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CHAPTER 3.

 SOUTH CAROLINA LAW‑ENFORCEMENT DIVISION

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 23‑3‑10.** Creation, chief and personnel of South Carolina Law‑Enforcement Division.

There is created the South Carolina Law Enforcement Division (SLED). The division must be headed by a chief appointed by the Governor with the advice and consent of the Senate and shall hold office until his successor is appointed and qualified. The term of the chief is six years. On the effective date of the provisions of this section providing for a six‑year term for the chief, a successor to the chief serving on this date must be appointed as provided herein. Nothing herein prevents the chief serving on this date from being reappointed to additional six‑year terms. The chief may only be removed pursuant to the provisions of Section 1‑3‑240 of the 1976 Code. The agents and officers of the division must be commissioned by the Governor upon the recommendation of the chief. The agents and officers shall have that rank or title as may be provided under the State Employees Classification System. The chief may appoint other personnel considered necessary and as provided for in the annual appropriations act. All agents and officers commissioned by the Governor are subject to discharge for cause which must be subject to review as is now provided by law for other state employees.

**SECTION 23‑3‑15.** Additional jurisdiction, authority and responsibilities; exclusive authority; other agencies or departments to assist SLED.

(A) In addition to those authorities and responsibilities set forth in this chapter, the South Carolina Law Enforcement Division shall have specific and exclusive jurisdiction and authority statewide, on behalf of the State, in matters including but not limited to the following functions and activities:

(1) the investigation of organized criminal activities or combined state‑federal interstate criminal activities, all general criminal investigations, arson investigation and emergency event management pertaining to explosive devices;

(2) the maintenance and operation of a statewide comprehensive forensic sciences laboratory;

(3) covert investigation of illegal activities pertaining to and the interdiction of narcotics and other illicit substances;

(4) operation and maintenance of a central, statewide criminal justice data base and data communication system;

(5) establishment and operation of highly specialized, tactical response law enforcement units within the division;

(6) operation and regulation of state polygraph examination services;

(7) law enforcement, regulation enforcement, and inspections under Title 61;

(8) the coordination of counter terrorism efforts, including prevention against, preparation for, response to, and crisis management of acts of terrorism, in or affecting this State; coordination of federal grants associated with homeland security; creation of councils appropriate to its mission; and service as the Governor’s representative to the United States Department of Homeland Security; and

(9) other activities not inconsistent with the mission of the division or otherwise proscribed by law.

(B) No other state agency or department having personnel who are commissioned law enforcement officers may engage in any of the activities herein set forth without the express permission of the Chief of the South Carolina Law Enforcement Division. Any state agencies or departments having commissioned law enforcement personnel shall assist the South Carolina Law Enforcement Division at any time the Chief of SLED requests assistance in carrying out the statutory duties of the division.

(C) The South Carolina Law Enforcement Division is responsible for the enforcement of all criminal laws, misdemeanors, and felonies, and civil laws, the violation of which may result in a fine or other penalty being assessed against the violator, which laws are now enforced by law enforcement personnel employed by and under the jurisdiction of the Alcoholic Beverage Control Commission. These civil and criminal laws also include regulations and ordinances pertinent thereto. The duties, functions, and powers of these law enforcement personnel are devolved upon the South Carolina Law Enforcement Division and the law enforcement personnel of this agency on the effective date of this section shall perform their duties and functions under the auspices of the division and shall become a part of the South Carolina Law Enforcement Division in the manner provided by law.

**SECTION 23‑3‑20.** Bond and oath of chief and agents; reappointment.

Every officer and agent commissioned pursuant to this article shall file a bond, or be covered by a surety bond, of not less than two thousand dollars with the South Carolina Law Enforcement Division, subscribed by a licensed surety company, conditioned for the faithful performance of his duties, for the prompt and proper accounting of all funds coming into his hands, and for the payment of a judgment recovered against him in a court of competent jurisdiction upon a cause of action arising out of breach or abuse of official duty or power and for the payment of damages sustained by a member of the public from an unlawful act of the officer or agent. However, coverage under the bond does not include damage to persons or property arising out of the negligent operation of a motor vehicle. The bond may be individual, schedule, or blanket and on a form approved by the Attorney General. The premiums on the bonds must be paid by the division.

All officers and agents of the division shall take and subscribe to the oath provided by law for peace officers.

**SECTION 23‑3‑25.** Assignment of personnel; divisions.

The Chief of the South Carolina Law Enforcement Division may assign personnel of the division to particular areas of enforcement as appropriate for the enforcement of the laws and regulations of this State which the South Carolina Law Enforcement Division is charged with enforcing. For this purpose, the chief may establish divisions within the department to carry out particular duties as assigned by the chief.

**SECTION 23‑3‑30.** Supervision of security personnel employed by State.

All security personnel employed by the State, other than at correctional institutions shall be under the direct supervision of the South Carolina Law‑Enforcement Division.

**SECTION 23‑3‑40.** Recordation and classification of fingerprints taken in criminal investigations.

All sheriff’s and police departments in South Carolina shall make available to the Criminal Justice Records Division of the State Law‑Enforcement Division for the purpose of recordation and classification all fingerprints taken in criminal investigations resulting in convictions. The State Law‑Enforcement Division shall pay for the costs of such program and prepare the necessary regulations and instructions for the implementation of this section.

**SECTION 23‑3‑45.** Acceptance of fingerprints of applicants for admission to bar; exchange of records with Board of Law Examiners.

The South Carolina Law Enforcement Division is authorized to accept fingerprints of applicants for admission to the South Carolina Bar and, to the extent provided for by federal law, to exchange state, multistate, and federal criminal history records with the South Carolina Board of Law Examiners for licensing purposes.

**SECTION 23‑3‑50.** Revenue from certain fees and licenses to be remitted to State Treasurer.

Notwithstanding any other provisions of law, all revenue from fees and licenses received by the State Law‑Enforcement Division related to enforcement and regulation of private detective and security companies (Section 40‑17‑160 of the 1976 Code), gun dealers (Section 16‑23‑10), gun permits (Sections 23‑31‑110 and 17‑5‑110) and massage parlors (Section 40‑29‑160) shall be remitted to the State Treasurer as collected and credited to the general fund of the State.

**SECTION 23‑3‑55.** Expenditure of revenue.

Notwithstanding any other provision of law, all revenue generated by the State Law Enforcement Division from the sale of vehicles, various equipment, and gasoline, and insurance claims during the prior fiscal year may be retained, carried forward, and expended for the purpose of purchasing like items.

**SECTION 23‑3‑65.** South Carolina Law Enforcement Assistance Program to provide counseling services and other support services.

The South Carolina Law Enforcement Division shall administer the South Carolina Law Enforcement Assistance Program (SC LEAP). The purpose of this program includes, but is not limited to, responding to and providing counseling services to all requesting law enforcement agencies and departments in the State which have experienced deaths or other tragedies involving law enforcement officers or other employees, and providing any other critical incident support services for all South Carolina law enforcement agencies and departments upon their request. The SC LEAP may also utilize local critical incident support service providers including, but not limited to chaplains, mental health professionals, and law enforcement peers. In consultation with the professional staff of the SC LEAP and the South Carolina Law Enforcement Chaplains’ Association, the South Carolina Criminal Justice Academy shall develop a course of training for the critical incident stress debriefing and peer support team.

**SECTION 23‑3‑70.** Plain language communications requirements for local and state emergency, fire, and law enforcement agencies.

Notwithstanding another provision of law, each local and state emergency, fire, and law enforcement agency shall either:

(1) adopt plain language communications as outlined by the Department of Homeland Security as its agency’s standard; or

(2) implement and submit for review by the State Law Enforcement Division a plan for the use of plain language communication during periods of a declared emergency.

**SECTION 23‑3‑80.** Negotiation of memorandum of understanding with federal agency relating to unlawful aliens.

(A) The chief of the South Carolina Law Enforcement Division is authorized and directed to negotiate the terms of a memorandum of understanding between the State of South Carolina and the United States Department of Justice or Department of Homeland Security addressing:

(1) the enforcement of federal immigration laws by state and local law enforcement, specifically through the 287‑G program or other applicable federal law or program designed for the purpose of state enforcement of federal immigration laws;

(2) the detention of unlawful aliens by state and local law enforcement officials and the costs associated with those detentions;

(3) the removal of detained unlawful aliens by federal authorities or, instead of removal, the deportation of illegal immigrants by state and local law enforcement officials;

(4) training of state and local law enforcement officials pursuant to the 287‑G program or other applicable federal law or program and the costs of such training; and

(5) further communication and cooperation between federal law enforcement and state and local law enforcement officials in the area of immigration enforcement, pursuant to 8 USC Section 1357(g).

(B) The memorandum of understanding negotiated pursuant to subsection (A) must be signed on behalf of the State by the chief of the South Carolina Law Enforcement Division and the Governor or as otherwise required by the appropriate federal agency.

(C) The chief of the South Carolina Law Enforcement Division shall designate appropriate law enforcement officers to be trained pursuant to the memorandum of understanding provided for in subsections (A) and (B). The training may be funded pursuant to the federal Homeland Security Appropriations Act of 2006, or any other source of funding. The provisions of this section become effective upon the securing of this funding.

(D) The director of the South Carolina Department of Corrections, the sheriff of a county, and the governing body of a municipality that maintains a paid police department may enter into the memorandum of understanding between the State of South Carolina and the United States Department of Justice or Department of Homeland Security as a party, and, subject to the availability of funds provided for in subsection (C) of this section, provide corrections officers and local law enforcement officers for training in accordance with the memorandum of understanding.

(E) A law enforcement officer certified as trained in accordance with the memorandum of understanding as provided in this section is authorized to enforce federal immigration and customs laws while performing within the scope of his or her authorized duties.

ARTICLE 3.

 CRIMINAL INFORMATION AND COMMUNICATION SYSTEM

**SECTION 23‑3‑110.** Creation and functions of statewide criminal information and communication system.

There is hereby established as a department within the State Law‑Enforcement Division a statewide criminal information and communication system, hereinafter referred to in this article as “the system,” with such functions as the Division may assign to it and with such authority, in addition to existing authority vested in the Division, as is prescribed in this article.

**SECTION 23‑3‑115.** Fees for criminal record searches conducted for charitable organizations.

(A) The State Law Enforcement Division shall charge and collect a fee of twenty‑five dollars for each criminal record search conducted pursuant to regulations contained in Subarticle 1, Article 3, Chapter 73 of the Code of Regulations. All revenue generated up to an amount of four million four hundred sixty‑one thousand dollars collected from the criminal record search fee must be deposited to the general fund of the State; any revenue generated above this amount shall be collected, retained, expended, and carried forward by the State Law Enforcement Division for agency operations. The sale or dissemination of the criminal history record database maintained by the State Law Enforcement Division is prohibited. The individual sale of individual criminal history records by the State Law Enforcement Division is not affected. Notwithstanding any other provision of law, criminal history record information, including arrest history, may be disseminated in accordance with regulations regardless of whether a corresponding judicial finding or disposition is part of the record.

(B) The fee allowed in subsection (A) is fixed at eight dollars if the criminal record search is conducted for a charitable organization, a bona fide mentor, or for the use of a charitable organization. The division shall develop forms on which a mentor or charitable organization shall certify that the criminal record search is conducted for the use and benefit of the charitable organization or mentor. For purposes of this subsection, the phrase “charitable organization” means:

(1) an organization which has been determined to be exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended;

(2) a bona fide church, including an institution such as a synagogue or mosque;

(3) an organization which has filed a statement of registration or exemption under the Solicitation of Charitable Funds Act, Chapter 56, Title 33; or

(4) local recreation commission volunteers.

**SECTION 23‑3‑120.** Reports of criminal data and fingerprints by law‑enforcement agencies and court officials; taking of fingerprints.

[Section effective July 1, 2009.]

(A) All law enforcement agencies and court officials must report all criminal data and related information within their respective jurisdictions to the State Law Enforcement Division’s Central Record Repository at such times and in such form as the State Law Enforcement Division requires. This information must include criminal data and related information regarding juveniles charged with offenses pursuant to Section 63‑19‑2020.

(B) A person subjected to a lawful custodial arrest for a state offense must be fingerprinted at the time the person is booked and processed into a jail or detention facility or other location when the taking of fingerprints is required. Fingerprints taken by a law enforcement agency or detention facility pursuant to this section must be submitted to the State Law Enforcement Division’s Central Record Repository within three days, excluding weekends and holidays, for the purposes of identifying record subjects and establishing criminal history record information.

(C) The Department of Corrections and the Department of Probation, Parole and Pardon Services must submit the fingerprints of persons taken into custody to the State Law Enforcement Division’s Central Record Repository within three days after incarceration or intake, excluding weekends and holidays. Information concerning the probation segment of a criminal history record is not required if that information is established in the record.

**SECTION 23‑3‑130.** Determination of information to be supplied and methods of evaluation and dissemination; promulgation of rules and regulations.

The State Law‑Enforcement Division is authorized to determine the specific information to be supplied by the law‑enforcement agencies and court officials pursuant to Section 23‑3‑120, and the methods by which such information shall be compiled, evaluated and disseminated. The State Law Enforcement Division is further authorized to promulgate rules and regulations to carry out the provisions of this article.

The South Carolina Law‑Enforcement Division shall disseminate criminal history conviction records upon request to local school districts for prospective teachers and to the State Department of Social Services for personnel of child day care facilities. This service must be provided to the local school districts without charge.

**SECTION 23‑3‑140.** Effect of Article on disclosure of information.

The provisions of this article shall not be construed to require or permit the disclosure or reporting of any information in the manner prohibited by existing law.

**SECTION 23‑3‑150.** Grants and appropriations; contracts with public agencies.

The State Law‑Enforcement Division is authorized to accept, on behalf of the State, and use in the establishment, expansion and improvement of the system, funds in the nature of grants or appropriations from the State, the United States, or any agency thereof, and may contract with any public agency for use of the system in the furtherance of effective law enforcement.

**SECTION 23‑3‑160.** Investigation of injury or death of person under twenty‑one when use of beverages containing alcohol suspected.

In any accident involving injury or death of a person under the age of twenty‑one, where there is cause to believe that any beverage containing alcohol was consumed prior to the accident by the person under twenty‑one, the law enforcement agency having jurisdiction to investigate the accident shall commence a detailed investigation to determine the circumstances under which the beverage was obtained.

Upon initiation of this investigation by the local investigating law enforcement agency, the South Carolina Law Enforcement Division shall assist in whatever capacity necessary to fully complete the inquiry and shall cooperate and assist in the prosecution of appropriate criminal charges against any person who provided a beverage containing alcohol to the person under twenty‑one.

**SECTION 23‑3‑170.** Investigation of traffic‑related injury or death of person where use of illegal drugs or controlled substances suspected.

In any motor vehicle accident involving injury or death of a person where there is cause to believe that an illegal drug or controlled substance was used prior to the accident by any person involved therein, the law enforcement agency having jurisdiction to investigate the accident shall commence a detailed investigation to determine the circumstances under which the illegal drug or controlled substance was obtained.

Upon initiation of this investigation by the local investigating law enforcement agency, the South Carolina Law Enforcement Division shall assist in whatever capacity necessary to fully complete the inquiry and shall cooperate and assist in the prosecution of appropriate criminal charges against any person who provided the illegal drug or controlled substance to that person.

**SECTION 23‑3‑175.** Inspection of junkyard, car dealership, parking lot, etc., for purpose of locating stolen vehicle or investigating titling or registration of wrecked or dismantled vehicle.

The State Law Enforcement Division Vehicle Theft Unit is authorized to inspect a junkyard, scrap metal processing facility, salvage yard, repair shop, licensed business buying, selling, displaying, or trading new or used motor vehicles or parts of motor vehicles, parking lots, and public garages, or a person dealing with salvaged motor vehicles or parts of them.

The physical inspection must be conducted while an employee or owner of the facility is present and must be for the purpose of locating stolen motor vehicles or investigating titling or registration of motor vehicles wrecked or dismantled.

ARTICLE 5.

 MISSING PERSON INFORMATION CENTER

**SECTION 23‑3‑200.** Creation of Center; use of FBI file.

There is created a Missing Person Information Center, hereinafter referred to as MPIC, to be located in Columbia as a part of the State Law Enforcement Division. The purpose of the MPIC is to serve as a central repository for information regarding missing persons and missing and exploited children, with special emphasis on missing children. The MPIC shall utilize the Federal Bureau of Investigation/National Crime Information Center’s missing person computerized file through the use of the State Law Enforcement Division’s law enforcement communications network. This center is hereinafter referred to as FBI/NCIC.

**SECTION 23‑3‑210.** Definitions.

For the purposes of this article:

(1) “Missing child” means any individual who is under the age of seventeen years whose temporary or permanent residence is in South Carolina, or is believed to be in South Carolina, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

(2) “Missing person” means any individual who is seventeen years of age or older, whose temporary or permanent residence is in South Carolina, or is believed to be in South Carolina, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

(3) “Missing person report” is a report prepared on a prescribed form for transmitting information about a missing person or a missing child to a law enforcement agency.

(4) “Exploited children” are children under the age of eighteen who are placed in positions where they were taken advantage of sexually because of their inability to cognitively assess or resist the contact or who were placed into these positions because of their dependency upon the offender.

**SECTION 23‑3‑220.** Chief of State Law Enforcement Division, generally; employees.

The MPIC is under the direction of the Chief of the State Law Enforcement Division and may be organized and structured in a manner as the Chief deems appropriate to ensure that the objectives of the MPIC are achieved. The Chief may employ those MPIC personnel as the General Assembly may authorize and provide funding for.

**SECTION 23‑3‑230.** Promulgation of regulations.

The MPIC shall promulgate regulations prescribing:

(a) procedures for accepting and disseminating information maintained at the MPIC;

(b) the confidentiality of the data and information, including the missing person report, maintained by the MPIC;

(c) the proper disposition of all obsolete data, including the missing person report; provided, data for an individual who has reached the age of eighteen and remains missing must be preserved;

(d) procedures allowing a communication link with the State Law Enforcement Division and the FBI/NCIC’s missing person file to ensure compliance with FBI/NCIC policies;

(e) forms, including but not limited to a missing person report, considered necessary for the efficient and proper operation of the MPIC.

**SECTION 23‑3‑240.** Submission of missing person reports to Center.

Any parent, spouse, guardian, legal custodian, or public or private agency or entity may submit a missing person report to the MPIC on any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances.

**SECTION 23‑3‑250.** Dissemination of missing persons data by law enforcement agencies.

A law enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, or public or private agency or entity, shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on‑duty law enforcement officers of the missing person report, initiate a statewide broadcast to all other law enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the MPIC.

**SECTION 23‑3‑260.** Responsibilities of Center.

The MPIC shall:

(a) Assist local law enforcement agencies with entering data about missing persons or missing children into the national missing persons file, ensure that proper entry criteria have been met as set forth by the FBI/NCIC, and confirm entry of the data about the missing persons or missing children.

(b) Utilize both the intrastate communication network and the FBI/NCIC system in locating missing persons or missing children.

(c) Collect, process, maintain, and disseminate information on missing and exploited children or missing persons.

(d) Provide for a centralized distribution center for emergency flyers on missing persons or missing children.

(e) Formulate and distribute, both intrastate and interstate, a monthly bulletin of missing persons and missing children from South Carolina to law enforcement agencies.

(f) Develop, maintain, and disseminate a directory of resources available for assistance to local, state, and federal agencies and entities, public and private organizations, and others in locating a missing person or missing child.

(g) Provide news media, including, but not limited to, television and radio stations and newspapers, with pertinent information on missing persons and missing children on a regularly scheduled basis.

(h) Develop and disseminate recommended procedures and forms for the collection of identifying information, including but not limited to bloodtyping, fingerprinting, and dental charting, which are compatible with criteria established by the FBI/NCIC.

(i) Maintain all available information on any missing person or missing child including, but not limited to, the missing person report, fingerprints, blood types, dental information, and photographs. The identifying information maintained at the MPIC must be kept confidential, except as may be otherwise provided in this article.

(j) Conduct statewide training sessions and seminars relative to missing and exploited children and missing persons, including, but not limited to, methods to enhance the locating of missing children and missing persons and training regarding the operation of the MPIC.

(k) In the case of locating an individual who had previously been reported as being a missing person or missing child, provide referrals for counseling or other assistance or aid to the individual or the individual’s family, if the individual or his family desires counseling or other assistance or aid.

(l) Provide a program of support and technical assistance for community‑based efforts, especially in the case of children, to prevent disappearances and to ensure self‑protection.

**SECTION 23‑3‑270.** Notification requirements when missing person located.

Any parent, spouse, guardian, legal custodian, or public or private agency or entity who submits a missing person report to a law enforcement agency or to the MPIC, after having first submitted the missing person report to the appropriate law enforcement agency, shall immediately notify the law enforcement agency and the MPIC of any individual whose location has been determined. The MPIC shall instigate and confirm the deletion of the individual’s records from the FBI/NCIC’s missing person file, as long as there are no grounds for criminal prosecution, and follow up with the local law enforcement agency having jurisdiction of the records.

**SECTION 23‑3‑280.** Release of information.

The following may make inquiries of, and receive data or information from, the MPIC:

(a) Any police, law enforcement, or criminal justice agency investigating a report of a missing or unidentified person or child, whether living or deceased.

(b) A court, upon a finding by the court that access to the data, information, or records of the MPIC may be necessary for the determination of an issue before the court.

(c) Any solicitor of a judicial circuit in this State or the solicitor’s designee or representative.

(d) Any person engaged in bona fide research when approved by the Chief; provided, no names or addresses may be supplied to this person.

**SECTION 23‑3‑290.** Fees.

The MPIC may not charge any fee for inquiries made to it pursuant to this article.

**SECTION 23‑3‑300.** Toll‑free phone line; instructions to callers; communication with law enforcement agencies.

The MPIC shall provide a toll‑free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. MPIC personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in Section 23‑3‑240 of first having to submit a missing person report on the individual to the law enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law enforcement agency may retrieve information imparted to the MPIC by means of this phone line. The MPIC must directly communicate any report of a sighting of a missing person or a missing child to the law enforcement agency having jurisdiction in the area of disappearance or sighting.

**SECTION 23‑3‑310.** Improper release of information; penalty.

Any person who knowingly and wilfully releases, or authorizes the release of, any data, information, or records maintained or possessed by the MPIC to any agency, entity, or person other than as specifically permitted by this article or in violation of any regulation promulgated by the MPIC is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment of not less than thirty days nor more than ninety days, or both.

**SECTION 23‑3‑320.** Missing Person Task Force.

There is created a Missing Person Task Force composed of five members appointed by the Governor. The Governor shall designate a member as chairman. The Task Force shall study information gathered from the MPIC and the FBI/NCIC in order to make long‑range plans concerning the gathering, maintaining, and processing of information and data on missing persons and missing children, concerning the effectiveness of efforts to determine the whereabouts of missing persons and missing children through the efforts of the MPIC, and concerning related matters. The Task Force shall submit a written report of its findings and recommendations to the Governor, the Attorney General, and the Joint Legislative Committee on Children on or before July 1, 1986. After submission of this report, the Missing Person Task Force is dissolved. The Task Force may meet as frequently as its chairman or a majority of its members considers necessary. Members of the Task Force are allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions.

ARTICLE 7.

 SEX OFFENDER REGISTRY

**SECTION 23‑3‑400.** Purpose.

The intent of this article is to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens. Notwithstanding this legitimate state purpose, these provisions are not intended to violate the guaranteed constitutional rights of those who have violated our nation’s laws.

The sex offender registry will provide law enforcement with the tools needed in investigating criminal offenses. Statistics show that sex offenders often pose a high risk of re‑offending. Additionally, law enforcement’s efforts to protect communities, conduct investigations, and apprehend offenders who commit sex offenses are impaired by the lack of information about these convicted offenders who live within the law enforcement agency’s jurisdiction.

**SECTION 23‑3‑410.** Registry; contents and purpose; cross‑reference alias names.

(A) The registry is under the direction of the Chief of the State Law Enforcement Division (SLED) and shall contain information the chief considers necessary to assist law enforcement in the location of persons convicted of certain offenses. SLED shall develop and operate the registry to: collect, analyze, and maintain information; make information available to every enforcement agency in this State and in other states; and establish a security system to ensure that only authorized persons may gain access to information gathered under this article.

(B) SLED shall include and cross‑reference alias names in the registry.

**SECTION 23‑3‑420.** Promulgation of regulations.

The State Law Enforcement Division shall promulgate regulations to implement the provisions of this article.

**SECTION 23‑3‑430.** Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration.

(A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity shall not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to a prosecution for failure to register that the offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, adjudication, plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State.

(B) For purposes of this article, a person who remains in this State for a total of thirty days during a twelve‑month period is a resident of this State.

(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

(1) criminal sexual conduct in the first degree (Section 16‑3‑652);

(2) criminal sexual conduct in the second degree (Section 16‑3‑653);

(3) criminal sexual conduct in the third degree (Section 16‑3‑654);

(4) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

(5) criminal sexual conduct with minors, second degree. If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(3) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) engaging a child for sexual performance (Section 16‑3‑810);

(7) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

(8) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656);

(9) incest (Section 16‑15‑20);

(10) buggery (Section 16‑15‑120);

(11) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

(12) peeping, voyeurism, or aggravated voyeurism (Section 16‑17‑470);

(13) violations of Article 3, Chapter 15 of Title 16 involving a minor;

(14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16‑3‑910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) criminal sexual conduct when the victim is a spouse (Section 16‑3‑658);

(18) sexual battery of a spouse (Section 16‑3‑615);

(19) sexual intercourse with a patient or trainee (Section 44‑23‑1150);

(20) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16‑15‑375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16‑15‑342); or

(21) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44‑53‑370(f), except petit larceny or grand larceny.

(D) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor.

(E) SLED shall remove a person’s name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person’s adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

(F) If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23‑3‑460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

(G) If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23‑3‑460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2)(a) if the circuit court grants the offender’s petition or motion and orders a new trial; and

(b) a verdict of acquittal is returned at the new trial or entered with the state’s consent.

**SECTION 23‑3‑440.** Notification of sheriff of offender’s release, probation or change of residence; juvenile offenders.

(1) Before an offender’s release from the Department of Corrections after completion of the term of imprisonment, from the Department of Juvenile Justice after completion of the term of confinement, or being placed on parole, SLED, based upon information provided by the Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, or the Department of Probation, Parole and Pardon Services, shall notify the sheriff of the county where the offender intends to reside that the offender is being released and has provided an address within the jurisdiction of the sheriff for that county. The Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, and the Department of Probation, Parole and Pardon Services shall provide verbal and written notification to the offender that he must register with the sheriff of the county in which he intends to reside within one business day of his release. Further, the Department of Corrections, the Department of Juvenile Justice, and the Juvenile Parole Board shall obtain descriptive information of the offender, including a current photograph prior to release. The offender’s photograph must be provided to SLED before he is released.

(2) Based upon information provided by the Department of Probation, Parole and Pardon Services, SLED shall notify the sheriff of the county where an offender is residing when the offender is sentenced to probation or is a new resident of the State who must be supervised by the department. The Department of Probation, Parole and Pardon Services also shall provide verbal and written notification to the offender that he must register with the sheriff of the county in which he intends to reside. An offender who is sentenced to probation must register within one business day of sentencing. Further, the Department of Probation, Parole and Pardon Services shall obtain descriptive information of the offender, including a current photograph that is to be updated annually prior to expiration of the probation sentence.

(3) Based upon information provided by the Department of Juvenile Justice, or the Juvenile Parole Board SLED shall notify the sheriff of the county where an offender is residing when the offender is released from a Department of Juvenile Justice facility or the Juvenile Parole Board, or when the Department of Juvenile Justice or the Juvenile Parole Board is required to supervise the actions of the juvenile. The Department of Juvenile Justice or the Juvenile Parole Board must provide verbal and written notification to the juvenile and his parent, legal guardian, or custodian that the juvenile must register with the sheriff of the county in which the juvenile resides. The juvenile must register within one business day of his release. The parents or legal guardian of a person under seventeen years of age who is required to register under this chapter must ensure that the person has registered.

(4) The Department of Corrections, the Department of Probation, Parole and Pardon Services, and the Department of Juvenile Justice shall provide to SLED the initial registry information regarding the offender prior to his release from imprisonment or relief of supervision. This information shall be collected in the event the offender fails to register with his county sheriff.

**SECTION 23‑3‑450.** Offender registration with sheriff; sheriff’s notification of local law enforcement agencies.

The offender shall register with the sheriff of each county in which he resides, owns real property, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. To register, the offender must provide information as prescribed by SLED. The sheriff in the county in which the offender resides, owns real property, or attends any public or private school shall forward all required registration information to SLED within five business days. A copy of this information must be kept by the sheriff’s department. The county sheriff shall ensure that all information required by SLED is secured and shall establish specific times of the day during which an offender may register. An offender shall not be considered to have registered until all information prescribed by SLED has been provided to the sheriff. The sheriff in the county in which the offender resides, owns real property, or attends any public or private school shall notify all local law enforcement agencies, including college or university law enforcement agencies, within five business days of an offender who resides, owns real property, or attends any public or private school within the local law enforcement agency’s jurisdiction.

**SECTION 23‑3‑460.** Bi‑annual registration for life; notification of change of address; notification of local law enforcement agencies.

(A) A person required to register pursuant to this article is required to register bi‑annually for life. For purposes of this article, “bi‑annually” means each year during the month of his birthday and again during the sixth month following his birth month. The person required to register shall register and must re‑register at the sheriff’s department in each county where he resides, owns real property, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every ninety days by the sheriff’s department in the county in which he resides unless the person is committed to the custody of the State, and verification will be held in abeyance until his release.

(B) If a person required to register pursuant to this article changes his address within the same county, that person must send written notice of the change of address to the sheriff within ten days of establishing the new residence. If a person required to register under this article owns or acquires real property within a county in this State, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the sheriff in each county where the real property or the public or private school is located within ten days of acquiring the real property or attending the public or private school.

(C) If a person required to register pursuant to this article changes his address into another county in South Carolina, the person must register with the county sheriff in the new county within ten days of establishing the new residence. The person must also provide written notice within ten days of the change of address in the previous county to the sheriff with whom the person last registered.

(D) A person required to register pursuant to this article and who is employed by, attends, is enrolled at, or carries on a vocation at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school, must provide written notice within ten days of each change in attendance, enrollment, employment, or vocation status at any public or private school in this State. For purposes of this subsection, “ employed and carries on a vocation” means employment that is full‑time or part‑time for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and “student” means a person who is enrolled on a full‑time or part‑time basis, in a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school.

(E) If a person required to register pursuant to this article moves outside of South Carolina, the person must provide written notice within ten days of the change of address to a new state to the county sheriff with whom the person last registered.

(F) A person required to register pursuant to this article who moves to South Carolina from another state, establishes residence, acquires real property, attends or is enrolled at, or is employed by or carries on a vocation at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school in South Carolina, and is not under the jurisdiction of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Department of Juvenile Justice, or the Juvenile Parole Board at the time of moving to South Carolina must register within ten days of establishing residence, acquiring real property, attending or enrolling at, or being employed by or carrying on a vocation at a public or private school in this State.

(G) The sheriff of the county in which the person resides must forward all changes to any information provided by a person required to register pursuant to this article to SLED within five business days.

(H) A sheriff who receives registration information, notification of change of address, or notification of change in attendance, enrollment, employment, or vocation status at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school, must notify all local law enforcement agencies, including college or university law enforcement agencies, within five business days of an offender whose address, real property, or public or private school is within the local law enforcement agency’s jurisdiction.

(I) The South Carolina Department of Motor Vehicles, shall inform, in writing, any new resident who applies for a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the obligation of sex offenders to register. The department also shall inform, in writing, a person renewing a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the requirement for sex offenders to register.

**SECTION 23‑3‑465.** Residence in campus student housing.

Any person required to register under this article is prohibited from living in campus student housing at a public institution of higher learning supported in whole or in part by the State.

**SECTION 23‑3‑470.** Failure to register or provide required notifications; penalties.

(A) It is the duty of the offender to contact the sheriff in order to register, provide notification of change of address, or notification of change in attendance, enrollment, employment, or vocation status at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school. If an offender fails to register, provide notification of change of address, or notification of change in attendance, enrollment, employment, or vocation status at any public or private school, as required by this article, he must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of one year, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

**SECTION 23‑3‑475.** Registering with false information; penalties.

(A) Anyone who knowingly and wilfully gives false information when registering as an offender pursuant to this article must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of ninety days, no part of which shall be suspended nor probation granted.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of one year, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

**SECTION 23‑3‑480.** Notice of duty to register; what constitutes; registration following charge of failure to register not a defense.

(A) An arrest on charges of failure to register, service of an information or complaint for failure to register, or arraignment on charges of failure to register constitutes actual notice of the duty to register. A person charged with the crime of failure to register who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice through arrest, service, or arraignment. Failure to register after notice as required by this article constitutes grounds for filing another charge of failure to register. Registering following arrest, service, or arraignment on charges does not relieve the offender from the criminal penalty for failure to register before the filing of the original charge.

(B) Section 23‑3‑470 shall not apply to a person convicted of an offense provided in Section 23‑3‑430 prior to July 1, 1994, and who was released from custody prior to July 1, 1994, unless the person has been served notice of the duty to register by the sheriff of the county in which the person resides. This person shall register within ten days of the notification of the duty to register.

**SECTION 23‑3‑490.** Public inspection of offender registry.

(A) Information collected for the offender registry is open to public inspection, upon request to the county sheriff. A sheriff must release information regarding persons required to register under this article to a member of the public if the request is made in writing, on a form prescribed by SLED. The sheriff must provide the person making the request with the full names of the registered sex offenders, any aliases, any other identifying physical characteristics, each offender’s date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23‑3‑430, and the date, city, and state of conviction. A photocopy of a current photograph must also be provided. The sheriff must provide to a newspaper with general circulation within the county a listing of the registry for publication.

A sheriff who provides the offender registry for publication or a newspaper which publishes the registry, or any portion of it, is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions in the publication of the offender registry; however, if the error or omission was done intentionally , with malice, or in bad faith the sheriff or newspaper is not immune from liability.

(B) A person may request on a form prescribed by SLED a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. SLED shall provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other identifying physical characteristics, each offender’s date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23‑3‑430, and the date, city, and state of conviction. The State Law Enforcement Division may charge a reasonable fee to cover the cost of copying and distributing sex offender registry lists as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing sex offender registry lists.

(C) Nothing in subsection (A) prohibits a sheriff from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety. The sheriff shall notify the principals of public and private schools, and the administrator of child day care centers and family day care centers of any offender whose address is within one‑half mile of the school or business.

(D) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23‑3‑430 must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):

(a) criminal sexual conduct in the first degree (Section 16‑3‑652);

(b) criminal sexual conduct in the second degree (Section 16‑3‑653);

(c) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

(d) criminal sexual conduct with minors, second degree (Section 16‑3‑655(2) and (3));

(e) engaging a child for sexual performance (Section 16‑3‑810);

(f) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); or

(g) kidnapping (Section 16‑3‑910).

(2) Information shall only be made available, upon request, to victims of or witnesses to the offense, public or private schools, child day care centers, family day care centers, businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43‑35‑10(11), for persons adjudicated delinquent for committing any of the following offenses:

(a) criminal sexual conduct in the third degree (Section 16‑3‑654);

(b) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656);

(c) criminal sexual conduct with a minor: assaults with intent to commit (Section 16‑3‑656);

(d) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

(e) peeping (Section 16‑17‑470);

(f) incest (Section 16‑15‑20);

(g) buggery (Section 16‑15‑120);

(h) violations of Article 3, Chapter 15 of Title 16 involving a minor, which violations are felonies; or

(i) indecent exposure.

(3) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for a first offense of any offense listed in Section 23‑3‑430(C) shall be required to register pursuant to the provisions of this chapter; however, the person’s name or any other information collected for the offender registry shall not be made available to the public.

(4) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23‑3‑430(C) and who has a prior adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23‑3‑430(C) shall be required to register pursuant to the provisions of this chapter, and all registry information concerning that person shall be made available to the public pursuant to items (1) and (2).

(5) Nothing in this section shall prohibit the dissemination of all registry information to law enforcement.

(E) For purposes of this section, use of computerized or electronic transmission of data or other electronic or similar means is permitted.

**SECTION 23‑3‑500.** Psychiatric or psychological treatment for children adjudicated for certain sex offenses.

A court must order that a child under twelve years of age who is convicted of, pleads guilty or nolo contendere to, or is adjudicated for an offense listed in Section 23‑3‑430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was convicted, pled guilty or nolo contendere, or adjudicated.

**SECTION 23‑3‑510.** Persons committing criminal offenses using sex offender registry information; punishment.

A person who commits a criminal offense using information from the sex offender registry disclosed to him pursuant to Section 23‑3‑490, upon conviction, must be punished as follows:

(1) For a misdemeanor offense, the maximum fine prescribed by law for the offense may be increased by not more than one thousand dollars, and the maximum term of imprisonment prescribed by law for the offense may be increased by not more than six months.

(2) For a felony offense, the maximum term of imprisonment prescribed by law for the offense may be increased by not more than five years.

**SECTION 23‑3‑520.** Immunity of public officials, employees, and agencies for acts or omissions under this article; exceptions; duties regarding disclosure of information.

(A) An appointed or elected public official, public employee, or public agency is immune from civil liability for damages for any act or omission under this article unless the official’s, employee’s, or agency’s conduct constitutes gross negligence.

(B) Nothing in this chapter imposes an affirmative duty on a person to disclose to a member of the public information from the sex offender registry other than on those persons responsible for providing registry information pursuant to their official duties as provided for in this chapter.

(C) Nothing in this section may be construed to mean that information regarding persons on the sex offender registry is confidential except as otherwise provided by law.

**SECTION 23‑3‑525.** Notice by real estate brokerage about obtaining sex offender registry information.

A real estate brokerage and its affiliated licensees is immune from liability for any act or omission related to the disclosure of information under this chapter if the brokerage or its affiliated licensees in a timely manner provides to its clients and customers written notice that they may obtain information about the sex offender registry and persons registered with the registry by contacting the county sheriff. The notice may be included as part of a listing agreement, buyer representation agreement, or sales agreement.

**SECTION 23‑3‑530.** Protocol manual for sex offender registry; contents.

The State Law Enforcement Division shall develop and maintain a protocol manual to be used by contributing agencies in the administration of the sex offender registry. The protocol manual must include, but is not limited to, the following:

(1) procedures for the verification of addresses by the sheriff’s department in the county where the person resides; and

(2) specific requirements for registration and re‑registration including, but not limited to, the following:

(a) the name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of permanent residence, address of current temporary residence, within the State or out of state, including rural route address and post office box, which may not be provided instead of a physical residential address, date and place of employment, vehicle make, model, color, and license tag number, fingerprints, and photograph;

(b) the name, address, and county of each institution of higher learning, including the specific campus location, if the person is enrolled, employed, or carries on a vocation there;

(c) the vehicle identification number, license tag number, registration number, and a description, including the color scheme, if the person lives in a motor vehicle, trailer, mobile home, or manufactured home; and

(d) the hull identification number, the manufacturer’s serial number, the name of the vessel, live‑aboard vessel, or houseboat, the registration number, and a description of the color scheme, if the person lives in a vessel, live‑aboard vessel, or houseboat.

**SECTION 23‑3‑535.** Limitation on places of residence of certain sex offenders; exceptions; violations; local government ordinances; school districts required to provide certain information.

(A) As contained in this section:

(1) “Children’s recreational facility” means a facility owned and operated by a city, county, or special purpose district used for the purpose of recreational activity for children under the age of eighteen.

(2) “Daycare center” means an arrangement where, at any one time, there are three or more preschool‑age children, or nine or more school‑age children receiving child care.

(3) “School” does not include a home school or an institution of higher education.

(4) “Within one thousand feet” means a measurement made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property on which the sex offender resides to the nearest property line of the premises of a school, daycare center, children’s recreational facility, park, or public playground, whichever is closer.

(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to reside within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground:

(1) criminal sexual conduct with a minor, first degree;

(2) criminal sexual conduct with a minor, second degree;

(3) assault with intent to commit criminal sexual conduct with a minor; or

(4) kidnapping a person under eighteen years of age.

(C) This section does not apply to a sex offender who:

(1) resided within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground before the effective date of this act;

(2) resided within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground on property the sex offender owned before the sex offender was charged with any of the offenses enumerated in subsection (B);

(3) resides within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground as a result of the establishment of a new school, daycare center, children’s recreational facility, park, or public playground;

(4) resides in a jail, prison, detention facility, group home for persons under the age of twenty‑one licensed by the Department of Social Services, residential treatment facility for persons under the age of twenty‑one licensed by the Department of Health and Environmental Control, or other holding facility, including a mental health facility;

(5) resides in a homeless shelter for no more than one year, a group home for persons under the age of twenty‑one licensed by the Department of Social Services, or a residential treatment facility for persons under the age of twenty‑one licensed by the Department of Health and Environmental Control, and the site was purchased by the organization prior to the effective date of this act;

(6) resides in a community residential care facility, as defined in Section 44‑7‑130(6); or

(7) resides in a nursing home, as defined in Section 44‑7‑130(13).

(D) If upon registration of a sex offender, or at any other time, a local law enforcement agency determines that a sex offender is in violation of this section, the local law enforcement agency must, within thirty days, notify the sex offender of the violation, provide the sex offender with a list of areas in which the sex offender is not permitted to reside, and notify the sex offender that the sex offender has thirty days to vacate the residence. If the sex offender fails to vacate the residence within thirty days, the sex offender must be punished as follows:

(1) for a first offense, the sex offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days, or fined not more than five hundred dollars, or both;

(2) for a second offense, the sex offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years, or fined not more than one thousand dollars, or both;

(3) for a third or subsequent offense, the sex offender is guilty of a felony and, upon conviction, must be imprisoned for not more than five years, or fined not more than five thousand dollars, or both.

(E) A local government may not enact an ordinance that:

(1) contains penalties that exceed or are less lenient than the penalties contained in this section; or

(2) expands or contracts the boundaries of areas in which a sex offender may or may not reside as contained in subsection (B).

(F)(1) At the beginning of each school year, each school district must provide:

(a) the names and addresses of every sex offender who resides within one thousand feet of a school bus stop within the school district to the parents or guardians of a student who boards or disembarks a school bus at a stop covered by this subsection; or

(b) the hyperlink to the sex offender registry web site on the school district’s web site for the purpose of gathering this information.

(2) Local law enforcement agencies must check the school districts’ web sites to determine if each school district has complied with this subsection. If a hyperlink does not appear on a school district web site, the local law enforcement agency must contact the school district to confirm that the school district has provided the parents or guardians with the names and addresses of every sex offender who resides within one thousand feet of a school bus stop within the school district. If the local law enforcement agency determines that this information has not been provided, the local law enforcement agency must inform the school district that it is in violation of this subsection. If the school district does not comply within thirty days after notice of its violation, the school district is subject to equitable injunctive relief and, if the plaintiff prevails, the district shall pay the plaintiff’s attorney’s fees and costs.

**SECTION 23‑3‑540.** Electronic monitoring; reporting damage to or removing monitoring device; penalty.

(A) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), or committing or attempting a lewd act upon a child under sixteen, pursuant to Section 16‑15‑140, the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(B) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court may order that the person upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(C) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), or committing or attempting a lewd act upon a child under sixteen, pursuant to Section 16‑15‑140, and who violates a term of probation, parole, community supervision, or a community supervision program must be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(D) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a term of probation, parole, community supervision, or a community supervision program, may be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(E) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), or committing or attempting a lewd act upon a child under sixteen, pursuant to Section 16‑15‑140, and who violates a provision of this article, must be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(F) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a provision of this article, may be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(G) This section applies to a person who has been:

(1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

(a) criminal sexual conduct with a minor in the first degree (Section 16‑3‑655(A));

(b) criminal sexual conduct with a minor in the second degree (Section 16‑3‑655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

(c) engaging a child for sexual performance (Section 16‑3‑810);

(d) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

(e) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656) involving a minor;

(f) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

(g) violations of Article 3, Chapter 15 of Title 16 involving a minor;

(h) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent; or

(2) ordered as a condition of sentencing to be included in the sex offender registry pursuant to Section 23‑3‑430(D) for an offense involving a minor, except that the provisions of this item may not be construed to apply to a person eighteen years of age or less who engages in illicit but consensual sexual conduct with another person who is at least fourteen years of age as provided in Section 16‑3‑655(B)(2).

(H) The person shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device for the duration of the time the person is required to remain on the sex offender registry pursuant to the provisions of this article, unless the person is committed to the custody of the State. Ten years from the date the person begins to be electronically monitored, the person may petition the chief administrative judge of the general sessions court for the county in which the person was ordered to be electronically monitored for an order to be released from the electronic monitoring requirements of this section. The person shall serve a copy of the petition upon the solicitor of the circuit and the Department of Probation, Parole and Pardon Services. The court must hold a hearing before ordering the person to be released from the electronic monitoring requirements of this section, unless the court denies the petition because the person is not eligible for release or based on other procedural grounds. The solicitor of the circuit, the Department of Probation, Parole and Pardon Services, and any victims, as defined in Article 15, Chapter 3, Title 16, must be notified of any hearing pursuant to this subsection and must be given an opportunity to testify or submit affidavits in response to the petition. If the court finds that there is clear and convincing evidence that the person has complied with the terms and conditions of the electronic monitoring and that there is no longer a need to electronically monitor the person, then the court may order the person to be released from the electronic monitoring requirements of this section. If the court denies the petition or refuses to grant the order, then the person may refile a new petition every five years from the date the court denies the petition or refuses to grant the order. A person may not petition the court if the person is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16‑3‑655(A)(1), or committing or attempting a lewd act upon a child under sixteen, pursuant to Section 16‑15‑140.

(I) The person shall follow instructions provided by the Department of Probation, Parole and Pardon Services to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the Department of Probation, Parole and Pardon Services within two hours. A person who fails to comply with the reporting requirement of this subsection is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

(J) The person shall abide by other terms and conditions set forth by the Department of Probation, Parole and Pardon Services with regard to the active electronic monitoring device and electronic monitoring program.

(K) The person must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The Department of Probation, Parole and Pardon Services may exempt a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if the Department of Probation, Parole and Pardon Services determines that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the Department of Probation, Parole and Pardon Services, carried forward, and applied to support the active electronic monitoring of sex offenders.

(L) A person who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. This subsection does not apply to a person or agent authorized by the Department of Probation, Parole and Pardon Services to perform maintenance and repairs to the active electronic monitoring devices.

(M) A person who completes his term of incarceration and the maximum term of probation, parole, or community supervision and who wilfully violates a term or condition of electronic monitoring, as ordered by the court or determined by the Department of Probation, Parole and Pardon Services is guilty of a felony and, upon conviction, must be sentenced in accordance with the provisions of Section 23‑3‑545.

(N) The Department of Corrections shall notify the Department of Probation, Parole and Pardon Services of the projected release date of an inmate serving a sentence, as described in this section, at least one hundred eighty days in advance of the person’s release from incarceration. For a person sentenced to one hundred eighty days or less, the Department of Corrections shall immediately notify the Department of Probation, Parole and Pardon Services.

(O) When an inmate serving a sentence as described in this section is released on electronic monitoring, a victim who has previously requested notification and the sheriff’s office in the county where the person is to be released must be notified in accordance with the requirements of Article 15, Chapter 3 of Title 16.

(P) As used in this section, “active electronic monitoring device” means an all body worn device that is not removed from the person’s body utilized by the Department of Probation, Parole and Pardon Services in conjunction with a web‑based computer system that actively monitors and records a person’s location at least once every minute twenty‑four hours a day and that timely records and reports the person’s presence near or within a prohibited area or the person’s departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. The South Carolina Criminal Justice Academy may offer training to officers of the Department of Probation, Parole and Pardon Services regarding the utilization of active electronic monitoring devices. In areas of the State where cellular coverage requires the use of an alternate device, the Department of Probation, Parole and Pardon Services may use an alternate device.

(Q) Except for juveniles released from the Department of Corrections, all juveniles adjudicated delinquent in family court, who are required to be monitored pursuant to the provisions of this article by the Department of Probation, Parole and Pardon Services, or who are ordered by a court to be monitored must be supervised, while under the jurisdiction of the family court or Board of Juvenile Parole, by the Department of Juvenile Justice. The Department of Probation, Parole and Pardon Services shall report to the Department of Juvenile Justice all violations of the terms or conditions of electronic monitoring for all juveniles supervised by the department, for as long as the family court or Juvenile Parole Board has jurisdiction over the juvenile. If the Department of Juvenile Justice determines that a juvenile has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation.

**SECTION 23‑3‑545.** Effect of conviction of wilfully violating term or condition of active electronic monitoring.

(A) If a person is convicted of wilfully violating a term or condition of active electronic monitoring pursuant to Section 23‑3‑540(M), the court may impose other terms and conditions considered appropriate and may continue the person on active electronic monitoring, or the court may revoke the active electronic monitoring and impose a sentence of up to ten years for the violation. A person who is incarcerated for a revocation is eligible to earn work credits, education credits, good conduct credits, and other credits which would reduce the sentence for the violation to the same extent he would have been eligible to earn credits on a sentence of incarceration for the underlying conviction. A person who is incarcerated for a revocation pursuant to the provisions of this subsection is not eligible for parole.

(B) If a person’s electronic monitoring is revoked by the court and the court imposes a period of incarceration for the revocation, the person must be placed back on active electronic monitoring when the person is released from incarceration.

(C) A person may be sentenced for successive revocations, with each revocation subject to a ten‑year sentence. The maximum aggregate amount of time the person may be required to serve when sentenced for successive revocations may not exceed the period of time the person is required to remain on the sex offender registry.

**SECTION 23‑3‑550.** Assisting or harboring unregistered sex offender; penalty.

(A) A person who has reason to believe that a person required to register pursuant to the provisions of this article is not complying or has not complied with the requirements of this article, with the intent to assist or harbor the person required to register in eluding a law enforcement agency, is guilty of the offense of assisting or harboring an unregistered sex offender, if the person:

(1) withholds information from or does not notify the law enforcement agency of the noncompliance of the provisions of this article by the person required to register, and, if known, the location of this person;

(2) harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the person required to register;

(3) conceals, attempts to conceal, or assists another in concealing or attempting to conceal the person required to register; or

(4) provides information known to be false to a law enforcement agency regarding the person required to register.

(B) A person who knowingly and wilfully violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

ARTICLE 9.

 STATE DNA DATABASE

**SECTION 23‑3‑600.** Short title.

This article may be cited as the State Deoxyribonucleic Acid Identification Record Database Act.

**SECTION 23‑3‑610.** State DNA Database established; purpose.

There is established in the South Carolina Law Enforcement Division (SLED) the State Deoxyribonucleic Acid (DNA) Identification Record Database (State DNA Database). The State Law Enforcement Division shall develop DNA profiles on samples for law enforcement purposes and for humanitarian and nonlaw enforcement purposes, as provided for in Section 23‑3‑640(B).

**SECTION 23‑3‑615.** Definitions.

As used in this article:

(A) “DNA sample” means the tissue, saliva, blood, or any other bodily fluid taken at the time of arrest from which identifiable information can be obtained.

(B) “DNA profile” means the results of any testing performed on a DNA sample.

(C) “DNA record” means the tissue or saliva samples and the results of the testing performed on the samples.

**SECTION 23‑3‑620.** When DNA samples required.

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for:

(1) a felony offense or an offense that is punishable by a sentence of five years or more; or

(2) eavesdropping, peeping, or stalking, any of which are committed in this State, a person, except for any juvenile, arrested or ordered by a court must provide a saliva or tissue sample from which DNA may be obtained for inclusion in the State DNA Database. Additionally, any person, including any juvenile, ordered to do so by a court, and any juvenile convicted or adjudicated delinquent for an offense contained in items (1) or (2), must provide a saliva or tissue sample from which DNA may be obtained for inclusion in the State DNA Database.

This sample must be taken at a jail, sheriff’s office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. If appropriately trained personnel are not available to take a sample from which DNA may be obtained, the failure of the arrested person to provide a DNA sample shall not be the sole basis for refusal to release the person from custody. An arrested person who is released from custody before providing a DNA sample must provide a DNA sample at a location specified by the law enforcement agency with jurisdiction over the offense on or before the first court appearance.

(B) Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person may be paroled or released from confinement, the person must provide a suitable sample from which DNA may be obtained for inclusion in the State DNA Database.

(C) An agency having custody of an offender who is required to provide a DNA sample pursuant to subsection (B) must notify SLED at least three days, excluding weekends and holidays, before the person is paroled or released from confinement.

(D) Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency’s jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

(E) A person required to provide a sample pursuant to this section may be required to provide another sample if the original sample is lost, damaged, contaminated, or unusable for examination prior to the creation of a DNA record or DNA profile suitable for inclusion in the State DNA Database.

**SECTION 23‑3‑625.** DNA samples of missing persons.

Family members of a missing person may submit DNA samples to the State Law Enforcement Division (SLED). If the person is missing thirty days after a missing person report has been submitted to the Missing Person Information Center, SLED must conduct DNA identification, typing, and testing on the family members’ samples. SLED may, within its discretion, conduct DNA identification, typing, and testing on the family members’ samples prior to thirty days if SLED determines that such DNA identification, typing, and testing is necessary. If SLED does not have the technology necessary for a particular method of DNA identification, typing, or testing, SLED may submit the DNA samples to a Combined DNA Indexing System (CODIS) laboratory that has the appropriate technology. The results of the identification, typing, and testing must be entered into CODIS.

**SECTION 23‑3‑630.** Persons authorized to take DNA sample; immunity from liability.

(A) Only an appropriately trained person may take a sample from which DNA may be obtained.

(B) A person taking a sample pursuant to this article is immune from liability if the sample was taken according to recognized procedures. However, no person is relieved from liability for negligence in the taking of a sample.

**SECTION 23‑3‑635.** DNA identification, typing, and testing of unidentified person’s tissue and fluid samples.

Upon notification by the Medical University of South Carolina or other facility preserving the body of an unidentified person that the body remains unidentified after thirty days, the State Law Enforcement Division (SLED) must conduct DNA identification, typing, and testing of the unidentified person’s tissue and fluid samples provided to SLED pursuant to Section 17‑7‑25. SLED may, within its discretion, conduct DNA identification, typing, and testing of the unidentified person’s tissue and fluid samples prior to thirty days if SLED determines that such DNA identification, typing, and testing is necessary. The results of the identification, typing, and testing must be entered into the Combined DNA Indexing System.

**SECTION 23‑3‑640.** Specifications, procedures, and equipment; use of DNA profiles; disposition of samples.

(A) Samples must be taken and submitted to SLED pursuant to specifications and procedures developed by SLED in regulation. SLED must conduct DNA identification testing, typing, and analysis in accordance with regulations promulgated by the State Law Enforcement Division on samples received for the purpose of developing a DNA profile, and SLED must use procedures, equipment, supplies, and computer software that are compatible with those used by the Federal Bureau of Investigation.

(B) The DNA profile on a sample may be used:

(1) to develop a convicted offender database to identify suspects in otherwise nonsuspect cases;

(2) to develop a population database when personal identifying information is removed;

(3) to support identification research and protocol development of forensic DNA analysis methods;

(4) to generate investigative leads in criminal investigations;

(5) for quality control or quality assurance purposes, or both;

(6) to assist in the recovery and identification of human remains from mass disasters;

(7) for other humanitarian purposes including identification of missing persons.

(C) The disposition of all samples obtained pursuant to this article is at the discretion of SLED.

(D) SLED must securely store DNA samples. The samples are confidential and must remain in the custody of SLED or a private laboratory designated by SLED if the laboratory’s standards for confidentiality and security are at least as stringent as those of SLED.

**SECTION 23‑3‑650.** Confidentiality of DNA record and profile; availability; wilful disclosure; penalty.

(A) The DNA record and the results of a DNA profile of an individual provided under this article are confidential and must be securely stored, except that SLED must make available the results to federal, state, and local law enforcement agencies and to approved crime laboratories which serve these agencies and to the solicitor or the solicitor’s designee upon a written or electronic request and in furtherance of an official investigation of a criminal offense. These records and results of an individual also must be made available as required by a court order following a hearing directing SLED to release the record or results. However, SLED must not make the DNA record or the DNA profile available to any entity that is not a law enforcement agency unless instructed to do so by order of a court with competent jurisdiction.

(B) To prevent duplications of DNA samples, SLED must coordinate with any law enforcement agency obtaining a DNA sample to determine whether a DNA sample from the person under lawful custodial arrest has been previously obtained and is in the State DNA Database.

(C) A person who wilfully discloses in any manner individually identifiable DNA information contained in the State DNA Database to a person or agency not entitled to receive this information is guilty of a misdemeanor and, upon conviction, must be fined ten thousand dollars or three times the amount of any financial gain realized by the person, whichever is greater, or imprisoned not more than five years, or both.

(D) A person who, without authorization, wilfully obtains individually identifiable DNA information from the State DNA Database is guilty of a misdemeanor and, upon conviction, must be fined ten thousand dollars or three times the amount of any financial gain realized by the person, whichever is greater, or imprisoned not more than five years, or both.

**SECTION 23‑3‑660.** Expungement of DNA record; grounds for requesting.

(A) A person whose DNA record or DNA profile has been included in the State DNA Database must have his DNA record and his DNA profile expunged if:

(1) the charges pending against the person who has been arrested or ordered to submit a sample:

(a) have been nolle prossed;

(b) have been dismissed; or

(c) have been reduced below the requirement for inclusion in the State DNA Database; or

(2) the person has been found not guilty, or the person’s conviction has been reversed, set aside, or vacated.

(B) The solicitor in the county in which the person was charged must notify SLED when the person becomes eligible to have his DNA record and DNA profile expunged. Upon receiving this notification, SLED must begin the expungement procedure.

(C) SLED, at no cost to the person, must purge DNA and all other identifiable record information and the DNA profile from the State DNA Database if SLED receives either:

(1) a document certified:

(a) by a circuit court judge;

(b) by a prosecuting agency; or

(c) by a clerk of court;

that must be produced to the requestor at no charge within fourteen days after the request is made and after one of the events in subsection (A) has occurred, and no new trial has been ordered by a court of competent jurisdiction; or

(2) a certified copy of the court order finding the person not guilty, or reversing, setting aside, or vacating the conviction.

(D) The person’s entry in the State DNA Database shall not be removed if the person has another qualifying offense.

(E) The jail intake officer, sheriff’s office employee, courthouse employee, or detention facility intake officer shall provide written notification to the person of his right to have his DNA record and DNA profile expunged and the procedure for the expungement pursuant to this section at the time that the person’s saliva or tissue sample is taken. The written notification must include that the person is eligible to have his DNA record and his DNA profile expunged at no cost to the person when:

(1) the charges pending against the person are:

(a) nolle prossed;

(b) dismissed; or

(c) reduced below the requirement for inclusion in the State DNA Database; or

(2) when the person has been found not guilty, or the person’s conviction has been reversed, set aside, or vacated.

(F) When SLED completes the expungement process, SLED must notify the person whose DNA record and DNA profile have been expunged and inform him, in writing, that the expungement process has been completed.

**SECTION 23‑3‑670.** Cost of collection supplies for processing samples; processing fees.

(A) The cost of collection supplies for processing a sample pursuant to this article must be paid by the general fund of the State. A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, must pay a two hundred fifty dollar processing fee which may not be waived by the court. However:

(1) if the person is incarcerated, the fee must be paid before the person is paroled or released from confinement and may be garnished from wages the person earns while incarcerated; and

(2) if the person is not sentenced to a term of confinement, payment of the fee must be a condition of the person’s sentence and may be paid in installments if so ordered by the court.

(B) The processing fee assessed pursuant to this section must be remitted to the general fund of the State and credited to the State Law Enforcement Division to offset the expenses SLED incurs in carrying out the provisions of this article.

**SECTION 23‑3‑680.** Promulgation of regulations.

SLED shall promulgate regulations to carry out the provisions of this article.

**SECTION 23‑3‑690.** Promulgation of regulations for processes regarding samples.

SLED shall promulgate regulations for sample testing and analysis and for sample collection, identification, handling, transporting, and shipment which must be complied with by the agency having jurisdiction over the offender.

**SECTION 23‑3‑700.** Implementation of article contingent on funding and regulations; implementation of DNA sample collection.

Implementation of this article and the requirements under this article are contingent upon annual appropriations of sufficient funding and upon promulgation of regulations. However, the State Law Enforcement Division shall begin collecting DNA samples for analysis for crimes outlined in this article no later than July 30, 2000.

ARTICLE 10.

 VULNERABLE ADULTS INVESTIGATIONS UNIT

**SECTION 23‑3‑810.** Vulnerable Adults Investigations Unit established; duties.

(A) The Vulnerable Adults Investigations Unit is established within the South Carolina Law Enforcement Division.

(B) In accordance with Article 1, Chapter 35, Title 43, the unit shall receive and coordinate the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. The unit shall establish a toll‑free number, which must be operated twenty‑four hours a day, seven days a week, to receive the reports.

(C) The unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit also shall investigate vulnerable adult fatalities as provided for in Article 5, Chapter 35, Title 43.

(D) The unit shall refer those reports in which there is no reasonable suspicion of criminal conduct to the appropriate investigative entity for investigation in accordance with Article 1, Chapter 35, Title 43.

(E) Upon conclusion of a criminal investigation of abuse, neglect, or exploitation of a vulnerable adult, the unit or other law enforcement shall refer the case to the appropriate prosecutor to determine if further action is necessary.

(F) The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this article precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

(G) The definitions provided in Section 43‑35‑10 shall apply to this section.

ARTICLE 12.

 NATIONAL CRIME PREVENTION AND PRIVACY COMPACT

**SECTION 23‑3‑1010.** National Crime Prevention and Privacy Compact ratified; State Law Enforcement Division to administer.

(A) In order to facilitate the authorized interstate exchange of criminal history information for noncriminal justice purposes including, but not limited to, background checks for the licensing and screening of employees and volunteers under the National Child Protection Act of 1993, and to implement the National Crime Prevention and Privacy Compact, 42 U.S.C. Section 14616, the General Assembly approves and ratifies the compact.

(B) The State Law Enforcement Division is the repository of criminal history records for purposes of the compact and must do all things necessary or incidental to carry out the compact.

(C) The Chief of SLED, or his designee, is the state’s compact officer and must administer the compact within the State. SLED may adopt rules and establish procedures for the cooperative exchange of criminal history records between the State and federal government and between the State and other party states for use in noncriminal justice cases.

(D) The state’s ratification of the compact remains in effect until legislation is enacted which specifically renounces the compact pursuant to Article IX of 42 U.S.C. Section 14616.

(E) The compact and this section do not affect or abridge the obligations and responsibilities of SLED under other provisions of law and do not alter or amend the manner, direct or otherwise, in which the public is afforded access to criminal history records under state law.

ARTICLE 13.

 VERIFICATION OF NATIONALITY OF PRISONERS

**SECTION 23‑3‑1100.** Determination of lawfulness of prisoner’s presence in United States; notification of Department of Homeland Security of presence of unlawful alien; housing and maintenance expenses.

(A) If a person is charged with a criminal offense and is confined for any period in a jail of the State, county, or municipality, or a jail operated by a regional jail authority, a reasonable effort shall be made to determine whether the confined person is an alien unlawfully present in the United States.

(B) If the prisoner is an alien, the keeper of the jail or other officer must make a reasonable effort to verify whether the prisoner has been lawfully admitted to the United States or if the prisoner is unlawfully present in the United States. Verification must be made within seventy‑two hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If the prisoner is determined to be an alien unlawfully present in the United States, the keeper of the jail or other officer shall notify the United States Department of Homeland Security.

(C) Upon notification to the United States Department of Homeland Security pursuant to subsection (B), the keeper of the jail must account for daily expenses incurred for the housing, maintenance, and care of the prisoner who is an alien unlawfully present in the United States and must forward an invoice to the Department of Homeland Security for these expenses.

(D) Nothing in this section shall be construed to deny a person bond or from being released from confinement when such person is otherwise eligible for release. However, pursuant to the provisions of Section 17‑15‑30, a court setting bond shall consider whether the person charged is an alien unlawfully present in the United States.

(E) The State Law Enforcement Division shall promulgate regulations to comply with the provisions of this section in accordance with the provisions of Chapter 23 of Title 1 of the South Carolina Code of Laws.

(F) In enforcing the terms of this section, no state officer shall attempt to make an independent judgment of an alien’s immigration status. State officials must verify an alien’s status with the federal government in accordance with 8 USC Section 1373(c).