24‑22‑10.** Short title.

This chapter is known and may be cited as the “Offender Management System Act”.

**SECTION 24‑22‑20.** Definitions.

As used herein:

(a) “Adult criminal offender management system” means the system developed by the State Department of Corrections and the State Department of Probation, Parole and Pardon Services which permits carefully screened inmates to be identified, transferred into Department of Corrections Reintegration Centers and placed in Department of Probation, Parole and Pardon Services Community Control Strategies.

(b) “Community control strategies” means offender supervision and offender management methods available in the community, including, but not limited to, home detention, day reporting centers, restitution centers, public service work programs, substance abuse programs, short term incarceration, and intensive supervision.

(c) “High count” means the largest male prison system population, the largest female prison system population, or both, on any given day during a one‑month period.

(d) “Prison” means any male correctional facility, female correctional facility, or combined male and female correctional facility operated by the State Department of Corrections.

(e) “Prison system” means the prisons operated by the State Department of Corrections.

(f) “Offender” means every male inmate or female inmate, or both, who, at the time of the initiation of the offender management system, is or at any time during continuation of the system is serving a criminal sentence under commitment to the State Department of Corrections, including persons serving sentences in local detention facilities designated under the provisions of applicable law and regulations.

(g) “Prison system population” means the total number of male prisoners, female prisoners, or combined total of female and male prisoners housed in the prisons operated by the State Department of Corrections.

(h) “Reintegration center” means an institution operated by the State Department of Corrections which provides for the evaluation of and necessary institutional programs for inmates in the offender management system.

(i) “Release date” means the date projected by the State Department of Corrections on which a prisoner will be released from prison, assuming maximum accrual of credit for good behavior has been established under Section 24‑13‑210 and earned work credits under Section 24‑13‑230.

(j) “Qualified prisoners” means any male prisoners, female prisoners, or combined total of female or male prisoners convicted of a nonviolent offense for which such prisoner has received a total sentence of five years or less and is presently serving a nonmandatory term of imprisonment for conviction of one or more of the following offenses:

reckless homicide (56‑5‑2910); armed robbery/accessory after the fact; simple assault; intimidation (16‑11‑550, 16‑17‑560); aggravated assault (16‑23‑490); arson of residence to defraud an insurer (16‑11‑110, 16‑11‑125); arson (16‑11‑110); arson‑2nd degree (16‑11‑110(B)); arson‑3rd degree (16‑11‑110(C)); burglary of safe vault (16‑11‑390); possession of tools for a crime (16‑11‑20); attempted burglary (16‑13‑170); petit larceny (16‑13‑30); purse snatching (16‑13‑150); shoplifting (16‑13‑110, 16‑13‑120); grand larceny (16‑13‑20); attempted grand larceny (16‑13‑20); larceny; credit card theft (16‑13‑20, 16‑13‑30, 16‑13‑35); possession of stolen vehicle (16‑21‑80, 16‑21‑130); unauthorized use of a vehicle (16‑21‑60, 16‑21‑130); forgery (16‑13‑10); fraud‑swindling (16‑13‑320); fraudulent illegal use of credit card (16‑14‑60); fraudulent check (34‑11‑60); fraud‑false statement or representation (16‑13‑240 through 16‑13‑290); breach of trust with fraudulent intent (16‑13‑230); failure to return tools or vehicle (16‑13‑420); insurance fraud (16‑11‑125, 16‑11‑130); obtaining controlled substance by fraud (44‑53‑40); defrauding an innkeeper (45‑1‑50); receipt of stolen property (16‑13‑180); destroying personal property (16‑11‑510); malicious injury to property (16‑11‑510, 16‑11‑520); hallucinogen‑possession (44‑53‑370(c)); heroin‑possession (44‑53‑370(c)); cocaine‑possession (44‑53‑370(c)); cocaine‑transporting (44‑53‑370(a)); marijuana‑possession (44‑53‑370(c)); marijuana‑producing (44‑53‑370(a)); legend drugs‑possession (44‑53‑370(c)); distributing imitation controlled substances (44‑53‑370(a)); possession‑imitation controlled substance (44‑53‑370(a)); indecent exposure (16‑15‑130); peeping tom (16‑17‑470); contributing to delinquency of minor (16‑17‑490); neglect‑child (63‑5‑7‑70); criminal domestic violence (16‑25‑20); prostitution (16‑15‑90 through 16‑15‑110); unlawful liquor possession (61‑6‑1800, 61‑6‑2220, 61‑6‑4710); public disorderly conduct/intoxication (16‑17‑530); making false report (16‑17‑725); contempt of court (14‑1‑150); obstructing justice (16‑9‑310 through 16‑9‑380); bribery (16‑9‑210 through 16‑9‑270, 16‑17‑540 through 16‑17‑550); possession of incendiary device (16‑23‑480, 16‑11‑550); weapon license/registration (23‑31‑140); explosives possession (23‑36‑50, 23‑36‑170); threat to bomb (16‑11‑550); unlawful possession of firearm on premises of alcoholic beverage establishment (16‑23‑465); discharging firearm in dwelling (16‑23‑440); pointing a firearm (16‑23‑410); littering (16‑11‑700); DUI‑drugs (56‑5‑2930, 56‑5‑2940); driving under suspension (56‑1‑460); failure to stop for officer (56‑5‑750); leaving the scene of accident (56‑5‑1210; 56‑5‑1220); possession of open container (61‑4‑110); trespassing (16‑11‑600 through 16‑11‑640); illegal use of telephone (16‑17‑430); smuggling contraband into prison (24‑3‑950); tax evasion (12‑7‑2750); false income tax statement (12‑7‑1630, 12‑7‑2750); accessory to a felony (16‑1‑40, 16‑1‑50); misprision of a felony; criminal conspiracy (16‑17‑410); habitual offender (56‑1‑1020 through 56‑1‑1100).

(k) “Operating capacity” means the safe and reasonable male inmate capacity, female inmate capacity, or combined male and female inmate capacity of the prison system operated by the State Department of Corrections as certified by the State Department of Corrections and approved by the State Budget and Control Board.

**SECTION 24‑22‑30.** Eligibility to participate in offender management system.

To be eligible to participate in the offender management system, an offender shall:

(a) be classified as a qualified prisoner as defined herein;

(b) maintain a clear disciplinary record during the offender’s incarceration or for at least six months prior to consideration for placement in the system;

(c) demonstrate during incarceration a general desire to become a law abiding member of society;

(d) satisfy any reasonable requirements imposed on the offender by the Department of Corrections;

(e) be willing to participate in the criminal offender management system and all of its programs and rehabilitative services and agree to conditions imposed by the departments;

(f) possess an acceptable risk score. The risk score shall be affected by, but not be limited to, the following factors:

(1) nature and seriousness of the current offense;

(2) nature and seriousness of prior offenses;

(3) institutional record;

(4) performance under prior criminal justice supervision; and

(g) satisfy any other criteria established by the South Carolina Department of Corrections and the State Board of Probation, Parole and Pardon Services.

**SECTION 24‑22‑40.** Implementation of system; limits to issuance of certificates; Orders by Governor to enroll or cease release of prisoners.

The South Carolina Department of Probation, Parole and Pardon Services, in cooperation with the South Carolina Department of Corrections shall develop and establish policies, procedures, guidelines, and cooperative agreements for the implementation of an adult criminal offender management system which permits carefully screened and selected male offenders and female offenders to be enrolled in the criminal offender management system.

After review by and approval of three members of the Board of Probation, Parole and Pardon Services designated by the Governor, the board shall enroll qualified offenders monthly into the offender management system to prevent the prison system population from exceeding one hundred percent of capacity at high count. No offender shall be issued an offender management system certificate and released from prison if the release of the offender will reduce the prison system population below ninety‑five percent of capacity at high count.

If the Governor at any time during periods when the offender management system is in operation, determines that an insufficient number of inmates are being enrolled into the system to keep the prison system population below one hundred percent of capacity of high count or if the Governor determines that the number of inmates released has reached a level that could endanger the public welfare and safety of the State, he may issue an Executive Order requiring the South Carolina Department of Probation, Parole and Pardon Services and the South Carolina Department of Corrections to enroll a specified number of qualified prisoners per month for a specified number of months or require the department to cease and desist in the release of the inmates accordingly.

**SECTION 24‑22‑50.** System to be in operation during all periods in which funded.

The offender management system shall be in operation during all periods that the system is appropriately funded.

**SECTION 24‑22‑60.** Evaluation of offenders.

Offenders enrolled in the offender management system shall be evaluated at Department of Corrections Reintegration Centers. The evaluation shall determine the offender’s needs prior to community placement. The programs and services provided at a reintegration center by the Department of Corrections shall prepare offenders to be placed in the appropriate community control strategies.

**SECTION 24‑22‑70.** Good behavior credit; earned work credits.

Offenders enrolled in the offender management system shall be entitled to good behavior credit as specified in Section 24‑13‑210 and to earned work credits as determined pursuant to Section 24‑13‑230. Offenders revoked from the offender management system shall not receive credit on their sentence for six months or for the time credited while placed in the community control strategies, whichever is less.

**SECTION 24‑22‑80.** Revocation of offender management system status; no appeal.

Revocation of offender management system status awarded under this chapter is a permissible prison disciplinary action.

Offenders transferred to a reintegration center who have not been placed in and agreed to community control strategies and who violate the conditions of the offender management system may be revoked from the system by the Department of Corrections. Offenders who have been placed in and agreed to the community control strategies who violate the conditions of the offender management system certificate may be revoked from the offender management system by the Department of Probation, Parole and Pardon Services. The revocation procedures shall be developed jointly by the South Carolina Department of Corrections and the South Carolina Department of Probation, Parole and Pardon Services. There shall be no right to appeal a revocation.

**SECTION 24‑22‑90.** Enrollment in system; supervision in community; giving of notice; statements by victims, witnesses, solicitors, law enforcement officers, and others for or against release.

Offenders shall be enrolled in the offender management system and supervised in the community by the South Carolina Department of Probation, Parole and Pardon Services. The South Carolina Department of Corrections shall transfer enrolled inmates to a South Carolina Department of Corrections Reintegration Center for evaluation pursuant to Section 24‑22‑60. The South Carolina Department of Probation, Parole and Pardon Services shall issue an offender management system certificate with conditions which must be agreed to by the offender prior to the offender’s placement in the community control strategies.

The South Carolina Department of Corrections shall notify the South Carolina Department of Probation, Parole and Pardon Services of all victim impact statements filed pursuant to Section 16‑1‑1550, which references offenders enrolled in the offender management system. The South Carolina Department of Probation, Parole and Pardon Services shall, prior to enrolling an offender into the offender management system, give thirty days prior written notice to any person or entity who has filed a written request for notice. Any victim or witness pursuant to Article 15, Chapter 3, Title 16 and any solicitor, law enforcement officer, or other person or entity may request notice about an offender under this section and may testify by written or oral statement for or against the release. The South Carolina Department of Probation, Parole and Pardon Services shall have authority to deny enrollment to any offender based upon the statements of any person responding to the notice of enrollment.

**SECTION 24‑22‑100.** Enrollee participation in designated programs; community control strategies.

Offenders enrolled in the offender management system shall be required to participate in programs designated by the South Carolina Department of Probation, Parole and Pardon Services, including community control strategies. These strategies may include, but are not limited to:

(a) the South Carolina Department of Probation, Parole and Pardon Services Home Detention Supervision Program;

(b) day reporting centers;

(c) restitution centers;

(d) public service work programs;

(e) substance abuse programs;

(f) short term incarceration; and

(g) intensive supervision programs.

**SECTION 24‑22‑110.** Status of enrollees; retention and sharing of control by departments; revocation of enrollment.

Offenders enrolled in the offender management system shall retain the status of inmates in the jurisdiction of the South Carolina Department of Corrections. Control over the offenders is vested in the South Carolina Department of Corrections while the offender is in a reintegration center and is vested in the South Carolina Department of Probation, Parole and Pardon Services while the offender is in the community. Offenders may be revoked from the offender management system for a violation of any condition of the offender management system. There shall be no right to appeal the revocation decision of either department.

**SECTION 24‑22‑120.** Discipline or removal from system; violation, arrest and detention; no bond pending hearing.

At any time while an enrolled offender is at a reintegration center, the enrolled offender may be disciplined or removed from the offender management system, or both, according to procedures established by the Department of Corrections.

At any time during a period of community supervision, a probation and parole agent may issue a warrant or a citation and affidavit setting forth that the person enrolled in the offender management system has in the agent’s judgment violated the conditions of the offender management system. Any police officer or other officer with the power of arrest in possession of a warrant may arrest the offender and detain such offender in the county jail or other appropriate place of detention until such offender can be brought before the Department of Probation, Parole and Pardon Services. The offender shall not be entitled to be released on bond pending a hearing.

**SECTION 24‑22‑130.** Parole hearings; supervised furlough; vested rollbacks; continuation in system until sentence satisfied.

Offenders enrolled in the offender management system shall not be given a parole hearing or released on supervised furlough as long as the offender is on offender management system status. Offenders who have vested roll backs granted under the Prison Overcrowding Powers Act shall not lose such benefits. Offenders enrolled in the offender management system will remain in the offender management system until the offender’s sentence is satisfied, unless sooner revoked.

**SECTION 24‑22‑140.** No liberty interest or expectancy of release created.

The enactment of this legislation shall not create a “liberty interest” or an “expectancy of release” in any offender now incarcerated or in any offender who is incarcerated in the future.

**SECTION 24‑22‑150.** Funding required for system initiation and ongoing operation; hiatus when funding exhausted.

The offender management system must not be initiated and offenders shall not be enrolled in the offender management system unless appropriately funded out of the general funds of the State.

During periods when the offender management system is in operation and either the South Carolina Department of Corrections or the South Carolina Department of Probation, Parole and Pardon Services determines that its funding for the system has been exhausted, the commissioner for the department having made the determination that funds are exhausted shall notify the commissioner of the other department, the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The offender management system shall then terminate until appropriate funding has been provided from the general funds of the State.

**SECTION 24‑22‑160.** Operating capacities of prison populations to be established; certification.

The Department of Corrections and the Budget and Control Board shall establish the operating capacities of the male prison population and the female prison population of the prison system operated by the Department of Corrections and shall, at least quarterly, certify existing operating capacities or establish change or new operating capacities.

**SECTION 24‑22‑170.** Termination of system and regulations.

The offender management system and any regulations promulgated thereto shall terminate July 1, 1995 unless extended by the General Assembly.