~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 18, 2018

**S. 516**

Introduced by Senators Gregory and Kimpson

S. Printed 4/18/18--S.

Read the first time March 8, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 516) to amend Section 14-17-325 of the South Carolina Code of Laws, 1976, related to clerks of court, to require that every clerk of court shall report, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 14-17-325 of the 1976 Code is amended to read:

“Section 14-17-325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within ~~thirty~~ five days of disposition, weekends and holidays excluded.

(B) The clerk of court shall also report to the State Law Enforcement Division, within five days, the issuance of any:

(1) permanent restraining orders;

(2) orders of state firearms prohibition pursuant to Section 16-25-30;

(3) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge; and

(4) all criminal indictments.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration.”

SECTION 2. Chapter 1, Title 22 of the 1976 Code is amended by adding:

“Section 22-1-200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) Magistrates shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance of any:

(1) restraining orders and emergency restraining orders;

(2) magistrate court orders of protection from domestic abuse act orders;

(3) orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration.”

SECTION 3. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14-25-250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) A municipal judge shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance of any:

(1) restraining orders and emergency restraining orders;

(2) municipal court orders of protection from domestic abuse act orders;

(3) orders of state firearms prohibition pursuant to Section 16-25-30; and

(4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration.”

SECTION 4. Article 5, Chapter 3, Title 63 of the 1976 Code is amended by adding:

“Section 63-3-545. (A) The Clerk of the Family Court shall report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance of any:

(1) permanent restraining orders;

(2) family court orders of protection from domestic abuse act orders; or

(3) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, including any and all orders referenced in Section 16-25-30, but only upon being directed to transmit such orders by the appropriate judge.

(B) The reporting required by this section must be made in a format approved by the State Law Enforcement Division and Court Administration.”

SECTION 5. Title 14 of the 1976 Code is amended by adding:

“CHAPTER 32

Judicial Criminal Information Technology Committee

Section 14-32-10. There is hereby established a committee to be known as the Judicial Criminal Information Technology Committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 14-32-20. (A) The committee shall be composed of the following:

(1) a member of the Senate, appointed by the Chair of the Senate Judiciary Committee;

(2) a member of the House of Representatives, appointed by the Chair of the House Judiciary Committee;

(3) the Chief Justice of the Supreme Court, who shall serve ex officio;

(4) two members, one of whom is a circuit court judge and one of whom is a summary court judge, appointed by the Governor;

(5) one member who is a clerk of court appointed by the Governor;

(6) the Chief of the State Law Enforcement Division or his designee;

(7) one member who is a circuit solicitor, appointed by the Attorney General;

(8) one member who is a circuit public defender, appointed by the Governor; and

(9) two members, one of whom is a sheriff of this State and one of whom is a municipal chief of police of this State, appointed by the Governor.

(B) The members who are appointed shall serve for period of three years and may be reappointed.

(C) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of six members.

Section 14-32-30. The committee has the following powers and duties:

(A) to review the current state of law enforcement information technology and reporting, including, but not limited to, the timeframe and accuracy of the filing of reports, fingerprints and related offender information, and evidence discovery to prosecutors, courts, and to the State Law Enforcement Division criminal information database,

(B) to review the current state of judicial information technology including, but not limited to, the technology and funding needs of state and local court systems, the technology and funding needs of state and local law enforcement agencies, and the current efficiency, timeliness, and accuracy of filings;

(C) to recommend the implementation of an accurate and secure centralized court reporting system for all courts in the State and to explore funding options, and recommend legislation, rules, or regulations to enhance the overall efficiency of the judicial system and criminal reporting by law enforcement. An initial report shall be given to the Chairmen of the House and Senate Judiciary Committees no later than December 15th of 2019 detailing the current status of agency needs, funding requirements, and recommendations and findings of the committee.

(D) to recommend to the Supreme Court, changes to the court rules to effectuate the adoption of a centralized court reporting system and the implementation with, and the full compliance of, reporting deadlines.

Section 14-32-30. (A) The committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 14-32-40. (A) The committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the committee.

(B) The committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations report.”

SECTION 6. This act takes effect on January 1, 2019. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on March 8, 2017**

**Updated for Additional Agency Response**

**State Expenditure**

This bill creates a Judicial Criminal Information Technology Committee (JCITC), and changes the crimes and offenses for offenses involving firearms. The following is a section-by-section analysis of the statutes added or modified by this bill that may affect state expenditures.

**Sections 1**. Under current law, every clerk of court shall report the disposition of each case in the Court of General Sessions to SLED within thirty days of the disposition. This bill changes the number of days from thirty days to ten days excluding weekends and holidays. Additionally, the clerk of the court shall report to SLED, within forty-eight hours, the issuance of any restraining orders; orders of protection; orders preventing a person from possessing a firearm; convictions related to or orders issued to prevent acts of domestic violence against another person; orders issued related to the stalking, intimidation or harassment of another person; and orders for bond.

**Judicial Department.** The department indicates there will be no additional costs for the court General Sessions associated with the reporting requirements to SLED.

**South Carolina State Law Enforcement Division.** The department indicates this bill does not operationally impact the day-to-day responsibilities of SLED since the department already receives disposition reports from the General Sessions courts.

**Section 4.** This bill requires each state law enforcement agency to report to SLED within twenty-four hours: the filing of an incident report for each criminal case; the filing of an order of protection or restraining order; or any order or report relating to an incident of domestic violence; and any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law.

**Attorney General.** The Attorney General’s Office indicates the expenditure impact is minimal and any additional costs associated with reporting to SLED would likely be managed within existing appropriations.

**South Carolina State Law Enforcement Division.** The department indicates that while state law enforcement agencies currently do not report to SLED the items listed in Section 4, the impact of receiving this information will be minimal and can absorbed within existing resources.

**Section 5**. This bill establishes the JCITC, which is composed of a member of the Senate, a member of the House of Representatives, the Chief Justice of the Supreme Court, one member who is a judge of the state, one member who is a clerk of court, one member who is a circuit solicitor, and one member who is a sheriff or municipal chief of police.

The JCITC has the power and duties to review the current state of law enforcement information technology and reporting. Additionally, they will review the current state of judicial information technology and the technology and funding needs of state and local law enforcement agencies. Further, the JCITC would recommend the implementation of an accurate and secure centralized court reporting system for all courts in the state, and recommend legislation, rules, or regulations to enhance the overall efficiency of the judicial system and criminal reporting by law enforcement. The JCITC is required to give the Chairmen of the House and Senate Judiciary Committees an initial report no later than December 15, 2017. Further, the JCITC will recommend to the Supreme Court, changes to the court rules to implement the adoption of a centralized court reporting system.

The JCITC members are entitled to mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which they are appointed. These expenses shall be paid from the General Fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed. Additionally, the JCITC may apply for and expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities. Further, the JCITC may employ or retain other professional staff, upon the determination of the necessity for other staff by the JCITC. The JCITC may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations report. Both the House of Representatives and the Senate indicate their members will receive per diem of $35, subsistence of $195.53, and mileage for each meeting on non-session days. These expenses will be managed within the budget of the appointees’ respective legislative body. The expenditure impact for members of the JCITC that are not appointed from the House of Representatives or the Senate will be managed within the existing appropriations of their agencies.

**Section 6.** This bill mandates that a licensed firearm seller cannot sell a firearm unless the National Instant Criminal Background Check System (NICS) provides the licensed dealer with a unique identification number or five days have elapsed from the date the licensed dealer contacted NICS, and the NICS has not notified the licensed dealer that a sale or transfer to such person would violate state or federal law. This bill extends the amount of time a licensed seller must wait to hear back from the NICS after contacting them from three days under federal law to five days. A person who violates these provisions is guilty of a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than $1,000 or both.

**Judicial Department.** The department indicates there is no data available to determine if the number of hearings and trials would significantly increase or decrease the backlog of cases related to gun violations. However, any additional costs associated with additional hearings or trials would likely be managed within existing appropriations. Therefore, there will be no expenditure impact to the general fund, other funds, or federal funds.

**Local Expenditure**

**Section 2 and 3.** The bill adds reporting requirements on orders and convictions for magistrates and municipal judges identical to the ones required on General Services Courts.

**South Carolina State Law Enforcement Division.** The department indicates that while magistrate and municipal judges currently do not send SLED disposition reports, the impact of receiving these additional reports will be minimal and can absorbed within existing resources.

**Judicial Department.** The department indicates that the additional responsibilities of this bill regarding reports and reports on certain orders and convictions can be managed within existing appropriations.

The Revenue and Fiscal Affairs Office contacted twenty-three county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill. Florence and Oconee counties indicate this bill will add significant cost because they would need to hire additional staff to interpret orders, process reports and send them to SLED within the ten day timeframe. Neither county provided amounts of funding needed to hire additional staff. Lancaster and Clarendon counties said this bill will have no expenditure impact since they currently transmit the orders and reports through court administration to SLED and can meet the shorter timeframe proposed in this bill with existing resources. Charleston County indicates the expenditure impact would be significant since the court reporting requirements would increase the work load and liability placed on clerks and paralegals to interpret orders and get them processed to SLED. Charleston estimates $350,000 in total cost, which includes the hiring of five paralegals at a cost of $60,000 each including fringe benefits, and $50,000 in non-recurring costs for office space, furniture, and computers. Williamsburg County indicates there would be an additional cost of $9,838.40 which includes fringe to pay for overtime for current staff to comply with the reporting requirements in this bill. The MASC did not respond.

Based on the survey results from the responding counties and the non-response from the Municipal Association, the statewide expenditure impact on county magistrate and municipal courts for the added reporting to SLED is undetermined given the lack of responses and the wide range of estimated costs.

**Section 4.** This bill requires local law enforcement agencies to report to SLED within twenty-four hours: the filing of an incident report for each criminal case; the filing of an order of protection or restraining order; or any order or report relating to an incident of domestic violence; and any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law.

**Sheriffs’ Association.** The Sheriffs’ Association indicates the law enforcement reporting requirements would have an undetermined expenditure impact since some local law enforcement agencies already report to SLED and others do not. For those that do not currently report to SLED, the cost to do so will vary depending on the number of reportable incidents. Therefore, the expenditure impact for local law enforcement agencies is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 14-17-325 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, RELATED TO CLERKS OF COURT, TO REQUIRE THAT EVERY CLERK OF COURT SHALL REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CASE IN GENERAL SESSIONS, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND CHAPTER 1, TITLE 22, BY ADDING SECTION 22-1-200 TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND ARTICLE 1, CHAPTER 25, TITLE 14 BY ADDING SECTION 14-25-250 TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT; TO AMEND CHAPTER 1, TITLE 23 BY ADDING SECTION 23-1-250 TO REQUIRE EACH LAW ENFORCEMENT AGENCY TO REPORT TO SLED WITHIN TWENTY-FOUR HOURS, THE FILING OF EACH INCIDENT REPORT, ORDER OF PROTECTION, RESTRAINING ORDER, ANY ORDER OR REPORT RELATING TO AN INCIDENT OF DOMESTIC VIOLENCE, OR ANY INCIDENT IN WHICH A PERSON MAY BE PROHIBITED FROM OBTAINING OR POSSESSING A FIREARM BY STATE OR FEDERAL LAW; TO AMEND TITLE 14 BY ADDING CHAPTER 32 TO CREATE THE JUDICIAL CRIMINAL INFORMATION TECHNOLOGY COMMITTEE, TO ESTABLISH MEMBERSHIP, DUTIES AND RESPONSIBILITIES OF THE COMMITTEE TO INCLUDE THE STUDY OF, AND TO MAKE RECOMMENDATIONS FOR, THE IMPROVEMENT OF JUDICIAL AND LAW ENFORCEMENT INFORMATION TECHNOLOGY AND REPORTING; TO AMEND CHAPTER 23, TITLE 16, BY ADDING ARTICLE 9, TO REQUIRE THAT NO GUN TRANSFER PRECEDED BY A CRIMINAL BACKGROUND CHECK MAY PROCEED, UNLESS THE CRIMINAL BACKGROUND CHECK HAS CONCLUDED THAT THE SALE MAY PROCEED, OR UNTIL AT LEAST FIVE DAYS HAVE PASSED FROM THE INITIATION OF THE BACKGROUND CHECK AND THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM HAS NOT REPORTED THAT THE SALE WOULD VIOLATE STATE OR FEDERAL LAW, AND TO PROVIDE FOR CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ARTICLE; AND TO PROVIDE A SUNSET FOR THE FIVE-DAY BACKGROUND CHECK PROVISIONS UPON THE FULL IMPLEMENTATION OF THE REPORTING REQUIREMENTS OF THIS ACT BUT NOT LATER THAN TWO YEARS FROM THE EFFECTIVE DATE OF THE ACT.

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

SECTION 1. Section 14-17-325 of the 1976 Code is amended to read:

“Section 14-17-325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within ~~thirty~~ ten days of disposition, weekends and holidays excluded.

(B) The clerk of court shall report to the State Law Enforcement Division, within 48 hours, the issuance of any:

(1) restraining orders,

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) orders issued related to the stalking, intimidation, or harassment of another person, or

(6) orders for bond with any limitations listed in this section.

(C) The ~~disposition report~~ reports required by this section must be in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration.”

SECTION 2. Chapter 1, Title 22 of the 1976 Code is amended by adding:

“Section 22-1-200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded.

(B) Magistrates shall report to the State Law Enforcement Division, within 48 hours, the issuance of any:

(1) restraining orders,

(2) orders of protection,

(3) orders preventing a person from possessing a firearm,

(4) convictions related to or orders issued to prevent acts of domestic violence against another person,

(5) orders issued or convictions related to, or to prevent, the stalking, intimidation, or harassment of another person, or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of docket information transmitted to the office of the court administration.”

SECTION 3. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14-25-250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within ten days, weekends and holidays excluded.

(B) A municipal judge shall report to the State Law Enforcement Division, within 48 hours, the issuance of any:

(1) restraining orders,

(2) orders of protection,

(3) orders preventing a person from possessing a firearm,

(4) convictions related to or orders issued to prevent acts of domestic violence against another person,

(5) convictions related to or orders issued to prevent, the stalking, intimidation, or harassment of another person, or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of the State Law Enforcement Division and the office of court administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of docket information transmitted to the office of the court administration.”

SECTION 4. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23-1-250. (A) Each law enforcement agency must report to the State Law Enforcement Division within twenty-four hours:

(1) the filing of an incident report for each criminal case,

(2) the filing of an order of protection, restraining order, or any order or report relating to an incident of domestic violence,

(3) any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law.

(B) The report must be made in a format approved by representatives of the State Law Enforcement Division.”

SECTION 5. Title 14 of the 1976 Code is amend by adding:

“CHAPTER 32

Judicial Criminal Information Technology Committee

Section 14-32-10. There is hereby established a committee to be known as the Judicial Criminal Information Technology Committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 14-32-20. (A) The committee shall be composed of the following:

(1) a member of the Senate, appointed by the Chair of the Senate Judiciary Committee;

(2) a member of the House of Representatives, appointed by the Chair of the House Judiciary Committee;

(3) the Chief Justice of the Supreme Court, who shall serve ex officio;

(4) one member who is a judge of the state, appointed by the Chief Justice of the Supreme Court;

(5) one member who is a clerk of court appointed by the Chief Justice of the Supreme Court;

(6) one member who is a circuit solicitor, appointed by the Attorney General,

(7) one member who is a circuit public defender, appointed by the Chief Justice of the Supreme Court; and

(8) one member who is a sheriff or municipal chief of police, appointed by the Governor;

(B) The members who are appointed shall serve for period of three years and may be reappointed.

(C) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of five members.

Section 14-32-30. The committee has the following powers and duties:

(A) to review the current state of law enforcement information technology and reporting, including, but not limited to, the timeframe and accuracy of the filing of reports, fingerprints and related offender information, and evidence discovery to prosecutors, courts, and to the State Law Enforcement Division criminal information database,

(B) to review the current state of judicial information technology including, but not limited to, the technology and funding needs of state and local court systems, the technology and funding needs of state and local law enforcement agencies, and the current efficiency, timeliness, and accuracy of filings;

(C) to recommend the implementation of an accurate and secure centralized court reporting system for all courts in the State and to explore funding options, and recommend legislation, rules, or regulations to enhance the overall efficiency of the judicial system and criminal reporting by law enforcement. An initial report shall be given to the Chairmen of the House and Senate Judiciary Committees no later than December 15th of 2017 detailing the current status of agency needs, funding requirements, and recommendations and findings of the committee.

(D) to recommend to the Supreme Court, changes to the court rules to effectuate the adoption of a centralized court reporting system and the implementation with, and the full compliance of, reporting deadlines.”

Section 14-32-30. (A) The committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 14-32-40. (A) The committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the committee.

(B) The committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations report.”

SECTION 6. Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Article 9

Background Checks for Firearm Sales and Transfers

Section 16‑23‑910. As used in this article:

(1) ‘Firearm’ means a weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

(2) ‘Licensed dealer’ means the holder of any federal firearms license under 18 U.S.C. Section 923(a).

(3) ‘Transfer’ means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

(4) ‘Transferee’ means a person who receives or intends to receive a firearm in a sale or transfer.

Section 16‑23‑920. For any sale or transfer of a firearm for which a licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check, a licensed gun dealer may not deliver a firearm to any transferee unless the NICS provides the licensed dealer with a unique identification number or five days have elapsed from the date the licensed dealer contacted the NICS and the NICS has not notified the licensed dealer that a sale or transfer to such person would violate state or federal law.

Section 16‑23‑930. A person who violates the provisions of this article is guilty of a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than one thousand dollars, or both.”

SECTION 7. 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 8. This act takes effect upon approval by the Governor. The provisions of SECTION 6 are repealed upon the submission of a report by the Judicial Criminal Information Technology Committee to the General Assembly detailing recommendations for the implementation of a centralized court reporting system for all courts of the State and funds for its implementation are appropriated by the General Assembly in the annual appropriations act, however, notwithstanding when the report is submitted, SECTION 6 is repealed two years from the effective date of this act.

‑‑‑‑XX‑‑‑‑