

**SENATE FINANCE COMMITTEE  
CRIMINAL JUSTICE SUBCOMMITTEE  
PROVISO RECOMMENDATIONS FOR FY 2015-16**

**SECTION 57 - B04-JUDICIAL DEPARTMENT**

**57.18**     **ADD** (Court Costs Carry Forward) **WMC:** ADD new proviso to direct the Judicial Department to retain funds collected from costs related to court proceedings under SC Appellate Court Rules 413 or 502 or from the appointment of a receiver or attorney to assist the receiver under Rule 413, that are assessed against a party. Authorize the department to receive, expend, retain, and carry forward the funds and to use the funds for the same purpose. Fiscal Impact: RFAO indicates this proviso is not expected to impact the General Fund or federal funds. It does impact other funds collected by the Commission on Conduct and the Office of Receiver. The Judicial Department projects an estimated increase of \$50,000 in other funds. Requested by Judicial Department.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

*57.18. (JUD: Court Costs Carry Forward) The Judicial Department shall retain the funds collected from costs related to court proceedings (including the cost of hearings, investigations, prosecution, service of process and court reporter services) under Rules 413 or 502 of the SC Appellate Court Rules, or from costs related to the appointment of a receiver or an attorney to assist the receiver under Rule 413, that are assessed against a party. The department is authorized to receive, expend, retain, and carry forward these funds which shall be used for the same purpose.*

**SECTION 60 - E21-PROSECUTION COORDINATION COMMISSION**

**60.11**     **ADD** (Caseload Equalization Fund Distribution) **WMC:** ADD new proviso to direct that the first \$710,378 of caseload equalization funds be distributed \$15,443 per county and the remaining \$889,622 be distributed based on the average incoming caseload for each county as reported by the Judicial Department for the prior two fiscal years. Fiscal Impact: Agency requested \$7,764,929 for this purpose. Requested by Commission on Prosecution Coordination.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

*60.11. (PCC: Caseload Equalization Fund Distribution) The first \$710,378 of caseload equalization funds shall be distributed at \$15,443 per county. The remaining \$889,622 shall be distributed based upon the average incoming caseload for each county as reported by the Judicial Department for the prior two fiscal years.*

**SECTION 61 - E23-COMMISSION ON INDIGENT DEFENSE**

**61.11**     **ADD** (Capital Case Contract Attorneys) **WMC:** ADD new proviso to authorize the Death Penalty Trial Fund to be used to retain attorneys, on a contractual basis, to provide representation in capital proceedings. Direct the commission to establish policies, procedures, and contract provisions for system implementation, including but not limited to, selection and compensation of contract awardees. Fiscal Impact: RFAO indicates there is no fiscal impact on the General Fund or federal or other funds. Requested by Commission on Indigent Defense.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

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**61.11. (INDEF: Capital Case Contract Attorneys)** Funds appropriated from the Death Penalty Trial Fund may be used by the commission to retain, on a contractual basis, the service of attorneys qualified to provide representation in capital proceedings to include: capital trials, post-conviction relief actions, re-sentencing, appeals or any other capital litigation proceeding.

The commission shall establish all policies, procedures and contract provisions as it deems appropriate for the implementation of the system, including but not limited to the selection and compensation of contract awardees.

- 61.12 ADD (Optional Courts and Indigent Representation) WMC:** ADD new proviso to require a municipality who has or elects to have an optional municipal court system to provide adequate funds for representation of indigents. Prohibit a public defender from being appointed in such court unless the municipality and the office of the circuit public defender have reached an agreement for indigent representation and prohibit the commission from using their funds to provide compensation for appointed counsel in municipal courts.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

**61.12. (INDEF: Optional Courts and Indigent Representation)** If a municipality has or elects to have an optional municipal court system, it must provide adequate funds for representation of indigents. No public defender shall be appointed in any such court unless the municipality and the office of the circuit public defender have reached an agreement for indigent representation and no funds allocated to the commission shall be used to provide compensation for appointed counsel in municipal courts.

- 61.13 ADD (Indigent Verification) WMC:** ADD new proviso to direct the Commission on Indigent Defense to review all Affidavits for Indigency and Application for Counsel and make recommendations to the General Assembly by January 5, 2016 on additional requirements and supporting documentation that would be required of all applicants in order to verify their financial status and the standards by which an application should be approved and counsel appointed. Require the commission report to the General Assembly by August 1, 2015, on the number of applications accepted and rejected during Fiscal Year 2014-15.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

**61.13. (INDEF: Indigent Verification)** The Commission on Indigent Defense is directed to review the Affidavit for Indigency and Application for Counsel and make recommendations to the General Assembly by January 5, 2016, on any additional requirements for applicants in order to verify their financial status; the supporting documentation that should be required of all applicants in order to verify their financial status; and the standards by which an application should be approved and counsel appointed accordingly. Additionally, the commission shall report to the General Assembly by August 1, 2015, on the number of applications accepted and rejected during Fiscal Year 2014-15.

**SECTION 65 - N04-DEPARTMENT OF CORRECTIONS**

- 65.9 AMEND (Prison Industry Funds)** Authorizes the department to use Prison Industry funds for projects or services that benefit the general welfare of the inmate population or to supplement operational costs, at the director's discretion.

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**WMC:** AMEND proviso to authorize the funds to be carried forward and used for the same purpose. Requested by Department of Corrections.

**HOU:** ADOPT proviso as amended.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT proviso as amended.

**65.9.** (CORR: Prison Industry Funds) The Director of the Department of Corrections, at his discretion, is hereby authorized to utilize prison industry funds for projects or services benefiting the general welfare of the inmate population or to supplement costs of operations. These funds may be carried forward from the prior fiscal year into the current fiscal year to be used for the same purpose.

**65.ap** **ADD** (Acquisition of Pharmaceuticals) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Department of Corrections to formulate and establish a plan to purchase or acquire pharmaceuticals, medical supplies and equipment necessary to execute a death sentence. Direct the department to keep identifying information of all members of an execution team confidential and to include procedures to enforce such confidentiality in its plan; provide for court ordered exceptions. Clarify that no grant of immunity from suit is granted by this provision for wilful, wanton or gross negligence. Define “identifying information” for purposes of the provision.

**65.ap.** (CORR: Acquisition of Pharmaceuticals) In the current fiscal year, from the funds appropriated to the Department of Corrections, the department is directed to establish a plan for the purchase or acquisition of drugs, medical supplies, and medical equipment necessary to execute a death sentence. The department must keep all identifying information of a person or entity that participates in the planning or administration of the execution of a death sentence confidential. A pharmacy or pharmacist involved in supplying, manufacturing or compounding any drug pursuant to the department’s plan is deemed to be a participant in the planning of the execution of a death sentence. The department’s plan must include procedures to ensure confidentiality as required by this provision, except that a court, upon a showing of good cause, may order discovery relating to identifying information of a person or entity that participates in the planning or administration of the execution of a death sentence if that member is a person or entity that compounds, tests, manufactures, imports, transports, distributes, supplies, or prepares the drugs, medical supplies, or medical equipment utilized in the execution of a death sentence. Nothing in this provision shall be construed as a grant of immunity from suit to any member of an execution team that compounds, tests, manufactures, imports, transports, distributes, supplies, or prepares the drugs, medical supplies, or medical equipment utilized in the execution of a death sentence and whose conduct amounts to wilful, wanton, or gross negligence. The department shall formulate the plan in the manner it determines best meet the needs of the department.

For purposes of this provision, ‘identifying information’ shall be construed to include any record or information that reveals a name, date of birth, social security number, personal identifying information, personal or business contact information, or professional qualifications. The term ‘identifying information’ also includes any residential or business address; any residential, personal, or business telephone number; any residential, personal, or business facsimile number; any residential, personal, or business email address; and any residential, personal, or business social media account or username.

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**SECTION 66 - N08-DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES**

- 66.pa** **ADD** (Parole Agents) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso that direct the first \$1,181,255 of General Fund Revenue received in FY 2014-15 above the BEA estimate as of July 1, 2015 to be transferred to the Department of Probation, Parole and Pardon Services to hire 20 parole agents. Directs the Executive Budget Office to adjust the department's base recurring allocation by the amount transferred and to adjust the department's FTEs. Fiscal Impact: \$1,181,255 recurring funds.

*66.pa. (DPPP: Parole Agents) The first \$1,181,255 of General Fund revenue received in FY 2014-15 above the BEA estimate as of July 1, 2015 shall be transferred to the Department of Probation, Parole and Pardon Services for the purpose of hiring 20 additional parole agents. The Executive Budget Office is directed to adjust the department's FY 2015-16 base allocation and FTEs to conform with this provision.*

**SECTION 109 - R44 - DEPARTMENT OF REVENUE**

- 109.11** **ADD** (Governmental Debt Offset Program) **WMC:** ADD new proviso to authorize the Department of Revenue to contract with technology entities to establish a debt offset program to allow non-tax payments to be used to offset governmental debt. Authorize the department to retain sufficient revenue from the proceeds received from the program to offset its administrative costs and to pay for the contractual costs to establish and operate the program. Direct that remaining revenue received be deposited into the general fund.

**HOU:** ADOPT new proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

*109.11. (DOR: Governmental Debt Offset Program) The Department of Revenue is authorized to contract with technology entities to provide the necessary capabilities to establish a debt offset program to allow non-tax payments to be used to offset governmental debt. Out of the proceeds received, the department shall retain its administrative costs and shall pay for the contractual costs to establish and operate the program. Remaining revenue shall be deposited into the General Fund of the State.*

- 109.12** **ADD** (Carry Forward - Identity Theft and Protection Services) **HOU:** ADD new proviso to authorize DOR to carry forward funds appropriated for Identity and Credit Protection Services and to use the funds for the same purpose. Sponsor: Rep. Simrill.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

*109.12. (DOR: Carry Forward - Identity Theft and Protection Services) The funds appropriated in Act 298 of 2014, Section 1, Item (2) R44 Department of Revenue Identity and Credit Protection Services shall be carried from the prior fiscal year into the current fiscal year and used for the same purpose.*

- 109.13** **ADD** (Angel Investors) **HOU:** ADD new proviso to direct DOR to establish a schedule for investors pursuing credits provided for in Chapter 44 of Title 11 [HIGH GROWTH SMALL BUSINESS JOB CREATION ACT] that include the submission of applications until July 31, 2015 or the date the credit cap is reached as determined by DOR, whichever is earlier. Sponsor: Rep. Simrill.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT new proviso.

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*109.13. (DOR: Angel Investors) The Department of Revenue shall use funds authorized by this act to establish a schedule for investors pursuing credits provided for in Chapter 44 of Title 11, of the 1976 Code, that includes the ability to submit applications until July 31, 2015, or the date the credit cap is reached as determined by the department, whichever is earlier.*

**SECTION 118 - X91-STATEWIDE REVENUE**

**118.4 DELETE** (Criminal Justice Academy Funding) Directs that an additional \$5 surcharge is levied on all fines, forfeitures, escheatments or other monetary penalties imposed in general sessions, magistrates', or municipal court for misdemeanor traffic offenses or for non-traffic violations and directs that the surcharge be used to fund training at the Criminal Justice Academy. Prohibits the surcharge from being waived, reduced or suspended. Provides for the manner in which the funds are to be remitted to the State Treasurer and transferred to the Criminal Justice Academy. Provides for the State Auditor to examine jurisdictions financial records. Directs that if S.894 is enacted into law, and if Section 14-1-240 as contained in that enactment is in effect, the requirements of this provision are suspended for as long as Section 14-1-240 is in effect.

**WMC:** DELETE proviso. *Codified by Act 247 of 2014.*

**HOU:** ADOPT deletion of proviso.

**SUBCOMMITTEE RECOMMENDATION:** ADOPT deletion of proviso.

**118.4.** (SR: Criminal Justice Academy Funding) ~~(A) In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor traffic offenses or for non-traffic violations. No portion of the surcharge may be waived, reduced, or suspended. The additional surcharge imposed by this section does not apply to parking citations.~~

~~(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction, which heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer shall transfer the revenue quarterly to the South Carolina Criminal Justice Academy.~~

~~(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.~~

~~(D) In the event S. 894, which was introduced on December 17, 2013, is enacted into law, and if Section 14-1-240 as contained in that enactment is in effect, the requirements of this provision shall be suspended for as long as Section 14-1-240 is in effect.~~