

## Session 118 - (2009-2010)

**S\*1154 (Rat #0262, Act #0273 of 2010) General Bill, By Malloy, Knotts, Campsen, McConnell, Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey, Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin, Leventis, Leatherman, Setzler, O'Dell, Hayes and Pinckney**

**Summary:** Omnibus Crime Reduction and Sentencing Reform Act

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010"; TO AMEND SECTION 16-11-110, AS AMENDED, RELATING TO ARSON, SO AS TO RESTRUCTURE THE VARIOUS DEGREES OF ARSON AND THE PENALTIES; TO AMEND SECTION 16-3-210, RELATING TO LYNCHING IN THE FIRST DEGREE, SO AS TO RESTRUCTURE THE OFFENSE INTO VARYING DEGREES OF ASSAULT AND BATTERY BY MOB AND PROVIDE PENALTIES; TO REPEAL SECTIONS 16-3-220, 16-3-230, 16-3-240, 16-3-250, 16-3-260, AND 16-3-270 ALL RELATING TO LYNCHING AND MOB VIOLENCE; BY ADDING SECTION 16-3-29 SO AS TO CREATE THE OFFENSE OF ATTEMPTED MURDER AND PROVIDE A PENALTY; BY ADDING SECTION 16-3-600 SO AS TO DEFINE NECESSARY TERMS, CREATE VARIOUS LEVELS AND DEGREES OF ASSAULT AND BATTERY OFFENSES, AND TO PROVIDE PENALTIES; TO AMEND SECTION 16-3-610, RELATING TO ASSAULT WITH A CONCEALED WEAPON, SO AS TO REFERENCE THE NEW OFFENSES OF ATTEMPTED MURDER AND ASSAULT AND BATTERY AND MAKE TECHNICAL CHANGES; TO REPEAL SECTIONS 16-3-612, 16-3-620, 16-3-630, AND 16-3-635 ALL DEALING WITH VARIOUS ASSAULT AND BATTERY OFFENSES; TO REPEAL CERTAIN COMMON LAW ASSAULT AND BATTERY OFFENSES; TO AMEND SECTION 22-3-560, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES IN MAGISTRATES COURT AND ASSAULT AND BATTERY AGAINST SPORTS OFFICIALS AND COACHES, SO AS TO REMOVE THE SPECIFIC REFERENCES TO ASSAULT AND BATTERY OFFENSES; TO AMEND SECTION 17-15-30, AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE ON BAIL, SO AS TO REQUIRE CERTAIN INFORMATION BE PROVIDED TO THE COURT BEFORE A BAIL OR BOND HEARING BY LAW ENFORCEMENT; TO AMEND SECTION 22-5-510, RELATING TO BAIL AND BOND HEARINGS IN MAGISTRATES COURT, SO AS TO REQUIRE CERTAIN INFORMATION BE PROVIDED TO THE COURT BEFORE A BAIL OR BOND HEARING BY LAW ENFORCEMENT; TO AMEND SECTION 16-11-312, RELATING TO BURGLARY IN THE SECOND DEGREE, SO AS TO CREATE TWO TIERS OF BURGLARY IN THE SECOND DEGREE AND PROVIDE A PENALTY FOR THE FIRST; TO AMEND SECTION 16-17-420, RELATING TO DISTURBING SCHOOLS, SO AS TO VEST JURISDICTION WITH THE SUMMARY COURTS UNLESS THE PERSON IS A CHILD; BY ADDING SECTION 17-25-65 SO AS TO PROVIDE FOR REDUCTION IN A DEFENDANT'S SENTENCE IF HE PROVIDES SUBSTANTIAL ASSISTANCE TO THE STATE, TO PROVIDE A TIME FRAME FOR THE ASSISTANCE TO BE RENDERED, AND PROCEDURES THAT MUST BE FOLLOWED; TO AMEND SECTION 56-1-440, RELATING TO PENALTIES FOR DRIVING WITHOUT A LICENSE, AND SECTION 56-3-1970, AS AMENDED, RELATING TO UNLAWFUL PARKING IN A HANDICAPPED SPACE, BOTH SO AS TO VEST THE SUMMARY COURTS WITH JURISDICTION OVER THE OFFENSES; BY ADDING SECTION 56-1-395 SO AS TO DIRECT THE DEPARTMENT OF MOTOR VEHICLES TO ESTABLISH A DRIVER'S LICENSE REINSTATEMENT FEE PAYMENT PROGRAM AND ESTABLISH POLICIES AND PROCEDURES FOR THE PROGRAM; BY ADDING SECTION 56-1-396 TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO ESTABLISH A DRIVER'S LICENSE SUSPENSION AMNESTY PERIOD EACH YEAR AND TO ESTABLISH POLICIES AND PROCEDURES FOR THE PERIOD; TO AMEND SECTION 16-11-510, RELATING TO MALICIOUS INJURY TO ANIMALS AND OTHER PERSONAL PROPERTY, SECTION 16-11-520, RELATING TO MALICIOUS INJURY TO CERTAIN REAL PROPERTY, SECTION 16-11-523, RELATING TO OBTAINING NONFERROUS METALS UNLAWFULLY, SECTION 16-13-10, RELATING TO FORGERY, SECTION 16-13-30, RELATING TO PETIT AND GRAND LARCENY, SECTION 16-13-40, RELATING TO STEALING OF BONDS AND SIMILAR MATTERS, SECTION 16-13-50, RELATING TO STEALING OF LIVESTOCK, SECTION 16-13-66, RELATING TO PENALTIES FOR STEALING OR DAMAGING AQUACULTURE PRODUCTS OR FACILITIES, SECTION 16-13-70, RELATING TO STEALING OF VESSELS AND EQUIPMENT, SECTION 16-13-80, RELATING TO STEALING OF BICYCLES, SECTION 16-13-110, RELATING TO SHOPLIFTING, SECTION 16-13-180, RELATING TO RECEIVING STOLEN GOODS, SECTION 16-13-210, RELATING TO EMBEZZLEMENT OF PUBLIC FUNDS, SECTION 16-13-230, RELATING TO BREACH OF TRUST WITH FRAUDULENT INTENT, SECTION 16-13-240, RELATING TO OBTAINING SIGNATURE OR PROPERTY BY FALSE PRETENSES, SECTION 16-13-260, RELATING TO OBTAINING PROPERTY UNDER FALSE TOKENS OR LETTERS, SECTION 16-13-290, RELATING TO SECURING PROPERTY BY FRAUDULENT IMPERSONATION OF AN OFFICER, SECTION 16-13-331, RELATING TO UNAUTHORIZED REMOVAL OF LIBRARY PROPERTY, SECTION 16-13-420, RELATING TO FAILURE TO RETURN RENTED OBJECTS, SECTION 16-13-430, RELATING TO FRAUDULENT ACQUISITION OR USE OF FOOD STAMPS, SECTION 16-14-80, RELATING TO RECEIVING GOODS AND SERVICES FRAUDULENTLY

OBTAINED, SECTION 16-14-100, RELATING TO PENALTIES FOR VIOLATION OF THE FINANCIAL TRANSACTION CARD CRIME ACT, SECTION 16-17-600, AS AMENDED, RELATING TO THE UNLAWFUL DESTRUCTION OR DESECRATION OF HUMAN REMAINS, SECTION 16-21-80, RELATING TO RECEIVING, POSSESSING, OR SELLING A STOLEN VEHICLE, SECTION 36-9-410, RELATING TO UNLAWFUL SALE OR DISPOSAL OF PERSONAL PROPERTY SUBJECT TO A SECURITY INTEREST, SECTION 38-55-170, RELATING TO PRESENTING FALSE CLAIMS FOR PAYMENT, SECTION 45-1-50, AS AMENDED, RELATING TO DEFRAUDING A KEEPER OF A HOTEL, CAMPGROUND, OR RESTAURANT, SECTION 45-2-40, RELATING TO VIOLATIONS COMMITTED ON THE PREMISES OF LODGING ESTABLISHMENTS, SECTION 46-1-20, AS AMENDED, RELATING TO STEALING CROPS, SECTION 46-1-40, AS AMENDED, RELATING TO STEALING TOBACCO PLANTS, SECTION 46-1-60, AS AMENDED, RELATING TO STEALING PRODUCE, SECTION 46-1-70, AS AMENDED, RELATING TO FACTORS OR COMMISSION MERCHANTS FAILING TO ACCOUNT FOR PRODUCE, AND SECTION 49-1-50, RELATING TO THE UNLAWFUL PURCHASE OR SALE OF DRIFTED LUMBER OR TIMBER, ALL SO AS TO RESTRUCTURE THE FINES AND PLACE JURISDICTION OVER THE LOWEST LEVEL OFFENSES IN MAGISTRATES OR MUNICIPAL COURTS; TO REPEAL SECTION 16-13-425 RELATING TO THE UNLAWFUL FAILURE TO RETURN RENTED VIDEOS; TO AMEND SECTION 56-1-460, RELATING TO PENALTIES FOR DRIVING UNDER SUSPENSION, SO AS TO RESTRUCTURE THE PENALTIES, TO PROVIDE FOR THE POSSIBILITY OF HOME DETENTION, AND TO PROVIDE PROCEDURES FOR OBTAINING A ROUTE RESTRICTED DRIVER'S LICENSE UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 56-1-1105 SO AS TO CREATE A HABITUAL OFFENDER OFFENSE FOR THOSE PERSONS WHO REPEATEDLY VIOLATE THE DRIVING UNDER SUSPENSION LAWS AND TO PROVIDE PENALTIES FOR THE TWO LEVELS CREATED; TO AMEND SECTION 16-5-50, RELATING TO THE PENALTY FOR HINDERING OFFICERS OR RESCUING PRISONERS, SO AS TO REVISE THE PENALTY; TO AMEND SECTION 17-25-45, AS AMENDED, RELATING TO TWO/THREE STRIKES LAW FOR REPEAT SERIOUS AND MOST SERIOUS OFFENDERS, SO AS TO ADD OFFENSES TO BOTH DELINEATED LISTS, PROVIDE EXCEPTIONS TO THE WORK RELEASE PROHIBITIONS UNDER CERTAIN CIRCUMSTANCES, AND DELETE THE REQUIREMENT THAT THE INVOCATION OF THE TWO/THREE STRIKES PROVISIONS ARE MANDATORY; TO AMEND SECTION 16-3-20, AS AMENDED, RELATING TO MURDER, SO AS TO RESTRUCTURE THE PENALTY TO DEATH OR A MANDATORY MINIMUM OF THIRTY YEARS TO LIFE; TO REPEAL SECTIONS 16-3-30, 16-3-40, AND 16-3-430 RELATING TO KILLING BY POISON, KILLING BY STABBING OR THRUSTING, AND KILLING IN A DUEL, RESPECTIVELY; TO AMEND SECTION 14-25-65, AS AMENDED, RELATING TO MUNICIPAL COURT JURISDICTION, SO AS TO PROVIDE THE MUNICIPAL COURT HAS THE CIVIL JURISDICTION OF THE MAGISTRATES COURT; TO AMEND SECTION 22-3-550, RELATING TO MAGISTRATES COURT JURISDICTION, SO AS TO REFERENCE THE CIVIL JURISDICTIONAL AMOUNT IN SECTION 22-3-10; BY ADDING SECTION 16-23-500 SO AS TO CREATE THE OFFENSE OF UNLAWFUL POSSESSION OF A FIREARM OR AMMUNITION BY A PERSON CONVICTED OF A VIOLENT OFFENSE, TO PROVIDE A PENALTY, AND TO PROVIDE FOR CONFISCATION OF THE FIREARM OR AMMUNITION; TO AMEND SECTION 16-1-60, AS AMENDED, RELATING TO THE DEFINITION OF VIOLENT CRIMES, SO AS TO ADD A NUMBER OF ADDITIONAL OFFENSES TO THE DELINEATED LIST; TO AMEND SECTION 16-23-490, RELATING TO ADDITIONAL PUNISHMENT FOR THE POSSESSION OF A KNIFE OR FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, SECTION 24-13-125, RELATING TO ELIGIBILITY FOR WORK RELEASE, SECTION 24-13-650, RELATING TO THE PROHIBITION AGAINST RELEASE OF AN OFFENDER INTO A COMMUNITY IN WHICH HE COMMITTED A VIOLENT CRIME, AND SECTION 24-3-20, RELATING TO CUSTODY OF CONVICTED PERSONS AND PARTICIPATION IN WORK RELEASE PROGRAMS, ALL SO AS TO ALLOW PARTICIPATION IN WORK RELEASE PROGRAMS BY CERTAIN OFFENDERS UNDER CERTAIN CONDITIONS AND CIRCUMSTANCES; TO AMEND SECTIONS 24-19-10, 22-5-920, AS AMENDED, 24-19-110, AS AMENDED, AND 24-19-120, ALL RELATING TO THE TREATMENT OF YOUTHFUL OFFENDERS, SO AS TO AMEND THE DEFINITION OF THE TERM "YOUTHFUL OFFENDER", TO CLARIFY THE TERM, AND TO PROVIDE FOR THE NOTIFICATION OF VICTIMS BEFORE A YOUTHFUL OFFENDER MAY BE CONDITIONALLY RELEASED, RESPECTIVELY; TO AMEND SECTION 14-1-213, RELATING TO THE SURCHARGE ON DRUG OFFENSES, SO AS TO INCREASE THE SURCHARGE FROM ONE HUNDRED TO ONE HUNDRED FIFTY DOLLARS; TO AMEND SECTION 44-53-160, RELATING TO THE MANNER IN WHICH CHANGES TO THE SCHEDULE OF CONTROLLED SUBSTANCES ARE MADE, SO AS TO CHANGE THE METHOD OF NOTIFYING THE GENERAL ASSEMBLY WHEN A CONTROLLED SUBSTANCE IS ADDED, DELETED, OR RESCHEDULED; TO AMEND SECTIONS 44-53-370 AND 44-53-375, BOTH AS AMENDED, BOTH RELATING TO POSSESSION, MANUFACTURE, AND TRAFFICKING IN CERTAIN DRUG OFFENSES, BOTH SO AS TO ALLOW PERSONS CONVICTED OF CERTAIN DRUG OFFENSES TO HAVE THEIR SENTENCE SUSPENDED OR PROBATION GRANTED AND ALLOW THEM TO PARTICIPATE IN CERTAIN WORK AND EARLY RELEASE PROGRAMS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 44-53-445, RELATING TO DISTRIBUTION OF CONTROLLED

SUBSTANCES WITHIN A CERTAIN PROXIMITY OF A SCHOOL, SO AS TO RESTRUCTURE THE OFFENSE TO REQUIRE KNOWLEDGE OF THE PROXIMITY TO A SCHOOL, AMONG OTHER THINGS; TO AMEND SECTION 44-53-450, AS AMENDED, RELATING TO CONDITIONAL DISCHARGE AND EXPUNGEMENT OF CERTAIN DRUG OFFENSES, SO AS TO INCLUDE CERTAIN DRUG OFFENSES IN SECTION 44-53-375 IN THE PURVIEW OF THE STATUTE, PROVIDE A FEE FOR EXPUNGEMENT, AND PROVIDE THAT THE FUNDS COLLECTED BE PROVIDED FOR DRUG TREATMENT COURT PROGRAMS; TO AMEND SECTION 44-53-470, AS AMENDED, RELATING TO THE DEFINITION OF "SECOND OR SUBSEQUENT OFFENSE" FOR PURPOSES OF CONTROLLED SUBSTANCE LAWS, SO AS TO PROVIDE A NEW STRUCTURE OF DETERMINING WHAT CONSTITUTES A SECOND OR SUBSEQUENT OFFENSE; TO AMEND SECTION 44-53-582, RELATING TO THE RETURN OF MONIES USED TO PURCHASE CONTROLLED SUBSTANCES, SO AS TO PROVIDE THAT THE COURT MAY ORDER THE DEFENDANT TO RETURN MONIES USED BY LAW ENFORCEMENT TO PURCHASE CONTROLLED SUBSTANCES DURING AN INVESTIGATION; TO AMEND SECTION 56-1-745, RELATING TO DRIVER'S LICENSE SUSPENSIONS FOLLOWING CONVICTION FOR CONTROLLED SUBSTANCE VIOLATIONS, SO AS TO RESTRUCTURE THE TIME PERIOD OF SUSPENSION TO PROVIDE FOR A SUSPENSION OF SIX MONTHS FOR ALL CONTROLLED SUBSTANCE VIOLATIONS; BY ADDING SECTION 24-21-5 SO AS TO DEFINE NECESSARY TERMS; TO AMEND SECTION 24-21-10, RELATING TO THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO PROVIDE QUALIFICATIONS FOR BOARD MEMBERS, COMPREHENSIVE TRAINING, AND REQUIRE THE DEPARTMENT TO DEVELOP A PROCESS FOR ADOPTING AN ASSESSMENT TOOL; TO AMEND SECTION 24-21-13, RELATING TO POLICIES AND PROCEDURES THAT MUST BE FOLLOWED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES AND THE BOARD, SO AS TO INCLUDE THE USE OF A STRUCTURED DECISION-MAKING GUIDE AND ADD TREATMENT PROGRAMS; BY ADDING SECTION 24-21-32 SO AS TO PROVIDE FOR REENTRY SUPERVISION FOR INMATES NOT SENTENCED TO COMMUNITY SUPERVISION AND TO PROVIDE POLICIES AND PROCEDURES FOR THE NEW REENTRY SUPERVISION; TO AMEND SECTION 24-21-220, RELATING TO POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO INCLUDE ASSESSMENT IN THE DELINEATED LIST; TO AMEND SECTION 24-21-280, RELATING TO DUTIES AND POWERS OF PROBATION AGENTS, SO AS TO INCORPORATE THE REQUIRED USE OF EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM, REQUIRE ACTUARIAL ASSESSMENT OF CERTAIN CRIMINAL RISK FACTORS, AND TO ALLOW CERTAIN EARNED COMPLIANCE CREDITS; TO AMEND SECTION 24-21-230, RELATING TO EMPLOYMENT AND TRAINING OF PROBATION AGENTS AND OTHER STAFF, SO AS TO REQUIRE THE EMPLOYMENT OF HEARING OFFICERS AND THEIR DUTIES; BY ADDING SECTION 24-21-100 SO AS TO CREATE ADMINISTRATIVE MONITORING WHEN FINANCIAL OBLIGATIONS HAVE NOT BEEN MET BY THE END OF THE TERM OF SUPERVISION AND TO PROVIDE PROCEDURES FOR ADMINISTRATIVE MONITORING; BY ADDING SECTION 24-21-110 SO AS TO PROVIDE FOR ADMINISTRATIVE SANCTIONS FOR VIOLATORS OF SPECIAL CONDITIONS AND TO PROVIDE FOR A PROCEDURE TO ADMINISTER THESE ADMINISTRATIVE SANCTIONS; TO AMEND SECTION 24-21-490, RELATING TO COLLECTION AND DISTRIBUTION OF RESTITUTION, SO AS TO PROVIDE FOR THE DISTRIBUTION OF FINANCIAL OBLIGATIONS COLLECTED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES; BY ADDING SECTION 24-21-715 SO AS TO DEFINE NECESSARY TERMS, TO PROVIDE FOR PAROLE FOR THE TERMINALLY ILL, GERIATRIC, OR PERMANENTLY DISABLED INMATE, AND TO PROVIDE PROCEDURES FOR PAROLE ON THESE GROUNDS; BY ADDING ARTICLE 11 TO CHAPTER 22, TITLE 17 SO AS TO DEFINE NECESSARY TERMS, CREATE THE OFFICE OF PRETRIAL COORDINATOR, AND REQUIRE CERTAIN DATA AND REPORTING OF DIVERSION PROGRAMS; TO AMEND SECTION 24-13-2130, RELATING TO MEMORANDUM OF UNDERSTANDING BETWEEN VARIOUS CORRECTIONAL AND EMPLOYMENT AND JOB SKILLS AGENCIES, SO AS TO INCLUDE THE REQUIREMENT THAT LIFE SKILLS ASSESSMENTS BE BASED ON EVIDENCE-BASED PRACTICES AND CRIMINAL RISK FACTOR ANALYSIS AND TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE A PHOTO IDENTIFICATION CARD FOR INMATES WHO ARE RELEASED FROM A CORRECTIONAL FACILITY; TO AMEND SECTION 24-21-645, RELATING TO PAROLE, SO AS TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 16-1-130, RELATING TO PERSONS NOT ELIGIBLE FOR DIVERSION PROGRAMS, SO AS TO ALLOW PERSONS CURRENTLY ON PAROLE OR PROBATION TO PARTICIPATE AS LONG AS THEY ARE NOT ON PAROLE OR PROBATION FOR A VIOLENT OFFENSE AND TO CLARIFY THAT CONSENT OF THE VICTIM IS NOT NECESSARY IF REASONABLE ATTEMPTS TO CONTACT THE VICTIM HAVE BEEN MADE UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 2-7-74 SO AS TO DEFINE THE TERM "STATEMENT OF ESTIMATED FISCAL IMPACT" AND TO REQUIRE STATEMENTS OF ESTIMATED FISCAL IMPACT UNDER CERTAIN PARAMETERS FOR LEGISLATION WHICH CREATES OR AMENDS A CRIMINAL OFFENSE; AND BY ADDING CHAPTER 28 TO TITLE 24 SO AS TO CREATE THE SENTENCING REFORM OVERSIGHT COMMITTEE AND PROVIDE FOR THE MEMBERSHIP AND DUTIES OF THE COMMITTEE. - ratified title

02/09/10 Senate Introduced and read first time SJ-9  
02/09/10 Senate Referred to Committee on Judiciary SJ-9  
02/10/10 Senate Referred to Subcommittee: Malloy (ch), Knotts, Campsen  
03/24/10 Senate Committee report: Favorable with amendment Judiciary SJ-9  
03/25/10 Senate Committee Amendment Amended and Adopted SJ-44  
03/25/10 Senate Read second time SJ-44  
03/30/10 Senate Amended  
03/30/10 Senate Read third time and sent to House  
04/13/10 House Introduced and read first time HJ-27  
04/13/10 House Referred to Committee on Judiciary HJ-27  
05/06/10 House Committee report: Favorable with amendment Judiciary HJ-7  
05/18/10 House Amended HJ-63  
05/18/10 House Requests for debate-Rep(s). Simrill, Bannister, Hiott, Hayes, Owens, Millwood, Parker, Forrester, Knight, Wylie, Kelly, Spires, RL Brown, and Crawford HJ-63  
05/25/10 House Read second time HJ-152  
05/25/10 House Roll call Yeas-97 Nays-4 HJ-152  
05/26/10 House Read third time and returned to Senate with amendments HJ-61  
05/27/10 Senate Concurred in House amendment and enrolled SJ-81  
06/01/10 Ratified R 262  
06/02/10 Signed By Governor  
07/07/10 Effective date See Act for Effective Date  
07/08/10 Act No. 273