



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

December 18, 2019

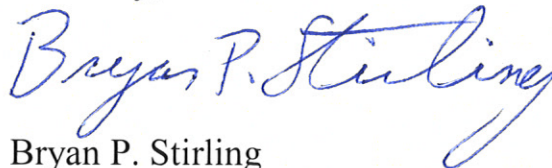
Mr. Edward R. Tallon, Sr.
South Carolina House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

RE: Law Change Recommendations

Dear Representative Tallon:

Please see attached recommendations for law changes. Please let me know if you have any questions. Thank you.

Sincerely,



Bryan P. Stirling

Attachments

BPS/ndh

cc: The Honorable Wm. Weston J. Newton
The Honorable Micajah P. "Micah" Caskey, IV
The Honorable Gary E. Clary
The Honorable Chandra E. Dillard
The Honorable Joseph H. Jefferson, Jr.
The Honorable Jeffrey E. "Jeff" Johnson

DEPUTY DIRECTOR FOR ADMINISTRATION LAW CHANGE #1

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Procurement Board Exemption 1986.04.22	<p><u>Current Law</u> Exempts advertising in certain mediums.</p> <p><u>Recommendation</u> Modify the exemption to include modern advertising.</p>	To update the exemption to be in accordance with relevant technological advances.	Department of Administration
Current Law Wording		Proposed Revisions to Law Wording	
<p>Procurement Board Exemption 1986.04.22 The Board exempted “Advertising time or space in newspapers, on radio or television (Note: Consultants obtained to handle advertising campaigns for agencies such as PRT and State Development Board are not exempted.)” from the “purchasing procedures of the Procurement Code.”</p>		<p>Procurement Board Exemption 1986.04.22 The Board exempted “Advertising time or space in newspapers, on radio or television <u>amended to include the following advertising mediums: Internet, Radio, Television, Newspapers, Magazines, Streaming Online, Digital Advertising, Social Media Billboards, Custom E-mail Marketing, Keyword Search Targeting/Retargeting, Displays Ads, Video Pre-roll, and Geo-Fencing.</u> (Note: Consultants obtained to handle advertising campaigns for agencies such as PRT and State Development Board are not exempted.)” from the “purchasing procedures of the Procurement Code.”</p>	

Not cited in letter

DEPUTY DIRECTOR FOR ADMINISTRATION LAW CHANGE #2

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-13-80. Prisoners to pay for certain costs; definitions; criteria for deductions from inmates' accounts; reimbursement to inmates; recovery from estates of inmates.	<p><u>Current Law</u> Allows inmates to be required to pay for certain costs that accrue during incarceration.</p> <p><u>Recommendation</u> Modify to include a way for SCDC to recover restitution owed by an inmate once he or she is released.</p>	SCDC would be able to recoup some of the money spent on inmate's medical care, photocopying, and damage of property.	N/A.
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-13-80. Prisoners to pay for certain costs; definitions; criteria for deductions from inmates' accounts; reimbursement to inmates; recovery from estates of inmates.</p> <p>(A) As used in this section:</p> <p>(1) "Detention facility" means a municipal or county jail, a local detention facility, or a state correctional facility used for the detention of persons charged with or convicted of a felony, misdemeanor, municipal offense, or violation of a court order.</p> <p>(2) "Inmate" means a person who is detained in a detention facility by reason of being charged with or convicted of a felony, a misdemeanor, a municipal offense, or violation of a court order.</p> <p>(3) "Medical treatment" means each visit initiated by the inmate to an institutional physician, physician's extender including a physician's assistant or a nurse practitioner, dentist, optometrist, or psychiatrist for examination or treatment.</p> <p>(4) "Administrator" means the county administrator, city administrator, or the chief administrative officer of a county or municipality.</p> <p>(5) "Director" means the agency head of the Department of Corrections.</p> <p>(B) The administrator or director, whichever is appropriate, may establish, by rules, criteria for a reasonable deduction from money credited to the account of an inmate to:</p> <p>(1) repay the costs of:</p> <p>(a) public property willfully damaged or destroyed by the inmate during his incarceration;</p> <p>(b) medical treatment for injuries inflicted by the inmate upon himself or others;</p> <p>(c) searching for and apprehending the inmate when he escapes or attempts to escape. The costs must be limited to those extraordinary costs incurred as a consequence of the escape; or</p> <p>(d) quelling a riot or other disturbance in which the inmate is unlawfully involved;</p> <p>(2) defray the costs paid by a municipality or county for medical services for an inmate, which have been</p>		<p>SECTION 24-13-80. Prisoners to pay for certain costs; definitions; criteria for deductions from inmates' accounts; reimbursement to inmates; recovery from estates of inmates.</p> <p>(A) As used in this section:</p> <p>(1) "Detention facility" means a municipal or county jail, a local detention facility, or a state correctional facility used for the detention of persons charged with or convicted of a felony, misdemeanor, municipal offense, or violation of a court order.</p> <p>(2) "Inmate" means a person who is detained in a detention facility by reason of being charged with or convicted of a felony, a misdemeanor, a municipal offense, or violation of a court order.</p> <p>(3) "Medical treatment" means each visit initiated by the inmate to an institutional physician, physician's extender including a physician's assistant or a nurse practitioner, dentist, optometrist, or psychiatrist for examination or treatment.</p> <p>(4) "Administrator" means the county administrator, city administrator, or the chief administrative officer of a county or municipality.</p> <p>(5) "Director" means the agency head of the Department of Corrections.</p> <p>(B) The administrator or director, whichever is appropriate, may establish, by rules, criteria for a reasonable deduction from money credited to the account of an inmate to:</p> <p>(1) repay the costs of:</p> <p>(a) public property willfully damaged or destroyed by the inmate during his incarceration;</p> <p>(b) medical treatment for injuries inflicted by the inmate upon himself or others;</p> <p>(c) searching for and apprehending the inmate when he escapes or attempts to escape. The costs must be limited to those extraordinary costs incurred as a consequence of the escape; or</p> <p>(d) quelling a riot or other disturbance in which the inmate is unlawfully involved;</p> <p>(2) defray the costs paid by a municipality or county for medical services for an inmate, which have been requested by the inmate, if the deduction does not exceed five dollars</p>	

<p>requested by the inmate, if the deduction does not exceed five dollars for each occurrence of treatment received by the inmate. If the balance in an inmate's account is less than ten dollars, the fee must not be charged. However, a deficiency balance must be carried forward and, upon a deposit or credit being made to the inmate's account, any outstanding balance may be deducted from the account. This deficiency balance may be carried forward after release of the inmate and may be applied to the inmate's account in the event of subsequent arrests and incarcerations. This item does not apply to medical costs incurred as a result of injuries sustained by an inmate or other medically necessary treatment for which that inmate is determined not to be responsible.</p> <p>(C) All sums collected for medical treatment must be reimbursed to the inmate, upon the inmate's request, if the inmate is acquitted or otherwise exonerated of all charges for which the inmate was being held.</p> <p>(D) The detention facility may initiate an action for collection of recovery of medical costs incurred pursuant to this section against an inmate upon his release or his estate if the inmate was executed or died while in the custody of the detention facility.</p>	<p>for each occurrence of treatment received by the inmate. If the balance in an inmate's account is less than ten dollars, the fee must not be charged. However, a deficiency balance must be carried forward and, upon a deposit or credit being made to the inmate's account, any outstanding balance may be deducted from the account. This deficiency balance may be carried forward after release of the inmate and may be applied to the inmate's account in the event of subsequent arrests and incarcerations. This item does not apply to medical costs incurred as a result of injuries sustained by an inmate or other medically necessary treatment for which that inmate is determined not to be responsible.</p> <p>(C) All sums collected for medical treatment must be reimbursed to the inmate, upon the inmate's request, if the inmate is acquitted or otherwise exonerated of all charges for which the inmate was being held.</p> <p>(D) The detention facility may initiate an action for collection of recovery of medical costs incurred pursuant to this section against an inmate upon his release or his estate if the inmate was executed or died while in the custody of the detention facility.</p> <p><u>(E) The Department of Corrections may initiate an action for collection of recovery of all restitution incurred by an inmate during his or her imprisonment within the Department.</u></p>
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Referenced

[SCDC reponse to Subcommittee \(May 24, 2019\)](#), Question #40

DEPUTY DIRECTOR FOR ADMINISTRATION LAW CHANGE #3

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
H. 4676 H. 3620	<u>Current Law</u> Caps the earnings for retirees at \$10,000. <u>Recommendation</u> Modify to remove cap.	This increase will be more appealing for retired employees to re-enter the state job workforce.	State agencies.
Current Law Wording		Proposed Revisions to Law Wording	
		Concept Recommendation: Modify the current bills so that there is not a cap on what a retire-rehire can earn without affecting their retirement.	

Not cited in letter.

DEPUTY DIRECTOR FOR HEALTH SERVICES LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
65.7 (2019-2020 Appropriations Bill H. 4950)	<u>Current Law</u> Indicates that SCDC receives funds from Social Security. <u>Recommendation</u> Modify the proviso.	SCDC does not receive funds for doing this. It is a cost avoidance measure whereby the SCDC Medicaid program pays for inpatient care rather than SCDC.	Social Security Administration
<u>Current Law Wording</u>		<u>Proposed Revisions to Law Wording</u>	
65.7. (CORR: Social Security Administration Funding) All funds received by the South Carolina Department of Corrections from the Social Security Administration under Section 1611 (e)(1)(I) of the Social Security Act, which provides payment for information regarding incarcerated Social Security Insurance recipients, shall be retained by the South Carolina Department of Corrections and credited to a fund entitled Special Social Security for the care and custody of inmates housed in the state correctional facilities.		SCDC does not have recommendation for specific wording. Rather, we seek to clarify that SCDC directs the provider to bill Medicaid.	

Not cited in letter.

DEPUTY DIRECTOR FOR HEALTH SERVICES LAW CHANGE #2			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-13-1910. Centers for alcohol and drug rehabilitation established; construction and operation of, and responsibility for centers.	<u>Current Law</u> Requires the centers have been operational since 1997. <u>Recommendation</u> Modify or repeal the statute.	This statute has not been funded, so the centers have not been built.	DADOAS and DMH
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 24-13-1910. Centers for alcohol and drug rehabilitation established; construction and operation of, and responsibility for centers. There is established one or more centers for alcohol and drug rehabilitation under the jurisdiction of the Department of Corrections to treat and rehabilitate alcohol and drug offenders. The Department of Alcohol and Other Drug Abuse Services has primary responsibility for the addictions treatment of the offenders, and the Department of Corrections has primary responsibility for the maintenance and security of the offenders. The Department of Corrections may construct one or more centers upon the necessary appropriation of funds by the General Assembly. The centers established or constructed as authorized by this section shall provide at least seven hundred fifty beds. The centers established under this section must be fully operational by January 1, 1997.		SCDC does not have recommendation for specific wording. If funded, the deadline should be changed.	

Referenced

[SCDC response to Subcommittee \(October 29, 2019\)](#), Question #32

DEPUTY DIRECTOR FOR LEGAL AND COMPLIANCE LAW CHANGE #1

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-27-200. Forfeiture of work, education, or good conduct credits.	<p><u>Current Law</u> Allows credits to be forfeited if court determines that an inmate has abused the court system.</p> <p><u>Recommendation</u> Modify the statute to allow for barring of future frivolous filings.</p>	This section may not de-incentivize this behavior for frequent filers. The possibility of an inmate losing the ability to file other lawsuits is a much stronger motivator.	Court system.
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-27-200. Forfeiture of work, education, or good conduct credits. A prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court if the court finds that the prisoner has done any of the following in a case pertaining to his incarceration or apprehension filed by him in state or federal court or in an administrative proceeding while incarcerated:</p> <p>(1) submitted a malicious or frivolous claim, or one that is intended solely to harass the party filed against;</p> <p>(2) testified falsely or otherwise presented false evidence or information to the court;</p> <p>(3) unreasonably expanded or delayed a proceeding; or</p> <p>(4) abused the discovery process.</p> <p>The court may make such findings on its own motion, on motion of counsel for the defendant, or on motion of the Attorney General, who is authorized to appear in the proceeding, if he elects, in order to move for the findings in a case in which the State or any public entity or official is a defendant.</p>		<p align="center">ARTICLE 2</p> <p align="center"><u>Legal Filings by Prisoners and Loss of Earned Release Credits</u></p> <p>SECTION 24-27-200. Forfeiture of work, education, or good conduct credits. A prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court if the court finds that the prisoner has done any of the following in a case pertaining to his incarceration or apprehension filed by him in state or federal court or in an administrative proceeding while incarcerated:</p> <p>(1) <u>submitteds a malicious or frivolous claim, purposefully and knowingly fails to state a claim upon which relief can be granted, seeks monetary relief from a defendant the prisoner knows, at the time of filing, to be immune from such relief,</u> or one that is intended solely to harass the party filed against;</p> <p>(2) testified falsely or otherwise presented false evidence or information to the court;</p> <p>(3) unreasonably expanded or delayed a proceeding; or</p> <p>(4) abused the discovery process.</p> <p>The court may make such findings on its own motion, on motion of counsel for the defendant, or on motion of the Attorney General, who is authorized to appear in the proceeding, if he elects, in order to move for the findings in a case in which the State or any public entity or official is a defendant.</p>	

Recommendation

[SCDC response to Subcommittee \(October 29, 2019\), Question #64](#)

DEPUTY DIRECTOR FOR LEGAL AND COMPLIANCE LAW CREATION #2			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-27-230. Limitations on Proceeding without Payment of Fees. SECTION 24-27-240. Administrative Remedies Exhaustion Requirement.	<u>Current Law</u> None <u>Recommendation</u> Create new law.	To avoid additional frivolous lawsuits.	Court system.
Current Law Wording	Proposed Revisions to Law Wording		
No current law.	<p><u>SECTION 24-27-230. Limitations on Proceeding without Payment of Fees.</u> (1) In no event shall any Court of this state allow a prisoner to bring a civil action or appeal a judgment in a civil action or proceeding without full prepayment of fees or security therefor, where the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of this state that was dismissed pursuant to 24-27-200, unless the prisoner is under imminent danger of serious physical injury. (2) Where a prisoner has had an action or appeal in a court of this state dismissed pursuant to 24-27-200 on at least 3 prior occasions but is in imminent danger of serious physical injury, the prisoner must file, at the time they initiate their action, an affidavit detailing the circumstances which place them in imminent danger of serious physical injury and any other supporting documentation available. After reviewing this affidavit and other supporting documentation, the court must issue an order affirming that the action or appeal filed falls within this exception before the prisoner can be allowed to proceed without full prepayment of fees or security therefor. (3) While it is preferable, Orders dismissing a case pursuant to 24-27-200 need not expressly state that they are being dismissed pursuant to that statute. Language which makes clear that the case was one of the nature contemplated in 24-27-200 will be sufficient for that dismissal to constitute a dismissal pursuant to that section. <u>SECTION 24-27-240. Administrative Remedies Exhaustion Requirement.</u> <u>A prisoner must exhaust all available administrative remedies prior to bringing an action in any court of this state where a prisoner's claim</u> (a) is regarding conditions in a jail, prison, or other place where they are incarcerated or are being held in custody prior to trial or sentencing and (b) cannot be reviewed by the Administrative Law Court pursuant to the Administrative Procedures Act. <u>Failure to do so will be grounds for dismissal of the action. The court may dismiss an action on this basis on its own motion or on the motion of any party.</u></p>		

Recommendation

[SCDC response to Subcommittee \(October 29, 2019\)](#), Question #64

DEPUTY DIRECTOR FOR LEGAL AND COMPLIANCE LAW CHANGE #3

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>SECTION 30-4-30. Right to inspect or copy public records; fees; notification as to public availability of records; presumption upon failure to give notice; records to be available when requestor appears in person.</p> <p>SECTION 30-4-110. Hearings regarding disclosure; appropriate relief; civil fine for violation.</p>	<p><u>Current Law</u> Allows public to obtain records upon request.</p> <p><u>Recommendation</u> Modify statute so that a public body can seek clarification on overly broad or burdensome requests and receive additional time to respond to said requests.</p>	<p>This would free up agency employees to spend more time responding to the FOIA requests for which the law was designed.</p>	<p>State agencies.</p>
Current Law Wording	Proposed Revisions to Law Wording		
<p>SECTION 30-4-30(C). Each public body, upon written request for records made under this chapter, shall within ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of the request, notify the person making the request of its determination and the reasons for it; provided, however, that if the record is more than twenty-four months old at the date the request is made, the public body has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. This determination must constitute the final opinion of the public body as to the public availability of the requested public record, however, the determination is not required to include a final decision or express an opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for by Section 30-4-40 or other state or federal laws. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the final determination was provided. If a deposit as provided in subsection (B) is required by the public body, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the deposit was received to fulfill the request. The full amount of the total cost must</p>	<p>SECTION 30-4-30(C). Each public body, upon written request for records made under this chapter, shall within ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of the request, notify the person making the request of its determination and the reasons for it; provided, however, that if the record is more than twenty-four months old at the date the request is made, the public body has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. This determination must constitute the final opinion of the public body as to the public availability of the requested public record, however, the determination is not required to include a final decision or express an opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for by Section 30-4-40 or other state or federal laws. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the final determination was provided. If a deposit as provided in subsection (B) is required by the public body, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, unless the records are more than twenty-four months old, in which case the public body has no later than thirty-five calendar days from the date on which the deposit was received to fulfill the request. The full amount of the total cost must be paid at the time of the production of the request. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information. Exemptions from disclosure as set forth in Section 30-4-40 or by other state or federal laws are not waived by the public body's failure to respond as set forth in this subsection. The various response, determination, and production deadlines provided by this subsection are subject to extension by written mutual agreement of the public body and the requesting party at issue, and <u>and</u> and <u>This agreement shall not be unreasonably withheld. Additionally, where a public body believes a request to be burdensome, overly broad, vague, repetitive, or</u></p>		

be paid at the time of the production of the request. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information. Exemptions from disclosure as set forth in Section 30-4-40 or by other state or federal laws are not waived by the public body's failure to respond as set forth in this subsection. The various response, determination, and production deadlines provided by this subsection are subject to extension by written mutual agreement of the public body and the requesting party at issue, and this agreement shall not be unreasonably withheld.

SECTION 30-4-110. Hearings regarding disclosure; appropriate relief; civil fine for violation.

(A) A public body may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it has received a request, but it is unable to make a good faith determination as to whether the information is exempt from disclosure.

(B) If a request for disclosure may result in the release of records or information exempt from disclosure under Section 30-4-40(a)(1), (2), (4), (5), (9), (14), (15), or (19), a person or entity with a specific interest in the underlying records or information shall have the right to request a hearing with the court or to intervene in an action previously filed.

(C) If a person or entity seeking relief under this section prevails, the court may order:

- (1) equitable relief as he considers appropriate;
- (2) actual or compensatory damages; or
- (3) reasonable attorney's fees and other costs of litigation specific to the request, unless there is a finding of good faith. The finding of good faith is a bar to the award of attorney's fees and costs.

(D) If a court determines that records are not subject to disclosure, the determination constitutes a finding of good faith on the part of the public body or public official, and acts as a complete bar against the award of attorney's fees or other costs to the prevailing party

otherwise improper, the public body may make a good faith request that the requesting party clarify, narrow, or otherwise modify their request such that the public body can reasonably respond. Requesting parties shall not unreasonably refuse to make such modifications. When a public body makes a request for modification or clarification under this section, the request will, for the purpose of calculating response, determination, and production deadlines, be considered received by the public body on the date on which the public body receives clarification or modification such that the request becomes one to which the public body can reasonably respond.

SECTION 30-4-110. Hearings regarding disclosure; appropriate relief; civil fine for violation.

(A) A public body may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it has received a request, but it is unable to make a good faith determination as to whether the information is exempt from disclosure. A public body may, as a defense to an action filed against it pursuant to SC Code § 30-4-100, assert that the request in question is unduly burdensome, overly broad, vague, repetitive, otherwise improper, or of a nature which renders the public body unable to make a good faith determination as to whether the information is exempt from disclosure.

(B) If a request for disclosure may result in the release of records or information exempt from disclosure under Section 30-4-40(a)(1), (2), (4), (5), (9), (14), (15), or (19), a person or entity with a specific interest in the underlying records or information shall have the right to request a hearing with the court or to intervene in an action previously filed.

(C) If a person or entity, including a public body, seeking relief under this section prevails, the court may order:

- (1) equitable relief as he considers appropriate;
- (2) actual or compensatory damages; or
- (3) reasonable attorney's fees and other costs of litigation specific to the request, unless there is a finding of good faith. The finding of good faith is a bar to the award of attorney's fees and costs.

(D) If a court determines that records are not subject to disclosure, the determination constitutes a finding of good faith on the part of the public body or public official, and acts as a complete bar against the award of attorney's fees or other costs to the prevailing party should the court's determination be reversed on appeal.

(E) If the person or entity, including a public body, prevails in part, he may be awarded reasonable attorney's fees or other costs of litigation specific to the request, or an appropriate portion thereof, unless otherwise barred.

(F) If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to actual or compensatory damages or equitable relief, impose a civil fine of five hundred dollars.

(G) If the court finds that the person or entity who made the request did any of the following, it may, in addition to actual or compensatory damages or equitable relief, impose a civil fine of five hundred dollars:

<p>should the court's determination be reversed on appeal.</p> <p>(E) If the person or entity prevails in part, he may be awarded reasonable attorney's fees or other costs of litigation specific to the request, or an appropriate portion thereof, unless otherwise barred.</p> <p>(F) If the court finds that the public body has arbitrarily and capriciously violated the provisions of this chapter by refusal or delay in disclosing or providing copies of a public record, it may, in addition to actual or compensatory damages or equitable relief, impose a civil fine of five hundred dollars.</p>	<p><u>(1) submitted a request which they knew or should have known was unduly burdensome, overly broad, vague, repetitive, otherwise improper, or of a nature which renders the public body unable to make a good faith determination as to whether the information is exempt from disclosure;</u></p> <p><u>(2) unreasonably refused to narrow or otherwise modify a request after being asked to do so by the public body pursuant to SC Code § 30-4-30(D);</u></p> <p><u>(3) unreasonably refused to extend the response, determination, and production deadlines after being asked to do so by the public body pursuant to SC Code § 30-4-30(D).</u></p>
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Recommendation

[SCDC response to Subcommittee \(October 29, 2019\)](#), Question #64

DEPUTY DIRECTOR FOR LEGAL AND COMPLIANCE LAW CHANGE #4

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-530. Death by electrocution or lethal injection	<p><u>Current Law:</u> An inmate sentenced to death indicates if he or she chooses electrocution or lethal injection as their manner of execution.</p> <p><u>Recommendation</u> Under current law SCDC is unable to carry out execution due to the inability to obtain lethal injection drugs.</p>	To ensure executions can be carried out regardless of the availability of lethal injection drugs.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-530. Death by electrocution or lethal injection. (A) A person convicted of a capital crime and having imposed upon him the sentence of death shall suffer the penalty by electrocution or, at the election of the person, lethal injection under the direction of the Director of the Department of Corrections. The election for death by electrocution or lethal injection must be made in writing fourteen days before the execution date or it is waived. If the person waives the right of election, then the penalty must be administered by lethal injection.</p> <p>(B) A person convicted of a capital crime and sentenced to death by electrocution prior to the effective date of this section must be administered death by electrocution unless the person elects death by lethal injection in writing fourteen days before the execution date.</p> <p>(C) If execution by lethal injection under this section is held to be unconstitutional by an appellate court of competent jurisdiction, then the manner of inflicting a death sentence must be by electrocution.</p>		SCDC does not have a position on the wording of the statute. However, SCDC does support modifying the statute to ensure that legally ordered executions are carried out in accordance with the law.	

Not cited in letter.

DEPUTY DIRECTOR FOR LEGAL AND COMPLIANCE LAW CHANGE #5

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>SECTION 40-71-10. Members of certain professional committees exempt from tort liability.</p> <p>SECTION 40-71-20. Confidentiality of certain proceedings, records and information; reporting accidents and incidents</p>	<p><u>Current Law</u> Does not include SCDC in the statutes.</p> <p><u>Recommendation</u> Modify to include SCDC in the exemptions.</p>	To provide protection for SCDC committees.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 40-71-10. Members of certain professional committees exempt from tort liability.</p> <p>(A) "Professional society" as used in this chapter includes legal, medical, osteopathic, optometric, chiropractic, psychological, dental, accounting, pharmaceutic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society and any foundations composed of members of these societies. It also includes the South Carolina Law Enforcement Accreditation Council.</p> <p>(B) There is no monetary liability on the part of, and no cause of action for damages arising against, a member of an appointed committee which is formed to maintain professional standards of a state or local professional society as defined in this section or a committee appointed by the Department of Mental Health, or a committee appointed by the Department of Health and Environmental Control to review patient medical and health records in order to study the causes of death and disease for any act or proceeding undertaken or performed within the scope of the functions of the committee if the committee member acts without malice, has made a reasonable effort to obtain the facts relating to the matter under consideration, and acts in the belief that the action taken by him is warranted by the facts known to him.</p> <p>(C) No person acting pursuant to subsection (B) shall be subject to any monetary liability or cause of action for damages for any action for restraint of trade, violation of the South Carolina Unfair Trade Practices Act, or other action predicated upon unfair or illegal competition unless such person acted with malice.</p> <p>(D) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.</p> <p>SECTION 40-71-20. Confidentiality of certain proceedings, records and information; reporting accidents and incidents.</p> <p>(A) All proceedings of and all data and information acquired by the committee referred to in Section 40-71-10 in the exercise of its duties are confidential unless a respondent in the proceeding requests in writing that</p>		<p>SECTION 40-71-10. Members of certain professional committees exempt from tort liability</p> <p>(A) "Professional society" as used in this chapter includes legal, medical, osteopathic, optometric, chiropractic, psychological, dental, accounting, pharmaceutic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society and any foundations composed of members of these societies. It also includes the South Carolina Law Enforcement Accreditation Council.</p> <p>(B) There is no monetary liability on the part of, and no cause of action for damages arising against, a member of an appointed committee which is formed to maintain professional standards of a state or local professional society as defined in this section or a committee appointed by the Department of Mental Health, or a committee appointed by the Department of Health and Environmental Control, <u>or a committee appointed by the South Carolina Department of Corrections</u> to review patient medical and health records in order to study the causes of death and disease for any act or proceeding undertaken or performed within the scope of the functions of the committee if the committee member acts without malice, has made a reasonable effort to obtain the facts relating to the matter under consideration, and acts in the belief that the action taken by him is warranted by the facts known to him.</p> <p>(C) No person acting pursuant to subsection (B) shall be subject to any monetary liability or cause of action for damages for any action for restraint of trade, violation of the South Carolina Unfair Trade Practices Act, or other action predicated upon unfair or illegal competition unless such person acted with malice.</p> <p>(D) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.</p> <p>SECTION 40-71-20. Confidentiality of certain proceedings, records and information; reporting accidents and incidents.</p> <p>(A) All proceedings of and all data and information acquired by the committee referred to in Section 40-71-10 in the exercise of its duties are confidential unless a respondent in the proceeding requests in writing that they be made public. These proceedings and documents are not subject to</p>	

<p>they be made public. These proceedings and documents are not subject to discovery, subpoena, or introduction into evidence in any civil action except upon appeal from the committee action. Information, documents, or records which are otherwise available from original sources are not immune from discovery or use in a civil action merely because they were presented during the committee proceedings, nor shall any complainant or witness before the committee be prevented from testifying in a civil action as to matters of which he has knowledge apart from the committee proceedings or revealing such matters to third persons.</p> <p>(B) Confidentiality provisions do not prevent committees appointed by the Department of Health and Environmental Control from issuing reports containing solely nonidentifying data and information.</p> <p>(C) Nothing in this section affects the duty of a facility or activity licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. Provided, however, anything reported pursuant to the department's regulations shall not be considered to waive any privilege or confidentiality provided in subsection (A).</p>	<p>discovery, subpoena, or introduction into evidence in any civil action except upon appeal from the committee action. Information, documents, or records which are otherwise available from original sources are not immune from discovery or use in a civil action merely because they were presented during the committee proceedings, nor shall any complainant or witness before the committee be prevented from testifying in a civil action as to matters of which he has knowledge apart from the committee proceedings or revealing such matters to third persons.</p> <p>(B) Confidentiality provisions do not prevent committees appointed by the Department of Health and Environmental Control <u>or the South Carolina Department of Corrections</u> from issuing reports containing solely nonidentifying data and information.</p> <p>(C) Nothing in this section affects the duty of a facility or activity licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. Provided, however, anything reported pursuant to the department's regulations shall not be considered to waive any privilege or confidentiality provided in subsection (A).</p>
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Not cited in letter.

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-20. Custody of convicted persons; designation of place of confinement; participation in work release and training program; litter removal; establishment and administration of restitution program.	<p><u>Current Law</u> Requires inmates sentenced to more than three months incarceration to be sent to SCDC.</p> <p><u>Recommendation</u> Modify to require inmates sentenced to 365 days or more to be sent to SCDC.</p>	Reduce SCDC's population and increase the staff to inmate ratio, which will increase safety.	Association of Counties
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-20. Custody of convicted persons; designation of place of confinement; participation in work release and training program; litter removal; establishment and administration of restitution program.</p> <p>(A) A person convicted of an offense against this State and sentenced to imprisonment for more than three months is in the custody of the South Carolina Department of Corrections, and the department shall designate the place of confinement where the sentence must be served. Nothing in this section prevents a court from ordering a sentence to run concurrently with a sentence being served in another state or an active federal sentence. The department may designate as a place of confinement any available, suitable, and appropriate institution or facility, including a regional, county, or municipal jail or prison camp, whether maintained by the department or by some other entity. If the facility is not maintained by the department, the consent of the sheriff of the county or municipal chief administrative officer, or the equivalent, where the facility is located must first be obtained. However, a prisoner who escapes or attempts to escape while assigned to medium, close, or maximum custody may not serve his sentence for the original conviction or an additional sentence for the escape or attempted escape in a minimum security facility for at least five years after the escape or attempted escape and one year before his projected release date.</p>		<p>SECTION 24-3-20. Custody of convicted persons; designation of place of confinement; participation in work release and training program; litter removal; establishment and administration of restitution program.</p> <p>(A) A person convicted of an offense against this State and sentenced to imprisonment for <u>365 days or more</u> than three months is in the custody of the South Carolina Department of Corrections, and the department shall designate the place of confinement where the sentence must be served. Nothing in this section prevents a court from ordering a sentence to run concurrently with a sentence being served in another state or an active federal sentence. The department may designate as a place of confinement any available, suitable, and appropriate institution or facility, including a regional, county, or municipal jail or prison camp, whether maintained by the department or by some other entity. If the facility is not maintained by the department, the consent of the sheriff of the county or municipal chief administrative officer, or the equivalent, where the facility is located must first be obtained. However, a prisoner who escapes or attempts to escape while assigned to medium, close, or maximum custody may not serve his sentence for the original conviction or an additional sentence for the escape or attempted escape in a <u>minimum-security</u> facility for at least five years after the escape or attempted escape and one year before his projected release date.</p>	

Referenced

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #42

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #44

[SCDC response to Subcommittee \(October 29, 2019\)](#), Question #36

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #2

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-60. Notice to Department of Corrections of number of prisoners sentenced to state prison system.	<p><u>Current Law</u> Requires SCDC to pick up newly sentenced inmates from the county.</p> <p><u>Recommendation</u> Modify to require the county to bring newly sentenced inmates to SCDC, as that is the common procedure.</p>	Counties already bring newly sentenced inmates to SCDC.	Association of Counties
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 24-3-60. Notice to Department of Corrections of number of prisoners sentenced to state prison system. The county clerks of court, upon the adjournment of the court of general session, in their respective counties, immediately shall notify the Department of Corrections of the number of prisoners sentenced by the court to imprisonment in the state prison system. The department, as soon as it receives such notice, shall send a suitable number of employees to transfer the prisoners to the state prison system.		SECTION 24-3-60. Notice to Department of Corrections of number of prisoners sentenced to state prison system. The county clerks of court, upon the adjournment of the court of general session, in their respective counties, immediately shall notify the Department of Corrections of the number of prisoners sentenced by the court to imprisonment in the state prison system. The department, as soon as it receives such notice, shall send a suitable number of employees to transfer the prisoners to the state prison system. <u>Thereafter, the county shall transport those same prisoners to the Department of Corrections.</u>	

Not cited in letter.

DEPUTY DIRECTOR FOR OPERATIONS LAW REPEAL #3			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>SECTION 24-3-130. Use of inmate labor on State highways or other public projects.</p> <p>SECTION 24-3-131. Supervision of inmates used on public projects.</p>	<p><u>Current Law</u> Allows inmates to construct work camps and build on county property.</p> <p><u>Recommendation</u> Repeal Sections 24-3-13(c) and 24-3-131 because SCDC does not utilize inmates for constructing work camps or building on county property.</p>	SCDC does not utilize inmates for constructing work camps or building on county property.	DOT
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-130. Use of inmate labor on State highways or other public projects.</p> <p>(A) The Department of Corrections may permit the use of inmate labor on state highway projects or other public projects that may be practical and consistent with safeguarding of the inmates employed on the projects and the public. The Department of Transportation, another state agency, or a county, municipality, or public service district making a beneficial public improvement may apply to the department for the use of inmate labor on the highway project or other public improvement or development project. If the director determines that the labor may be performed with safety and the project is beneficial to the public, he may assign inmates to labor on the highway project or other public purpose project. The inmate labor force must be supervised and controlled by officers designated by the department but the direction of the work performed on the highway or other public improvement project must be under the control and supervision of the person designated by the agency, county, municipality, or public service district responsible for the work. No person convicted of criminal sexual conduct in the first, second, or third degree or a person who commits a violent crime while on a work release program may be assigned to perform labor on a project described by this section.</p> <p>(B) The authorities involved may enter into contracts to implement the provisions of this section.</p> <p>(C) Notwithstanding any other provisions of this chapter, inmates constructing work camps on county property must be supervised and controlled by armed officers and must be drawn exclusively from minimum security facilities. A work camp constructed or operated by the Department of Corrections must house only offenders classified as nonviolent. The contracting officials for the county utilizing prison inmate labor must be provided by the Department of Corrections with the most recent information concerning the composition of all work crews including the respective offenses for which the inmates have been sentenced and their custody levels.</p> <p>SECTION 24-3-131. Supervision of inmates used on public projects.</p>		<p>SECTION 24-3-130. Use of inmate labor on State highways or other public projects.</p> <p>(A) The Department of Corrections may permit the use of inmate labor on state highway projects or other public projects that may be practical and consistent with safeguarding of the inmates employed on the projects and the public. The Department of Transportation, another state agency, or a county, municipality, or public service district making a beneficial public improvement may apply to the department for the use of inmate labor on the highway project or other public improvement or development project. If the director determines that the labor may be performed with safety and the project is beneficial to the public, he may assign inmates to labor on the highway project or other public purpose project. The inmate labor force must be supervised and controlled by officers designated by the department but the direction of the work performed on the highway or other public improvement project must be under the control and supervision of the person designated by the agency, county, municipality, or public service district responsible for the work. No person convicted of criminal sexual conduct in the first, second, or third degree or a person who commits a violent crime while on a work release program may be assigned to perform labor on a project described by this section.</p> <p>(B) The authorities involved may enter into contracts to implement the provisions of this section.</p> <p>(C) Notwithstanding any other provisions of this chapter, inmates constructing work camps on county property must be supervised and controlled by armed officers and must be drawn exclusively from minimum security facilities. A work camp constructed or operated by the Department of Corrections must house only offenders classified as nonviolent. The contracting officials for the county utilizing prison inmate labor must be provided by the Department of Corrections with the most recent</p>	

<p>The Department of Corrections shall determine whether an agency permitted to utilize inmate labor on public projects pursuant to Section 24-3-130 can adequately supervise the inmates. If the director determines that the agency lacks the proper personnel, the agency shall be required to reimburse the department for the cost of maintaining correctional officers to supervise the inmates. In these cases the Department of Corrections shall be responsible for adequate supervision of the inmates.</p>	<p>information concerning the composition of all work crews including the respective offenses for which the inmates have been sentenced and their custody levels.</p> <p>SECTION 24-3-131. Supervision of inmates used on public projects. <u>Repeal statute.</u></p>
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Section 24-3-131: Not cited in letter.

Recommendation

[SCDC reponse to Subcommittee \(May 24, 2019\)](#), Question #46

Referenced

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #42

DEPUTY DIRECTOR FOR OPERATIONS LAW REPEAL #4

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>SECTION 24-3-720. Enlisting aid of citizens to suppress prisoner riot, disorder or insurrection.</p> <p>SECTION 24-3-730. Neglecting or refusing aid; fine.</p> <p>SECTION 24-3-740. Compensation for assistance.</p> <p>SECTION 24-3-750. Immunity.</p>	<p><u>Current Law</u> Allows SCDC to utilize civilians in the suppression of riots</p> <p><u>Recommendation</u> Repeal Sections 24-3-720 through 24-3-750 because SCDC does not utilize civilians to assist during emergencies</p>	<p>SCDC does not utilize civilians to assist during emergencies</p>	<p>N/A.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-720. Enlisting aid of citizens to suppress prisoner riot, disorder or insurrection. In order to suppress any disorders, riots, or insurrection among the prisoners, the Director of the Department of Corrections may require the aid and assistance of any of the citizens of the State.</p> <p>SECTION 24-3-730. Neglecting or refusing aid; fine. If any person, when so required by the Director of the Department of Corrections, shall neglect or refuse to give such aid and assistance, he shall pay a fine not exceeding fifty dollars.</p> <p>SECTION 24-3-740. Compensation for assistance. Any person so aiding and assisting the Director of the Department of Corrections shall receive a reasonable compensation, to be paid by the department, and allowed him on the settlement of his account.</p> <p>SECTION 24-3-750. Immunity. If, in suppressing a disorder, riot, or insurrection, a person who is acting, aiding, or assisting in committing the same is wounded or killed, the Director of the Department of Corrections, the keeper or a person aiding or assisting him must be held as justified and guiltless.</p>		<p><u>Repeal statutes.</u></p>	

Not cited in letter.

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #5			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-210. Furloughs for qualified inmates of State prison system.	<u>Current Law</u> Allows furloughs for a multitude of reasons. <u>Recommendation</u> Modify To allow only medical furloughs.	SCDC only allows medical furloughs with proper approval because the inmate is basically on his own with minimal supervision by SCDC.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-210. Furloughs for qualified inmates of State prison system.</p> <p>(A) The director may extend the limits of the place of confinement of a prisoner, where there is reasonable cause to believe he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:</p> <p>(1) contact prospective employers;</p> <p>(2) secure a suitable residence for use when released on parole or upon discharge;</p> <p>(3) obtain medical services not otherwise available;</p> <p>(4) participate in a training program in the community or any other compelling reason consistent with the public interest;</p> <p>(5) visit a spouse, child (including stepchild, adopted child, or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person, though not a natural parent, who has acted in the place of a parent), brother, or sister.</p> <p>(B) The director may extend the limits of the place of confinement of a terminally ill inmate for an indefinite length of time when there is reasonable cause to believe that the inmate will honor his trust.</p> <p>(C) The wilful failure of a prisoner to remain within the extended limits of his confinement or return within the time prescribed to the places of confinement designated by the director is considered an escape from the custody of the director punishable as provided in Section 24-13-410.</p> <p>(D) The director may not extend the benefits of this section to a person convicted of a violent crime as defined in Section 16-1-60 unless all of the following persons recommend in writing that the offender be allowed to participate in the furlough program in the community where the offense was committed:</p> <p>(1) in those cases where, as applicable, the victim of the crime for which the offender is charged, or the relatives of the victim who have applied for notification pursuant to the provisions of Article 15, Chapter 3, Title 16 if the victim has died;</p> <p>(2) the law enforcement agency which employed the arresting officer of the offender; and</p> <p>(3) the solicitor in whose circuit the offender was convicted.</p>		<p>SECTION 24-3-210. Furloughs for qualified inmates of State prison system.</p> <p>(A) The director may extend the limits of the place of confinement of a prisoner, where there is reasonable cause to believe he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to: on medical furlough. (1) contact prospective employers;</p> <p>— (2) secure a suitable residence for use when released on parole or upon discharge;</p> <p>— (3) obtain medical services not otherwise available;</p> <p>— (4) participate in a training program in the community or any other compelling reason consistent with the public interest;</p> <p>— (5) visit a spouse, child (including stepchild, adopted child, or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person, though not a natural parent, who has acted in the place of a parent), brother, or sister.</p> <p>(B) The director may extend the limits of the place of confinement of a terminally ill inmate for an indefinite length of time when there is reasonable cause to believe that the inmate will honor his trust.</p> <p>(C) The wilful failure of a prisoner to remain within the extended limits of his confinement or return within the time prescribed to the places of confinement designated by the director is considered an escape from the custody of the director punishable as provided in Section 24-13-410.</p> <p>(D) The director may not extend the benefits of this section to a person convicted of a violent crime as defined in Section 16-1-60 unless all of the following persons recommend in writing that the offender be allowed to participate in the furlough program in the community where the offense was committed:</p> <p>(1) in those cases where, as applicable, the victim of the crime for which the offender is charged, or the relatives of the victim who have applied for notification pursuant to the provisions of Article 15, Chapter 3, Title 16 if the victim has died;</p> <p>(2) the law enforcement agency which employed the arresting officer of the offender; and</p> <p>(3) the solicitor in whose circuit the offender was convicted.</p>	

Referenced

[SCDC reponse to Subcommittee \(April 29, 2019\), Question #42](#)

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #6			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>SECTION 24-21-1310. Development and operation; inmate eligibility.</p> <p>SECTION 24-21-1320. Conditions of placement; removal.</p>	<p><u>Current Law</u> Allows for reporting day centers with joint discretion of SCDC and SCDPPPS for inmate placement.</p> <p><u>Recommendation</u> Modify to have the reporting day centers under the sole discretion of SCDPPPS.</p>	SCDC is not involved in determining which inmates are eligible for placement.	SCDPPPS
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-21-1310. Development and operation; inmate eligibility.</p> <p>(A) Notwithstanding another provision of law, the Department of Probation, Parole and Pardon Services may develop and operate day reporting centers for eligible inmates and eligible offenders, if the General Assembly appropriates funds to operate these centers. The Department of Probation, Parole and Pardon Services shall develop policies, procedures, and guidelines for the operation of day reporting centers. The period of time an eligible inmate or offender is required to participate in a day reporting program and the individual terms and conditions of an eligible inmate's or offender's placement and participation are at the joint discretion of the Department of Corrections and the Department of Probation, Parole and Pardon Services.</p> <p>(B) An inmate or offender has no right to be placed in a day reporting center. The Department of Corrections and the Department of Probation, Parole and Pardon Services have absolute discretion to place an eligible inmate or offender in a day reporting center and nothing in this article may be construed to entitle an inmate or offender to participate in a day reporting center program.</p> <p>SECTION 24-21-1320. Conditions of placement; removal.</p> <p>(A) An eligible inmate or offender placed in a day reporting center must agree to abide by the conditions established by the Department of Corrections and the Department of Probation, Parole and Pardon Services, which may include, but are not limited to:</p> <ol style="list-style-type: none"> (1) seek and maintain employment; (2) participate in any educational, vocational training, counseling, or mentoring program recommended by the department; (3) refrain from using alcohol or nonprescription medication; and (4) pay a reasonable supervision fee, which may be waived by the department, that must be retained by the department to assist in funding this program. <p>(B) An eligible inmate or offender who fails to abide by the conditions established by the Department of Corrections and the Department of Probation, Parole and Pardon</p>		<p>SECTION 24-21-1310. Development and operation; inmate eligibility.</p> <p>(A) Notwithstanding another provision of law, the Department of Probation, Parole and Pardon Services may develop and operate day reporting centers for eligible inmates and eligible offenders, if the General Assembly appropriates funds to operate these centers. The Department of Probation, Parole and Pardon Services shall develop policies, procedures, and guidelines for the operation of day reporting centers. The period of time an eligible inmate or offender is required to participate in a day reporting program and the individual terms and conditions of an eligible inmate's or offender's placement and participation are at the joint discretion of the Department of Corrections and the Department of Probation, Parole and Pardon Services.</p> <p>(B) An inmate or offender has no right to be placed in a day reporting center. The Department of Corrections and the Department of Probation, Parole and Pardon Services have absolute discretion to place an eligible inmate or offender in a day reporting center and nothing in this article may be construed to entitle an inmate or offender to participate in a day reporting center program.</p> <p>SECTION 24-21-1320. Conditions of placement; removal.</p> <p>(A) An eligible inmate or offender placed in a day reporting center must agree to abide by the conditions established by the Department of Corrections and the Department of Probation, Parole and Pardon Services, which may include, but are not limited to:</p> <ol style="list-style-type: none"> (1) seek and maintain employment; (2) participate in any educational, vocational training, counseling, or mentoring program recommended by the department; (3) refrain from using alcohol or nonprescription medication; and (4) pay a reasonable supervision fee, which may be waived by the department, that must be retained by the department to assist in funding this program. <p>(B) An eligible inmate or offender who fails to abide by the conditions established by the Department of</p>	

Services may be removed from the community and brought before an administrative hearing officer of the Department of Probation, Parole and Pardon Services. The Department of Probation, Parole and Pardon Services is the sole authority for determining whether any condition has been violated and for determining the actions to be taken in response to the violation. A participant revoked from participation in a day reporting center may be subject to further criminal proceedings or the institution of internal disciplinary sanctions for violations of any conditions associated with his placement in the day reporting center program. An inmate who fails to report as instructed, or whose whereabouts are unknown, may be considered to be an escapee by the department and may be apprehended and returned to custody as any other inmate who is deemed an escapee by the department.

(C) If a sentence to a day reporting center is revoked, the inmate must serve the remainder of his sentence within the Department of Corrections.

~~Corrections and~~ the Department of Probation, Parole and Pardon Services may be removed from the community and brought before an administrative hearing officer of the Department of Probation, Parole and Pardon Services. The Department of Probation, Parole and Pardon Services is the sole authority for determining whether any condition has been violated and for determining the actions to be taken in response to the violation. A participant revoked from participation in a day reporting center may be subject to further criminal proceedings or the institution of internal disciplinary sanctions for violations of any conditions associated with his placement in the day reporting center program. An inmate who fails to report as instructed, or whose whereabouts are unknown, may be considered to be an escapee by the department and may be apprehended and returned to custody as any other inmate who is deemed an escapee by the department.

(C) If a sentence to a day reporting center is revoked, the inmate must serve the remainder of his sentence within the Department of Corrections if appropriate.

Not cited in letter.

DEPUTY DIRECTOR FOR OPERATIONS LAW REPEAL #7			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
CHAPTER 22 Classification System and Adult Criminal Offender Management System	<u>Current Law</u> Established the Offender Management System. <u>Recommendation</u> Repeal chapter.	The Offender Management System Act terminated on July 1, 1995.	SCDPPPS
Current Law Wording			Proposed Revisions to Law Wording
<p style="text-align: center;">CHAPTER 22</p> <p style="text-align: center;">Classification System and Adult Criminal Offender Management System</p> <p>SECTION 24-22-10. Short title. This chapter is known and may be cited as the "Offender Management System Act".</p> <p>SECTION 24-22-20. Definitions. As used herein:</p> <p>(a) "Adult criminal offender management system" means the system developed by the State Department of Corrections and the State Department of Probation, Parole and Pardon Services which permits carefully screened inmates to be identified, transferred into Department of Corrections Reintegration Centers and placed in Department of Probation, Parole and Pardon Services Community Control Strategies.</p> <p>(b) "Community control strategies" means offender supervision and offender management methods available in the community, including, but not limited to, home detention, day reporting centers, restitution centers, public service work programs, substance abuse programs, short term incarceration, and intensive supervision.</p> <p>(c) "High count" means the largest male prison system population, the largest female prison system population, or both, on any given day during a one-month period.</p> <p>(d) "Prison" means any male correctional facility, female correctional facility, or combined male and female correctional facility operated by the State Department of Corrections.</p> <p>(e) "Prison system" means the prisons operated by the State Department of Corrections.</p> <p>(f) "Offender" means every male inmate or female inmate, or both, who, at the time of the initiation of the offender management system, is or at any time during continuation of the system is serving a criminal sentence under commitment to the State Department of Corrections, including persons serving sentences in local detention facilities designated under the provisions of applicable law and regulations.</p> <p>(g) "Prison system population" means the total number of male prisoners, female prisoners, or combined total of female and male prisoners housed in the prisons operated by the State Department of Corrections.</p> <p>(h) "Reintegration center" means an institution operated by the State Department of Corrections which provides for the evaluation of and necessary institutional programs for inmates in the offender management system.</p> <p>(i) "Release date" means the date projected by the State Department of Corrections on which a prisoner will be released from prison, assuming maximum accrual of credit for good behavior has been established under Section 24-13-210 and earned work credits under Section 24-13-230.</p> <p>(j) "Qualified prisoners" means any male prisoners, female prisoners, or combined total of female or male prisoners convicted of a nonviolent offense for which such prisoner has received a total sentence of five years or less and is presently serving a nonmandatory term of imprisonment for conviction of one or more of the following offenses: reckless homicide (56-5-2910); armed robbery/accessory after the fact; simple assault; intimidation (16-11-550, 16-17-560); aggravated assault (16-23-490); arson of residence to defraud an insurer (16-11-110, 16-11-125); arson (16-11-110); arson-2nd degree (16-11-110(B)); arson-3rd degree (16-11-110(C)); burglary of safe vault (16-11-390); possession of tools for a crime (16-11-20); attempted burglary (16-13-170); petit larceny (16-13-30); purse snatching (16-13-150); shoplifting (16-13-110,</p>			Repeal entire chapter

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

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

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

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

- (a) be classified as a qualified prisoner as defined herein;
- (b) maintain a clear disciplinary record during the offender's incarceration or for at least six months prior to consideration for placement in the system;
- (c) demonstrate during incarceration a general desire to become a law-abiding member of society;
- (d) satisfy any reasonable requirements imposed on the offender by the Department of Corrections;
- (e) be willing to participate in the criminal offender management system and all of its programs and rehabilitative services and agree to conditions imposed by the departments;
- (f) possess an acceptable risk score. The risk score shall be affected by, but not be limited to, the following factors:
 - (1) nature and seriousness of the current offense;
 - (2) nature and seriousness of prior offenses;
 - (3) institutional record;
 - (4) performance under prior criminal justice supervision; and
- (g) satisfy any other criteria established by the South Carolina Department of Corrections and the State Board of Probation, Parole and Pardon Services.

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

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

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

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

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

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

SECTION 24-22-60. Evaluation of offenders.

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

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

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

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

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

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

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

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

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

and Pardon Services shall have authority to deny enrollment to any offender based upon the statements of any person responding to the notice of enrollment.

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

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

- (a) the South Carolina Department of Probation, Parole and Pardon Services Home Detention Supervision Program;
- (b) day reporting centers;
- (c) restitution centers;
- (d) public service work programs;
- (e) substance abuse programs;
- (f) short term incarceration; and
- (g) intensive supervision programs.

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

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

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

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

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

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

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

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

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

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

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

(B) During periods when the offender management system is in operation and either the South Carolina Department of Corrections or the South Carolina Department of Probation, Parole and Pardon Services determines that its funding for the system has been exhausted, the commissioner for the department having made the determination that funds are exhausted shall notify the commissioner of the other department, the Governor, the Speaker of the House of Representatives, and the President of the Senate.

The offender management system shall then terminate until appropriate funding has been provided from the general funds of the State.

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

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

SECTION 24-22-170. Termination of system and regulations.

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

Recommendation

[SCDC response to Subcommittee \(July 2, 2019\)](#), Question #37

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #8

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-13-125. Eligibility for work release; limitations; forfeiture of credits.	<p><u>Current Law</u> Requires inmates with a “no parole offense” to serve 80% of their sentence prior to being eligible for work release programs.</p> <p><u>Recommendation</u> Modify the statute so that inmates with a “no parole offense” would be eligible for work release after serving 70% of their sentence.</p>	A large number of inmates would be able to participate in work release sooner and for a longer period of time.	Association of Counties and other state agencies.
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-13-125. Eligibility for work release; limitations; forfeiture of credits.</p> <p>(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, or as provided in this subsection, an inmate convicted of a “no parole offense”, as defined in Section 24-13-100, and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, is not eligible for work release until the inmate has served not less than eighty percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16-3-50), kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment. Except as provided in this subsection, nothing in this section may be construed to allow an inmate convicted of murder or an inmate prohibited from participating in work release by another provision of law to be eligible for work release.</p>		<p>SECTION 24-13-125. Eligibility for work release; limitations; forfeiture of credits.</p> <p>(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, or as provided in this subsection, an inmate convicted of a “no parole offense”, as defined in Section 24-13-100, and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, is not eligible for work release until the inmate has served not less than eighty <u>seventy</u> percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16-3-50), kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment. Except as provided in this subsection, nothing in this section may be construed to allow an inmate convicted of murder or an inmate prohibited from participating in work release by another provision of law to be eligible for work release.</p>	

Referenced

[SCDC reponse to Subcommittee \(April 29, 2019\), Question #42](#)

DEPUTY DIRECTOR FOR OPERATIONS LAW CREATION #9

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
No current law is applicable	<p><u>Current Law</u> No current law is applicable</p> <p><u>Recommendation</u> Establish requirement for cellular carriers to inform managed access system (MAS) vendors any time there is a change in the cellular network near a MAS installation which could impact the operation of the MAS. These changes include, but are not limited to, changes to radio frequencies, signal strength, antennae placement / direction, or communications protocols.</p>	Changes in cellular networks that are near a MAS installation affect the operation and reliability of the MAS installation.	Cellular carriers
Current Law Wording		Proposed Revisions to Law Wording	
No current law is applicable.		SCDC does not have a recommendation for specific wording.	

Not cited in letter.

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #10			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-23-10. Plans to be developed for statewide case classification system and community-based correctional programs.	<u>Current Law:</u> Creation of a community based correctional program. <u>Recommendation</u> Repeal the law.	The statute is out of date as the goal has been accomplished and the "board" is no longer around.	N/A.
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 24-23-10. Plans to be developed for statewide case classification system and community-based correctional programs. The Board shall develop a plan for the implementation of a statewide case classification system. The Board, the Department of Corrections, and the Governor's Office shall jointly develop a specific plan for the statewide implementation of new community-based correctional programs. The plan shall include descriptions of the new programs, the eligibility criteria for placing offenders on the programs, the administrative and legal requirements for implementation, the projected impact of the programs on the state inmate population and the financial requirements and timetable for the statewide implementation of the programs. These plans shall be submitted to the Legislature by January, 1982.		Repeal the law.	

Recommendation

[SCDC response to Subcommittee \(April 29, 2019\)](#), Question #43

Question #43 - Please provide a recommendation for revision or repeal of S.C. Code Section 24-23-10 (*Plans to be developed for statewide case classification system and community-based correctional programs*), which references a "board" the agency testified no longer exists.

We recommend repeal of S.C. Code § 24-23-10 as the "board" it references no longer exists and it appears that the purpose of the statute was accomplished/completed many years ago.

DEPUTY DIRECTOR FOR OPERATIONS LAW CHANGE #11

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-13-710 Implementation of supervised furlough program; search and seizure; fee; guidelines; eligibility criteria Section 24-13-720 Inmates who may be placed with program; search and seizure	<u>Current Law:</u> Implementation of a supervised furlough program. <u>Recommendation</u> Repeal the statute.	We have replaced the furlough program with a supervised reentry program.	N/A.

Current Law Wording	Proposed Revisions to Law Wording
SECTION 24-13-710. Implementation of supervised furlough program; search and seizure; fee; guidelines; eligibility criteria. <p>The Department of Corrections and the Department of Probation, Parole and Pardon Services shall jointly develop the policies, procedures, guidelines, and cooperative agreement for the implementation of a supervised furlough program which permits carefully screened and selected inmates who have served the mandatory minimum sentence as required by law or have not committed a violent crime as defined in Section 16-1-60, a "no parole offense" as defined in Section 24-13-100, the crime of criminal sexual conduct in the third degree as defined in Section 16-3-654, or the crime of criminal sexual conduct with a minor in the third degree as defined in Section 16-3-655(C) to be released on furlough prior to parole eligibility and under the supervision of state probation and parole agents with the privilege of residing in an approved residence and continuing treatment, training, or employment in the community until parole eligibility or expiration of sentence, whichever is earlier.</p> <p>Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:</p> <p>(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or</p> <p>(2) any other law enforcement officer.</p> <p>An inmate must not be granted supervised furlough if he fails to comply with this provision. However, an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not be required to agree to be subject to search or seizure, without a warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, or any of the inmate's possessions.</p> <p>The department and the Department of Probation, Parole and Pardon Services shall assess a fee sufficient to cover the cost of the participant's supervision and any other financial obligations incurred because of his participation in the supervised furlough program as provided by this article. The two departments shall jointly develop and approve written guidelines for the program to include, but not be limited to, the selection criteria and process, requirements for supervision, conditions for participation, and removal.</p> <p>The conditions for participation must include the requirement that the offender must permit the search or seizure, without a search warrant, with or without cause, of the offender's person, any vehicle the offender owns or is driving, and any of the offender's possessions by:</p> <p>(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or</p> <p>(2) any other law enforcement officer.</p>	Repeal

However, the conditions for participation for an offender who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the offender agree to be subject to search or seizure, without a search warrant, with or without cause, of the offender's person, any vehicle the offender owns or is driving, or any of the offender's possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure conducted pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on supervised furlough. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

The cooperative agreement between the two departments shall specify the responsibilities and authority for implementing and operating the program. Inmates approved and placed on the program must be under the supervision of agents of the Department of Probation, Parole and Pardon Services who are responsible for ensuring the inmate's compliance with the rules, regulations, and conditions of the program as well as monitoring the inmate's employment and participation in any of the prescribed and authorized community-based correctional programs such as vocational rehabilitation, technical education, and alcohol/drug treatment. Eligibility criteria for the program include, but are not limited to, all of the following requirements:

- (1) maintain a clear disciplinary record for at least six months prior to consideration for placement on the program;
- (2) demonstrate to Department of Corrections' officials a general desire to become a law-abiding member of society;
- (3) satisfy any other reasonable requirements imposed upon him by the Department of Corrections;
- (4) have an identifiable need for and willingness to participate in authorized community-based programs and rehabilitative services;
- (5) have been committed to the State Department of Corrections with a total sentence of five years or less as the first or second adult commitment for a criminal offense for which the inmate received a sentence of one year or more. The Department of Corrections shall notify victims pursuant to Article 15, Chapter 3, Title 16 as well as the sheriff's office of the place to be released before releasing inmates through any supervised furlough program. These requirements do not apply to the crimes referred to in this section.

SECTION 24-13-720. Inmates who may be placed with program; search and seizure.

Unless sentenced to life imprisonment, an inmate under the jurisdiction or control of the Department of Corrections who has not been convicted of a violent crime under the provisions of Section 16-1-60 or a "no parole offense" as defined in Section 24-13-100 may, within six months of the expiration of his sentence, be placed with the program provided for in Section 24-13-710 and is subject to every rule, regulation, and condition of the program. Before an inmate may be released on supervised furlough, the inmate must agree in

writing to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:

- (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or
- (2) any other law enforcement officer.

An inmate may not be released on supervised furlough by the department if he fails to comply with this provision. However, an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not be required to agree to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, or any of the inmate's possessions.

The conditions for participation must include the requirement that the inmate must permit the search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:

- (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or
- (2) any other law enforcement officer.

However, the conditions for participation for an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the inmate agree to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, or any of the inmate's possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure conducted pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on supervised furlough. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

No inmate otherwise eligible under the provisions of this section for placement with the program may be so placed unless he has qualified under the selection criteria and process authorized by the provisions of Section 24-13-710. He also must have maintained a clear disciplinary record for at least six months prior to eligibility for placement with the program.

Recommendation

[SCDC reponse to Subcommittee \(April 29, 2019\), Question #44](#)

DEPUTY DIRECTOR FOR POLICE SERVICES LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-970. Use of a social networking site by an inmate to contact a victim; penalty.	<p><u>Current Law:</u> An inmate who contacts or harasses a victim or has a third-party do so is guilty of a misdemeanor and can be fined \$500, or imprisoned for not more than 30 days, or both.</p> <p><u>Recommendation</u> Modify to significantly increase the penalties of contacting a victim as the current penalties are not an effective deterrent.</p>	To deter inmates from contacting a victim. If they do contact the victim, harsher penalties will act as a deterrent for future contact.	Association of Counties, Solicitors, Public Defenders, and the judicial system.
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-3-970. Use of a social networking site by an inmate to contact a victim; penalty.</p> <p>It is unlawful for an inmate, or a person acting on behalf of or enabling an inmate, to utilize any Internet-based social networking website for purposes of harassing, intimidating, or otherwise contacting a crime victim. An inmate or person acting on behalf of an inmate utilizing an Internet-based social networking website for purposes described herein is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both. The provisions of this section apply only to inmates incarcerated in a State Department of Corrections facility.</p>		<p>SECTION 24-3-970. Use of a social networking site by an inmate to contact a victim; penalty.</p> <p>It is unlawful for an inmate, or a person acting on behalf of or enabling an inmate, to utilize any Internet-based social networking website for purposes of harassing, intimidating, or otherwise contacting a crime victim. An inmate or person acting on behalf of an inmate utilizing an Internet-based social networking website for purposes described herein is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred <u>one thousand</u> dollars, or imprisoned not more than thirty days <u>one year</u>, or both. The provisions of this section apply only to inmates incarcerated in a State Department of Corrections facility.</p>	

Recommendation

[SCDC reponse to Subcommittee \(June 20, 2019\)](#), Question #28

[SCDC reponse to Subcommittee \(June 20, 2019\)](#), Question #30

DEPUTY DIRECTOR FOR POLICE SERVICES LAW CHANGE #2

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-1-270. Trespass or loitering on or refusal to leave State correctional properties prohibited.	<u>Current Law:</u> Makes it a felony and imposes a fine for trespassing, loitering, or refusing to leave once instructed to do so from/on the premises of the SCDC. <u>Recommendation</u> Modify to include what constitutes notice of trespass and loitering.	To clarify what constitute notice of trespassing and loitering.	Association of Counties, Solicitors, Public Defenders, and the judicial system.
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 24-1-270. Trespass or loitering on or refusal to leave State correctional properties prohibited. (A) As used in this section, the term 'state correctional properties' includes all property under the control of the Director of the South Carolina Department of Corrections, or his agents, for the confinement of inmates or other uses pursuant to the director's responsibilities. (B) It is unlawful for a person to: (1) trespass or loiter on state correctional properties after notice to leave is given by the director or his authorized agents or, after lawful entry, refuse to leave the premises after notice is given; or (2) incite, solicit, urge, encourage, exhort, instigate, or procure a person to violate the provisions of item (1) of this subsection. (C) A person violating the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both. (D) The provisions of this section must not be construed to bar prosecution of other offenses committed on state correctional property.		SECTION 24-1-270. Trespass or loitering on or refusal to leave State correctional properties prohibited. (A) As used in this section, the term 'state correctional properties' includes all property under the control of the Director of the South Carolina Department of Corrections, or his agents, for the confinement of inmates or other uses pursuant to the director's responsibilities. (B) It is unlawful for a person to: (1) trespass or loiter on state correctional properties after notice to leave is given by the director or his authorized agents or, after lawful entry, refuse to leave the premises after notice is given; or (2) incite, solicit, urge, encourage, exhort, instigate, or procure a person to violate the provisions of item (1) of this subsection. (C) A person violating the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both. (D) The provisions of this section must not be construed to bar prosecution of other offenses committed on state correctional property. <u>(E) For purposes of this section, signs posted on the property of the South Carolina Department of Corrections indicating it is illegal to trespass or loiter on the premises shall constitute notice of the same by the Director.</u>	

Not cited in letter.

DEPUTY DIRECTOR FOR POLICE SERVICES LAW REPEAL #3

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-965. Certain offenses relating to contraband to be tried in magistrate's court.	<u>Current Law:</u> Generally, cases involving providing contraband, other than weapons or illegal drugs, to an inmate are heard exclusively in magistrate's court. <u>Recommendation</u> Repeal as it relates to SCDC.	The statute is being used as a charging statute as opposed to a jurisdictional statute.	Association of Counties, Solicitors, Public Defenders, and the judicial system.
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 24-3-965. Certain offenses relating to contraband to be tried in magistrate's court. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, 24-3-950, and 24-7-155, the offenses of furnishing contraband, other than weapons or illegal drugs, to an inmate under the jurisdiction of the Department of Corrections or to an inmate in a county jail, municipal jail, regional detention facility, prison camp, work camp, or overnight lockup facility, and the possession of contraband, other than weapons or illegal drugs, by an inmate under the jurisdiction of the Department of Corrections or by an inmate in a county jail, municipal jail, regional detention facility, prison camp, work camp, or overnight lockup facility must be tried exclusively in magistrates court. Matters considered contraband within the meaning of this section are those which are designated as contraband by the Director of the Department of Corrections or by the local facility manager.		SECTION 24-3-965. Certain offenses relating to contraband to be tried in magistrate's court. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, 24-3-950, and 24-7-155, the offenses of furnishing contraband, other than weapons or illegal drugs, to an inmate under the jurisdiction of the Department of Corrections or to an inmate in a county jail, municipal jail, regional detention facility, prison camp, work camp, or overnight lockup facility, and the possession of contraband, other than weapons or illegal drugs, by an inmate under the jurisdiction of the Department of Corrections or by an inmate in a county jail, municipal jail, regional detention facility, prison camp, work camp, or overnight lockup facility must be tried exclusively in magistrates court. Matters considered contraband within the meaning of this section are those which are designated as contraband by the Director of the Department of Corrections or by the local facility manager.	

Recommendation

[SCDC reponse to Subcommittee \(June 20, 2019\), Question #27](#)

[SCDC reponse to Subcommittee \(June 20, 2019\), Question #30](#)

DEPUTY DIRECTOR FOR POLICE SERVICES LAW CHANGE #4

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-3-950. Contraband	<p><u>Current Law:</u> Generally, cases involving providing contraband, other than weapons or illegal drugs, to an inmate are heard exclusively in magistrate's court.</p> <p><u>Recommendation</u> Modify statute to reflect jurisdictional nature of statute.</p>	The statute is being used as a charging statute as opposed to a jurisdictional statute.	N/A.

Current Law Wording	Proposed Revisions to Law Wording
<p>SECTION 24-3-950. Contraband.</p> <p>It shall be unlawful for any person to furnish or attempt to furnish any prisoner under the jurisdiction of the Department of Corrections with any matter declared by the director to be contraband. It shall also be unlawful for any prisoner under the jurisdiction of the Department of Corrections to possess any matter declared to be contraband. Matters considered contraband within the meaning of this section shall be those which are determined to be such by the director and published by him in a conspicuous place available to visitors and inmates at each correctional institution. Any person violating the provisions of this section shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment for not less than one year nor more than ten years, or both.</p>	<p>SECTION 24-3-950. Contraband.</p> <p>It shall be unlawful for any person to furnish or attempt to furnish any prisoner under the jurisdiction of the Department of Corrections with any matter declared by the director to be contraband, including, but not limited to, telecommunication devices, weapons, or illegal drugs. It shall also be unlawful for any prisoner under the jurisdiction of the Department of Corrections to possess any matter declared to be contraband, including, but not limited to, telecommunication devices, weapons, or illegal drugs. Matters considered contraband within the meaning of this section shall be those which are determined to be such by the director and published by him in a conspicuous place available to visitors and inmates at each correctional institution. Any person violating the provisions of this section shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment for not less than one year nor more than ten years, or both. <u>Any person employed by the Department of Corrections while violating the provisions of this section shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars or imprisonment for not less than five years nor more than ten years, or both.</u></p>

Recommendation

[SCDC reponse to Subcommittee \(June 20, 2019\)](#), Question #27

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-13-230. Reduction of sentence for productive duty assignment or participation in academic, technical, or vocational training program.	<p><u>Current Law:</u> Reduction in inmate's sentence for working or participating in academic, technical, or vocational training programs.</p> <p><u>Recommendation</u> Modify to include validated rehabilitative programming to reduce an inmate's sentence.</p>	Provide incentives, in the form of participation credits, for those who actively and effectively participate in programs. Participation credits will function like work, education, and/or vocational training credits.	DPPPS
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 24-13-230. Reduction of sentence for productive duty assignment or participation in academic, technical, or vocational training program.</p> <p>(A) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department, except an inmate convicted of a "no parole offense" as defined in <u>Section 24-13-100</u>, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by <u>Section 24-3-20</u> or <u>Section 24-3-30</u> or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled. A maximum annual credit for both work credit and education credit is limited to one hundred eighty days.</p> <p>(B) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department serving a sentence for a "no parole offense" as defined in <u>Section 24-13-100</u>, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by <u>Section 24-3-20</u> or <u>Section 24-3-30</u> or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of six days for every month he is employed or enrolled. However, no prisoner serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to <u>Section 16-3-20</u> is entitled to credits under this provision. No prisoner convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in <u>Section 24-13-125</u> or <u>24-</u></p>		<p>SECTION 24-13-230. Reduction of sentence for productive duty assignment or participation in academic, technical, or vocational training program, <u>or SCDC validated rehabilitative programming.</u></p> <p>(A) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department, except an inmate convicted of a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, <u>or SCDC validated rehabilitative programming</u>, a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled. A maximum annual credit for both work credit, <u>program credit</u>, and education credit is limited to one hundred eighty days.</p> <p>(B) The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department serving a sentence for a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, <u>or SCDC validated rehabilitative programming</u>, a reduction from the term of his sentence of six days for every month he is employed or enrolled. However, no prisoner serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. No prisoner convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150. A maximum annual credit for both work credit,</p>	

<p><u>13-150.</u> A maximum annual credit for both work credit and education credit is limited to seventy-two days.</p> <p>(C) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' prerelease or community supervision program as provided in <u>Section 24-21-560</u>.</p> <p>(D) The amount of credit to be earned for each duty classification or enrollment must be determined by the director and published by him in a conspicuous place available to inmates at each correctional institution. If a prisoner commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the work credit or education credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections.</p> <p>(E) The official in charge of a local detention facility must allow an inmate sentenced to the custody of the facility who is assigned to a mandatory productive duty assignment a reduction from the term of his sentence of zero to one day for every two days so employed. The amount of credit to be earned for each duty classification must be determined by the official in charge of the local detention facility and published by him in a conspicuous place available to inmates.</p> <p>(F)(1) An individual is eligible for the educational credits provided for in this section only upon successful participation in an academic, technical, or vocational training program.</p> <p>(2) The educational credit provided for in this section, is not available to any individual convicted of a violent crime as defined in <u>Section 16-1-60</u>.</p> <p>(G) The South Carolina Department of Corrections may not pay any tuition for college courses.</p>	<p><u>program credit</u>, and education credit is limited to seventy-two days.</p> <p>(C) No credits earned pursuant to this section may be applied in a manner which would prevent full participation in the Department of Probation, Parole and Pardon Services' prerelease or community supervision program as provided in <u>Section 24-21-560</u>.</p> <p>(D) The amount of credit to be earned for each duty classification or enrollment must be determined by the director and published by him in a conspicuous place available to inmates at each correctional institution. If a prisoner commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the work credit, <u>program credit</u>, or education credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections.</p> <p>(E) The official in charge of a local detention facility must allow an inmate sentenced to the custody of the facility who is assigned to a mandatory productive duty assignment a reduction from the term of his sentence of zero to one day for every two days so employed. The amount of credit to be earned for each duty classification must be determined by the official in charge of the local detention facility and published by him in a conspicuous place available to inmates.</p> <p>(F)(1) An individual is eligible for the educational credits provided for in this section only upon successful participation in an academic, technical, or vocational training program.</p> <p>(2) The educational credit provided for in this section, is not available to any individual convicted of a violent crime as defined in <u>Section 16-1-60</u>.</p> <p>(G) The South Carolina Department of Corrections may not pay any tuition for college courses.</p>
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Referenced

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #25

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #42

[SCDC reponse to Subcommittee \(April 29, 2019\)](#), Question #44

[SCDC reponse to Subcommittee \(May 24, 2019\)](#), Question #39

[SCDC reponse to Subcommittee \(May 24, 2019\)](#), Question #61

[SCDC response to Subcommittee \(July 26, 2019\)](#), Question #1

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES LAW CHANGE #2			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p>Section 24-13-1310 Definitions</p> <p>24-13-1320 Regulations; reports.</p> <p>24-13-1330 Court ordered participation; department evaluation and notification of unsuitability; inmate's agreement to terms and conditions; effect of completion; participation is a privilege.</p>	<p><u>Current Law:</u> Program of Shock Incarceration to deter "High Risk" individuals from committing future offenses.</p> <p><u>Recommendation</u> Replace or reform the Shock Incarceration program with an evaluation for the courts.</p>	Shock incarceration recidivism rate is higher than other programs provided, such as YOA.	DPPPS
Current Law Wording			Proposed Revisions to Law Wording
<p>24-13-1310. Definitions. As used in this article: (1) "Eligible inmate" means a person committed to the South Carolina Department of Corrections: (a) who has not reached the age of thirty years at the time of admission to the department; (b) who is eligible for release on parole in two years or less; (c) who has not been convicted of a violent crime as defined in Section 16-1-60 or a "no parole offense" as defined in Section 24-13-100; (d) who has not been incarcerated previously in a state correctional facility or has not served a sentence previously in a shock incarceration program; (e) who physically is able to participate in the program. (2) "Shock incarceration program" means a program pursuant to which eligible inmates are ordered by the court to participate in the program and serve ninety days in an incarceration facility, which provides rigorous physical activity, intensive regimentation, and discipline and rehabilitation therapy and programming. (3) "Director" means the Director of the Department of Corrections.</p> <p>24-13-1320. Regulations; reports. (A) The director of the department, guided by consideration for the safety of the community and the welfare of the inmate, shall promulgate regulations, according to procedures set forth in the Administrative Procedures Act, for the shock incarceration program. The regulations must reflect the purpose of the program and include, but are not limited to, selection criteria, inmate discipline, programming and supervision, and program structure and administration. (B) A program may be established only at an institution classified by the director as a shock incarceration facility. (C) The department shall undertake studies and prepare reports periodically on the impact of a program and on whether the programmatic objectives are met</p> <p>24-13-1330. Court ordered participation; department evaluation and notification of unsuitability; inmate's agreement to terms and conditions; effect of completion; participation is a privilege. (A) A court may order that an "eligible inmate" be sentenced to the "Shock Incarceration Program". If an "eligible inmate" is sentenced to the "Shock Incarceration Program" he must be transferred to the custody of the department for evaluation. (B) The department must evaluate the inmate to determine whether the inmate is physically, psychologically, and emotionally able to participate in this program.</p>			<p>Concept Recommendation:</p> <p>It is suggested that consideration be given to replacing the Shock Incarceration Program with an evaluation process that would provide the Court with information to assist in determining whether an intensive level of supervision with prescribed services may provide a more productive outcome than incarceration.</p>

(C) The director shall notify the court within fifteen working days if the inmate is physically, psychologically, or emotionally unsuitable for participation in the "Shock Incarceration Program". An unsuitable inmate must be returned to court for sentencing to another term as provided by law.

(D) An applicant may not participate in a program unless he agrees to be bound by all of its terms and conditions and indicates this agreement by signing the following:

"I accept the foregoing program and agree to be bound by its terms and conditions. I understand that my participation in the program is a privilege that may be revoked at the sole discretion of the director. I understand that I shall complete the entire program successfully to obtain a certificate of earned eligibility upon the completion of the program, and if I do not complete the program successfully, for any reason, I will be transferred to a nonshock incarceration correctional facility to continue service of my sentence."

Before an inmate may be released on parole, the inmate must agree in writing to be subject to search or seizure, without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

A shock incarceration inmate may not be granted parole release by the department if he fails to comply with this provision. However, a shock incarceration inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the offender agree to be subject to search or seizure, without a search warrant, with or without cause, of the shock incarceration inmate's person, any vehicle the shock incarceration inmate owns or is driving, or any of the shock incarceration inmate's possessions.

Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

(E) An inmate who has completed a shock incarceration program successfully is eligible to receive a certificate of earned eligibility and must be granted parole release if the inmate has executed the agreements described in subsection (D) of this section. The conditions of parole must include the requirement that the parolee must permit the search or seizure, without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or is driving, and any of the parolee's possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

However, the conditions of parole of a parolee who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the parolee

agree to be subject to search or seizure, without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or is driving, or any of the parolee's possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

(F) Participation in a shock incarceration program is a privilege. Nothing contained in this article confers upon an inmate the right to participate or continue to participate in a program.

Referenced

[SCDC reponse to Subcommittee \(June 20, 2019\)](#), Question #10

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES CONCEPT #3			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 24-19-5, et al. Judge William R. Byars Youthful Offender Act	<u>Current Law:</u> Outlines sentencing guidelines for defendants determined to be a youthful offender. <u>Recommendation</u> Concept Recommendation	Move to provide young adults with individualized developmentally appropriate services that convey human dignity and provide accountability, competency development, and community safety.	N/A.
Current Law Wording	Proposed Revisions to Law Wording		
Section 24-19-5, et al.	Concept Recommendation: <ul style="list-style-type: none"> • Update terminology to reflect current restorative philosophy; focus on rehabilitation and reentry services for young adults. • Clarify sentence timeframes for suspended sentences that are activated, i.e., Baxter v. Myers. • Examine the current R&E process and explore partnership with Vocational Rehabilitation to provide evaluation services. Also, consider potential of providing evaluation services in the community, rather than at R&E. • Reduce the maximum term of indeterminate sentence for Youthful Offenders to 5 years. • Eliminate multiple Youthful Offender convictions; may have more than one only if result of continuous incident. • Eliminate dual sentences; may not be sentenced as an adult and Youthful Offender at the same time for separate incidents. • Allow SCDC authority to issue subpoenas. • Allow SCDC to return non-conforming illegal sentences to be sentenced legally. 		

Recommendation

[SCDC reponse to Subcommittee \(June 20, 2019\)](#), Question #6

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES CONCEPT #4

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 24-25-10. Palmetto Unified School District No. 1 established.	<p><u>Current Law:</u> Establishes PUSD</p> <p><u>Recommendation</u> Appoint board members to PUSD.</p>	This would equalize representation in oversight since SCDC has schools state-wide agency.	N/A.
Current Law Wording		Proposed Revisions to Law Wording	
Section 24-25-10. Palmetto Unified School District No. 1 established.		<p>Concept Recommendation:</p> <p>PUSD would welcome greater diversity among board members. Should the General Assembly appoint board members by region, we would recommend at least one but no more than two members from each of the following regions:</p> <ul style="list-style-type: none"> • <u>Pee Dee</u>: Lee, Evans, Turbeville, Palmer, Kershaw, Wateree; • <u>Midlands</u>: Camille Graham, Broad River, Kirkland, Goodman, Manning; • <u>Upstate</u>: Livesay, Perry, Tyger River; • <u>Low country</u>: MacDougall, Lieber, Allendale, Ridgeland; • <u>West</u>: McCormick, Trenton, Leath; and, • Two at-large members appointed by the Governor 	

Recommendation

[SCDC response to Subcommittee \(August 22, 2019\)](#), Question #10

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES CONCEPT #5			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Title 38 Insurance	<u>Current Law:</u> Insurance laws <u>Recommendation</u> Change insurance laws for CDL holding inmates.	Current insurance laws make it difficult for inmates to get CDL jobs after incarceration due to them being classified as "negligent hiring".	N/A.
Current Law Wording		Proposed Revisions to Law Wording	
		Concept Recommendation: Evaluate insurance laws to consider amending so that a person's criminal history would not prohibit employment if not related to driving or drug trafficking offenses.	

Recommendation

[SCDC response to Subcommittee \(August 22, 2019\)](#), Question #23

DEPUTY DIRECTOR FOR PROGRAMS, REENTRY, AND REHABILITATIVE SERVICES CONCEPT #6			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
38 CFR §21.276. Incarcerated Veterans, and the M28R (Vocational Rehabilitation and Employment Service Manual) Part V, Section D, Chapter 3.	<u>Current Law:</u> <u>Recommendation</u> Recommend changes to veteran rights.	Due to the complexity, time constraints, and obstacles that are associated with completing federal or state applications for returning citizens, the process can be intimidating. Increased barriers, such as obtaining necessary documentation, also increases the probability of incomplete applications.	N/A.
Current Law Wording		Proposed Revisions to Law Wording	
38 CFR §21.276. Incarcerated Veterans, and the M28R (Vocational Rehabilitation and Employment Service Manual) Part V, Section D, Chapter 3.		Concept Recommendation: SCDC recommends that qualified discharge planners are allowed to continue assisting in filing applications, which will help streamline the process and ensure paperwork is completed prior to release. This process will promote positive reintegration back into society.	

Recommendation

[SCDC response to Subcommittee \(October 29, 2019\)](#), Question #1