

**SENATE FINANCE COMMITTEE
CRIMINAL JUSTICE SUBCOMMITTEE
PROVISO CHANGES FOR CONSIDERATION FOR FY 2024-25**

SECTION 58 - C050 - ADMINISTRATIVE LAW COURT

- 58.4** **ADD** (ALC: Office Space for Hearing Officers) **WMC:** ADD new proviso to direct counties and municipalities to provide a space for administrative hearings for the Office of Motor Vehicle Hearings within their existing facilities and to include utilities. Requested by the Administrative Law Court.
HOU: ADOPT new proviso.
SFC SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

58.4. (ALC: Office Space for Hearing Officers) Every county and municipality shall provide a space to conduct administrative hearings for the Office of Motor Vehicle Hearings upon request by the Chief Judge of the ALC. This space shall be within their existing physical facilities and include all utilities.

SECTION 60 - E210 - COMMISSION ON PROSECUTION COORDINATION

- 60.14** **DELETE** (PCC: Solicitor Technology Funding Distribution) Requires funds appropriated for Solicitor Technology Equipment and Software to be distributed in equal amounts among the sixteen circuits. Requires funding for each circuit to be distributed for development and implementation of a CJIS compliant prosecution case management system with certain capabilities. Directs each Circuit Solicitor to submit a comprehensive report to the Commission on Prosecution Coordination on the Prosecution Case Management System. Directs the commission to submit the reports to the Chairmen of Senate Finance and Ways and Means by December 31, 2022.
WMC: DELETE proviso. Requested on the Commission on Prosecution Coordination.
HOU: ADOPT deletion.
SFC SUBCOMMITTEE RECOMMENDATION: ADOPT deletion.

~~60.14. (PCC: Solicitor Technology Funding Distribution) The amount appropriated in this act and authorized for Solicitor Technology Equipment and Software shall be apportioned in equal amounts among the sixteen circuits. Funding allocated for each circuit must be distributed for the development and implementation of a Criminal Justice Information Services compliant prosecution case management system capable of integration with the South Carolina Commission on Prosecution Coordination, the South Carolina Judicial Branch, all State and Local Law Enforcement Departments, and other Offices of Circuit Solicitor. Each Circuit Solicitor shall submit to the Commission on Prosecution Coordination a comprehensive report detailing the capabilities and all associated expenditures for the Prosecution Case Management System. The Commission on Prosecution Coordination shall compile, summarize, and submit these reports to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee by December 31, 2023.~~

SECTION 61 - E230 - COMMISSION ON INDIGENT DEFENSE

- 61.7** **AMEND** (INDEF: Defense of Indigents Civil Action Application Fee) Directs that person requesting appointment of counsel must submit an affidavit of their assets before counsel may be appointed; authorizes court to order person to pay the assets or a portion of them to agency. Authorizes a \$40 application fee and allows for waiver if person is unable to pay; revenue to be remitted to the State Treasurer and used for indigent defense services only. In juvenile cases, the parents or legal guardians are responsible for the fee. Directs that appointment of counsel creates

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a claim against the assets for costs of representation and directs that such claims be filed with the Clerk of Court and are subject to reduction by order of the court.

WMC: AMEND proviso to change the recipient of the paid assets for those insufficient to employ private counsel from the State Treasurer's Office to the Commission on Indigent Defense. Requires the Clerk of Court to collect the \$40 Civil Application Fee and remit it to the State Treasurer. States this fee must be separate from the application fee. Requested by the Commission on Indigent Defense.

HOU: ADOPT proviso as amended.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT proviso as amended.

61.7. (INDEF: Defense of Indigents Civil Action Application Fee) (A) A person requesting appointment of counsel in any termination of parental rights (TPR), abuse and neglect, or any other civil court action in this state shall execute an affidavit that the person is financially unable to employ counsel and that affidavit shall set forth all of the person's assets. This affidavit must be completed before counsel may be appointed. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets or a portion thereof to the ~~State Treasurer's Office on a monthly basis separate from the application fee collected pursuant to Section 17-3-30(B)~~ Commission on Indigent Defense.

(B) A forty dollar application fee for appointed counsel services must be collected from every person who executes an affidavit that they are financially unable to employ counsel. The person may apply to the court, the clerk of court, or other appropriate official for a waiver or reduction in the application fee. If it is determined that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge and the trial judge shall order the remainder of the fee paid by a time payment method or such method as the trial judge deems appropriate. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit the proceeds to the ~~Commission on Indigent Defense State Treasurer's Office~~ State Treasurer's Office on a monthly basis separate from the application fee collected pursuant to Section 17-3-30(B). The monies must be deposited in an interest-bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Commission on Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Commission on Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.

(C) In matters in which a juvenile is brought before a court, the parents or legal guardian of such juvenile shall execute the above affidavit based upon their financial status and shall be responsible for paying any fee. In matters concerning juveniles, the parents or legal guardians of said juvenile, shall be advised in writing of this requirement at the earliest stage of the proceedings against said juvenile.

(D) Nothing contained above shall restrict or hinder a court from appointing counsel in any emergency proceedings or where existing statutes do not provide sufficient time for an individual to complete the application process.

(E) The appointment of counsel, as herein before provided, creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays to the appointed counsel.

(F) Such claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal

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property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this provision.

SECTION 64 -N200 - LAW ENFORCEMENT TRAINING COUNCIL

64.4 **ADD** (LETC – CJA: Academy Store Revenue) **WMC:** ADD new proviso to direct SCCJA to retain revenues earned by retail operations to support operational costs. Allows carryforward authority. Requested by Law Enforcement Training Council.

HOU: ADOPT new proviso.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

64.4. (LETC: CJA-Academy Store Revenue) The South Carolina Criminal Justice Academy revenues earned by retail operations shall be retained by the SCCJA to support operational costs. These funds may be carried forward from the prior fiscal year and must be used for the same purpose.

SECTION 67 - N120 - DEPARTMENT OF JUVENILE JUSTICE

67.13 **DELETE** (DDJ: Early Release Authorization) Authorizes release of juveniles from residential placements when bed space is no longer available excluding certain offenses.

WMC: DELETE proviso. Requested by Department of Juvenile Justice.

HOU: ADOPT deletion.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT deletion.

~~67.13. (DJJ: Early Release Authorization) In order to avoid unconstitutional levels of overcrowding and other unconstitutional conditions from occurring in facilities operated by the department and in residential programs operated for the department, the number of children housed in residential placements (either committed to the custody of the Department of Juvenile Justice or who are under the department's supervision) shall not exceed the number of beds available to the department to house them. Should appropriation reductions necessitate that the department close any additional facility, program, or housing unit it operates, or to be unable to fund any additional residential program operated for its benefit, the department is authorized and empowered to release from its residential placements sufficient numbers of children committed to its custody or supervision for a status offense, a misdemeanor offense, other than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, or for violation of probation/contempt of a status offense or a misdemeanor offense, other than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, so that the number of children in its custody or under its supervision and placed in these residential placements does not exceed the number of housing units/beds available to properly house those children. No child adjudicated delinquent for a violent crime as defined in Section 16-1-60 of the 1976 Code, a felony offense as defined in Section 16-1-90 of the 1976 Code, or a sexual offense shall be released pursuant to this proviso.~~

67.15 **AMEND** (DJJ: Other Funds) Authorizes the department to carry forward and expend any General Fund balances and any cash or fund balances from the sources provided for agency operating and capital needs. Directs that the department shall submit a plan prior to the expenditure of any of these funds for the review of the Chairmen of the Senate Finance

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Committee, House Ways and Means Committee, Corrections and Penology Committee, and House Judiciary Committee.

WMC: AMEND proviso to update fiscal year reference.

HOU: ADOPT proviso as amended.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT proviso as amended.

67.15. (DJJ: Other Funds) Notwithstanding any provision of state law, for Fiscal Year ~~2023-24~~ 2024-25, the Department of Juvenile Justice is authorized to carry forward and expend for agency operating and/or capital needs any cash or fund balances from the following sources: Law Enforcement Funding; Traffic Education Program App; Juvenile Detention Services; Joint Children’s Committee; Court Fines-Detention Services; and Dedicated Court Fines. For purposes of this provision, agency operating and/or capital needs includes the following items: (1) The recruitment and retention of qualified staff; (2) Youth Services Training and Community Programs; (3) Physical Plant Maintenance and Upgrades; and (4) Projects on both the Agency’s Master Plan and Comprehensive Permanent Improvement Plan. The department shall submit a plan regarding the use of these funds to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Corrections and Penology Committee, and the Chairman of the House Judiciary Committee. This plan shall be submitted for review before the expenditure of any of these funds.

67.16 **ADD** (DJJ: Broad River Road Complex) **WMC:** ADD new proviso to redirect appropriated funds from Act 102 of 2023 to be used for the Broad River Road Complex Renovations. Requested by Department of Juvenile Justice.

HOU: ADOPT new proviso.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

67.16. (DJJ: Broad River Road Complex) Funds remaining of the \$4,000,000 appropriated in Act 102 of 2023, Item 118.19(51)(f) to the Department of Juvenile Justice for Project Management shall be redirected to be used for the Broad River Road Complex renovations.

67.of **ADD** (DJJ: Operations of Facilities) **SFC SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to allow the department to contract for operations of facilities with funds provided in Part 1A of the General Appropriations act and to review and approve training programs by contract service providers.

67.of. Of the funds appropriated in Part 1A, Section 67.II.C. Facilities Management, Other Operating Expenses, the Department of Juvenile Justice may contract for the operations of facilities. The department shall review and approve training programs required by service providers contracted to operate facilities.

SECTION 109 - R440 - DEPARTMENT OF REVENUE

109.13 **DELETE** (DOR: Renewable Fuel Credit) Extends the date a taxpayer must place property or facility into service used for distributing or dispersing renewable fuel to January 1, 2023.

WMC: DELETE proviso.

HOU: ADOPT deletion.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT deletion.

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~~109.13. (DOR: Renewable Fuel Credit) The date the taxpayer must place property or facility into service that is used for distribution or dispensing renewable fuel shall be extended to January 1, 2023.~~

109.19 CONFORM TO FUNINDG/ADD (DOR: South Carolina Legislative Tax Credit) **WMC:** ADD new proviso to direct DOR to distribute \$500 million of the Homestead Exemption Fund balance to counties to provide a property tax credit. Provides the manner in which the amount of the credit is determined. Directs counties to reflect the credit as a separate line on a property tax bill. Directs the department to provide an estimate of funds to be disbursed by July 31 and disburse the funds by December 1. Directs counties to notify the department of credits issued and return excess funds received by March 31.

HOU: ADOPT new proviso.

SFC SUBCOMMITTEE RECOMMENDATION: CONFORM TO FUNDING.

109.19. (DOR: South Carolina Legislative Tax Credit) For Fiscal Year 2024-25, the Department of Revenue shall distribute \$500 million of the Homestead Exemption Fund balance to counties to be used to provide a property tax credit for owner-occupied property in the current fiscal year against county operating taxes. The funds are to be distributed in the proportion that the population of the county is to the total population of the State. Population data must be as determined in the decennial United States Census and the most recent update to that data as determined by the Revenue and Fiscal Affairs Office. The credit is an amount determined by dividing the total estimated revenues credited to the county by the number of parcels in the county eligible for the credit. Counties are required to reflect this credit as a separate line on the property tax bill with the phrase "South Carolina Legislative Tax Credit" and the amount of the credit. The Department of Revenue shall provide, by July 31, an estimate of the amount of funds to be disbursed to each county and shall disburse these funds no later than December 1. By March 31st, counties must notify the department of the total amount of these credits issued and return any portion of the funds received in excess of the amount necessary to provide this credit. The department shall have the authority to audit this credit.

SECTION 117 - X900 - GENERAL PROVISIONS

117.111 AMEND (GP: Retail Facilities Revitalization Act Repeal Suspension) Suspends the repeal of Chapter 34 of Title 6, relating to the Retail Facilities Act, as specified in Act 285 of 2006 for sites that provided DOR written notification of election of mode of credit before 7/1/16 and for which a building permit was issued prior to 7/1/16.

WMC: AMEND proviso to update the fiscal year reference.

HOU: ADOPT proviso as amended.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT proviso as amended.

117.111. (GP: Retail Facilities Revitalization Act Repeal Suspension) The repeal of Chapter 34, Title 6 of the 1976 Code as specified in Act 285 of 2006 as to sites for which written notification of election of mode of credit has been provided to the Department of Revenue prior to July 1, 2016 and for which a building permit has been issued prior to July 1, 2016, is suspended for Fiscal Year ~~2023-24~~ 2024-25.

117.126 AMEND (GP: School Resource Officer Critical Needs) allow any Class 1 law enforcement officer who retired under PORS on or before December 31, 2017, to return to work with a public school district as a critical needs School Resource Officer without affecting their PORS monthly

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allowance. Directs the Law Enforcement Training Council to develop guidelines for these officers to be recertified and to not require them to be recertified through basic training.

WMC: AMEND proviso to update calendar year reference.

HOU: ADOPT proviso as amended.

SFC SUBCOMMITTEE RECOMMENDATION: AMEND further to change “2023” to “2022”.

117.126. (GP: School Resource Officer Critical Needs) Any Class 1 law enforcement officer who retired under the Police Officers Retirement System on or before December 31, ~~2017~~ ~~2023~~ 2022, may return to employment with a public school district as a critical needs School Resource Officer without affecting the monthly retirement allowance that they are receiving from the Police Officers Retirement System. The Law Enforcement Training Council must develop guidelines and curriculum for these officers to be recertified and must not require recertification through basic training for those that have been inactive for a year or more.

117.166 AMEND (GP: Employee Retention and Recruitment) Appropriates funds to the Commission on Prosecution Coordination Commission and the Commission on Indigent Defense for recruitment and retention. Directs that before funds are disbursed, all Prosecution and Indigent Defense Circuits shall provide a report of current warrants pending. Directs the commissions to provide progress reports to the Chief Administrative Judge of each respective circuit handling the General Sessions docket, the Chairmen of the Senate Finance Committee and House Ways and Means Committee, and the Governor’s Office, by July 15, 2023, and semiannually thereafter.

WMC: AMEND proviso to delete that the funds will be appropriated. Deletes the date reference and directs the Commissions to send semiannual progress reports. Adds the report shall include the utilization of the funds that were distributed and how many FTEs have been hired.

HOU: ADOPT proviso as amended.

SFC SUBCOMMITTEE RECOMMENDATION: ADOPT proviso as amended.

117.166. (GP: Employee Retention and Recruitment) (A) For Fiscal Year ~~2023-24~~ 2024-25, funds will be appropriated to the Commission on Prosecution Coordination and to the Commission on Indigent Defense for “Assistant Solicitor Personnel and Retention” and “Assistant Public Defender Personnel and Retention.” Prior to funds being disbursed to the judicial circuits, the Circuit Solicitor and Circuit Public Defender for each judicial circuit shall provide to the Commission on Prosecution Coordination Director and the Commission on Indigent Defense Director, respectively, a report of current warrants pending. The report shall provide the total number of warrants pending in Circuit Court on July 1st of the preceding and current fiscal year, and the total number of warrants disposed of in the previous fiscal year. In addition, the report shall provide the aging categories for pending warrants as follows: (1) those pending 365 days or less; (2) those pending 366 days to 544 days; and (3) the number of warrants pending more than 545 days. Each circuit shall also submit on a semiannual basis an updated report on the current number of warrants pending.

(B) ~~By July 15, 2023,~~ The Commission on Prosecution Coordination and the Commission on Indigent Defense shall semiannually report progress updates to the Chief Administrative Judge of each respective circuit handling the General Sessions docket, the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor’s Office, ~~the manner in which the funds will be distributed~~ The report shall include the utilization of the funds distributed among the circuits, steps taken to retain current employees, the number of new FTEs that ~~will be~~ have been hired, and information obtained from circuits on how these measures will go towards reducing both the number and aging warrants pending.

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~~After the initial report is submitted, the Commission on Prosecution Coordination and the Commission on Indigent Defense shall provide semiannual progress updates.~~