**South Carolina General Assembly**

118th Session, 2009-2010

**S. 1248**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Rose

Document Path: l:\s-jud\bills\rose\jud0045.kw.docx

Introduced in the Senate on March 3, 2010

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

Summary: Conditional Early Release by Bond Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\03-03-10.docx)‑3

3/3/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\03-03-10.docx)‑3

3/5/2010 Senate Referred to Subcommittee: Malloy (ch), Knotts, Campsen

**VERSIONS OF THIS BILL**

[3/3/2010](file:///p:\pprever\2009-10\1248_20100303.docx)

**A** **BILL**

TO AMEND CHAPTER 3, TITLE 24, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13, SO AS TO ENACT THE “CONDITIONAL EARLY RELEASE BY BOND ACT”, TO ALLOW THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS TO RELEASE A PRISONER AFTER CONVICTION BASED ON CERTAIN RELEASE PROVISIONS AND FOR THE RELEASE PROVISIONS TO BE PROVIDED FOR BY LAW.

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

SECTION 1. Chapter 3, Title 24 of the 1976 Code is amended by adding:

”Article 13

Conditional Early Release by Bond Act

Section 24‑3‑1310. This article may be cited as the ‘Conditional Early Release by Bond Act’.

Section 24‑3‑1320. As used in this article:

(1) ‘Bail bond agency’ means a bail bond agency that is qualified pursuant to the provisions of Chapter 53, Title 38.

(2) ‘Breach’ means any condition of release violated by the principal.

(3) ‘Charge’ means the amount of money the surety charges to write the bond. The charges must not be less than ten percent of the aggregate penalty amounts which charge shall be fully earned when the bond is written.

(4) ‘Clerk of court’, unless otherwise specified, means the clerk of the circuit court of the county in the state where the surety or bail bond agency is currently writing or obligated on the majority of those bonds which he has written or on which he is obligated pursuant to the provisions of this article.

(5) ‘Conditions’ means such conditions as the releasing authority may impose as a prerequisite to being released from custody.

(6) ‘Department of Corrections’ or ‘department’ means the South Carolina Department of Corrections.

(7) ‘Early release bond’ means the written undertaking delivered by the surety to the releasing authority and describing the terms and conditions of the surety’s duties.

(8) ‘Mandatory conditions’ mean those conditions the releasing authority must place upon the principal as a condition to early release.

(9) ‘Penalty breach’ means the amount of money to be paid by the surety to the state upon the surety’s failure to meet the requirements under the provisions of this article. The penalty breach shall be equal to the face amount of the bond. There can be two penalty breaches: (1) an amount of money paid by the surety upon breach of a release condition; and (2) an amount of money paid by the surety if the principal is not back in custody within a given amount of time following the breach of a release condition.

(10) ‘Principal’ means a person released pursuant to the provisions of this article. No person serving a life sentence or who has been convicted of a violent crime, or who is a sexual offender shall be eligible for an early release bond.

(11) ‘Prison’ means a correctional facility operated by the department.

(12) ‘Prison system’ means the prisons operated by the department.

(13) ‘Prisoner’ means every person who is serving a criminal sentence under commitment to the department, including persons serving sentences in local detention facilities designated under the provisions of applicable law and regulations.

(14) ‘Prison system population’ means the total number of prisoners housed in the prisons operated by the department.

(15) ‘Releasing authority’ means the South Carolina Department of Corrections.

(16) ‘Revocation of bond’ means the use and effectiveness of the bond has ceased. The releasing authority may revoke the bond upon a breach or continue the bond by nullifying the breach. The bond may be revoked at any time the releasing authority determines that the principal is not complying with the conditions of the bond.

(17) ‘Surety’ means an insurance company licensed under the laws of South Carolina to execute bonds filed in criminal cases.

Section 24‑3‑1330. (A) Upon the decision of the releasing authority to release an inmate, the releasing authority may condition the release of a principal by requiring the posting of an early release bond by cash or surety. The releasing authority may set conditions of release, which conditions shall be appended to and made part of the bond. The conditions are discretionary with the releasing authority and shall be appropriate to the character and circumstances of the principal and the circumstances of the principal’s release. The conditions may, unless otherwise specified, be any of the following, but are not limited to these conditions and are to include additional conditions imposed by the releasing authority:

(1) The principal shall be subject to drug or alcohol testing as specified in the bond;

(2) The principal shall be required to participate in specified recovery programs;

(3) The principal shall not contact, visit, or communicate directly with a witness or a victim involved in the principal’s conviction;

(4) The principal shall obtain and retain employment;

(5) The principal shall be on home detention by way of a global positioning satellite (GPS) monitoring device that has been approved by the state;

(6) The principal shall abide by specified travel restrictions;

(7) The principal shall make specified periodic restitution payments;

(8) The principal shall pay specified fines and court costs;

(9) The principal shall perform specified community services;

(10) The principal shall obtain such education as specified in the bond;

(11) The principal shall participate in specified family or third party involvement.

(B) The following are mandatory conditions and shall be imposed on the principal as a matter of law:

(1) The principal shall pay the surety’s charges; and

(2) The principal shall personally report to the surety at the time and in the manner as directed by the releasing authority and the surety.

(C) A surety or bail bond agency that maintains a physical location in South Carolina that is accessible to the public and that has been qualified as a bail bond agency or surety pursuant to Chapter 53, Title 38 for at least five years, may post an early release bond pursuant to this article. The surety or bail bond agency must register with the local clerk of court and pay a fee of one hundred dollars.

Section 24‑3‑1340. (A) The terms of the bond posted by the surety or the bail bond agency shall be in writing in an amount to be determined by the releasing authority and shall be made in favor of and payable to the state. The term of the bond shall be determined by the releasing authority, but shall not be for a period of more than five years.

(B) The releasing authority shall give the surety written notice of any breach of condition within five days of its knowledge of the breach.

(C) If, within one hundred eighty calendar days from the date of receipt of written notice by the releasing authority that the principal has failed to meet one or more of the conditions of the principal’s early release, the principal has been placed back in custody, whether by the surety or another, then the bond shall be exonerated.

Section 24‑3‑1350. The surety shall pay for penalty breaches:

(A) Upon a breach of a condition by the principal; or

(B) Upon the principal not being back in custody within the prescribed one hundred eighty days.

(C) Upon a breach of subsection (A), the surety shall pay ten percent of the face amount of the bond directly to the state treasurer to be deposited to the general fund. Upon a breach of subsection (B), the surety shall pay the remaining ninety percent of the face amount of the bond directly to the state treasurer to be deposited in the state general fund.

Section 24‑3‑1360. At any time after receiving a notice of breach by the principal, the surety may arrest the principal and surrender him to the nearest county jail. If the principal is surrendered within one hundred eighty calendar days of receipt of the notice of breach, the bond shall be exonerated.

SECTION 2. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of Chapter 11, Title 3 of the 1976 Code as added by this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the chapter, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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