**A** **BILL**

TO ENACT THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010, RELATING TO CRIMINAL OFFENSES, CORRECTIONS, PROBATION, AND PAROLE PROVISIONS, SO AS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT RECOMMENDATIONS PROPOSED BY THE SENTENCING REFORM COMMISSION REPORT OF FEBRUARY 2010.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This bill may be cited as “The Omnibus Crime Reduction and Sentencing Reform Act of 2010”. It is the intent of the General Assembly to preserve public safety, reduce crime, and use most effectively correctional resources. Currently, the South Carolina correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes, or are returned to prison for violations of supervision requirements. It is, therefore, the purpose of this act to reduce recidivism, provide fair and effective sentencing options, employ evidence‑based practices for smarter use of correctional funding, and improve public safety.

PART I

Criminal Offenses Revisions

SECTION 2. It is the intent of the General Assembly that the provisions in PART I of this act shall provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism.

SECTION 3. Section 16‑11‑110 of the 1976 Code is amended to read:

“Section 16‑11‑110. (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, structure, or any property ~~specified in subsections (B) and (C)~~ whether the property of himself or another, which results, either directly or indirectly, in the death ~~or serious bodily injury to~~ of a person is guilty of arson in the first degree and, upon conviction, must be imprisoned not less than t~~en nor more than~~ thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures ~~the~~ a burning that results in damage to a dwelling house, ~~church or place of worship, a public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings,~~ building, structure, or any property whether the property of himself or another, which results, either directly or indirectly, in serious bodily injury to a person is guilty of arson in the second degree and, upon conviction, must be imprisoned not less than ~~five~~ three nor more than twenty-five years.

(C) A person who wilfully and maliciously~~:~~

~~(1)~~ causes an explosion, sets fire to, burns, or causes ~~a burning which~~ to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, ~~or~~ structure ~~other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or~~, or any property,

~~(2)~~ ~~aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire;~~ whether the property of himself or another, which results, either directly or indirectly, in bodily injury to a person or damage to the property is guilty of arson in the third degree and, upon conviction, must be imprisoned ~~not less than one and~~ not more than ~~ten~~ fifteen years.

(D) For purposes of this section, ‘damage’ means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.”

SECTION 4. Section 16‑3‑210 of the 1976 Code is amended to read:

“Section 16‑3‑210.~~Any act of violence inflicted by a mob upon the body of another person which results in the death of the person shall constitute the crime of lynching in the first degree and shall be a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend the defendant to the mercy of the court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years at the discretion of the presiding judge.~~ (A) For purposes of this section, a ‘mob’ is defined as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

(B) Any act of violence inflicted by a mob upon the body of another person, which results in the death of the person, shall constitute the crime of assault and battery by mob in the first degree and shall be punished by imprisonment for not less than thirty years.

(C) Any act of violence inflicted by a mob upon the body of another person, which results in serious bodily injury to the person, shall constitute the crime of assault and battery by mob in the second degree and shall be punished by imprisonment for not less than three years nor more than twenty-five years.

(D) Any act of violence inflicted by a mob upon the body of another person, which results in bodily injury to the person, shall constitute the crime of assault and battery by mob in the third degree and shall be punished by imprisonment for not more than one year.

(E) It is permissible to infer that all persons present as members of a mob when an act of violence is committed have aided and abetted the crime and are guilty as principals.

(F) When any mob commits an act of violence, the sheriff of the county wherein the crime occurs and the solicitor of the circuit wherein the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

(G) The solicitor of any circuit shall have summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

(H) This article shall not be construed to relieve any member of any such mob from civil liability.”

SECTION 5. Repeal Sections 16‑3‑220, 16‑3‑230, 16‑3‑240, 16‑3‑250, 16‑3‑260, and 16‑3‑270 of the 1976 Code.

SECTION 6. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑600. (A) For purposes of this section:

(1) ‘Coach’ means a person recognized as a coach by the sanctioning authority that conducted the athletic contest.

(2) ‘Deadly weapon’ means any instrument which can be used to inflict death or serious physical injury.

(3) ‘Emergency medical service provider’ means an individual or employee of a health care provider who provides medical or health care services in the course of his employment or training, which includes, but is not limited to, emergency physicians, nurses, emergency medical technicians, paramedics, members of rescue squads, and anyone directed by these individuals.

(4) ‘Firefighter’ means an employee of a town, city, county, or state fire service including, but not limited to, firefighters, volunteer firefighters, fire investigators, fire inspectors, and any one directed by these individuals.

(5) ‘Home healthcare worker’ means a licensed nurse who provides health care in a home under the direction of a physician, county or state public health agency, or medical facility.

(6) ‘School’ includes, but is not limited to, a public or private school that contains any grades of kindergarten through twelfth grade, public or private colleges, universities, and any vocational, technical, or occupational school.

(7) ‘Sports official’ means a person at an athletic contest who enforces the rules of the contest, such as an umpire, referee, or scorekeeper.

(8) ‘Student’ means a person currently enrolled in any school.

(B)(1) A person is guilty of assault and battery if the person commits an unlawful act of violent injury to the person of another, unaccompanied by any circumstances of aggravation.

(2) A person who commits an assault and battery is guilty of a misdemeanor, and, upon conviction, must be sentenced by a fine of not more than five hundred dollars or imprisonment for not more than thirty days, or both.

(C)(1) A person is guilty of aggravated assault and battery if the person commits an unlawful act of violent injury to the person of another accompanied by:

(a) the use of a deadly weapon;

(b) the infliction of serious bodily injury;

(c) the intent to commit a felony;

(d) the great disparity between the ages and physical conditions of the parties;

(e) a difference in sexes;

(f) indecent liberties or familiarities with a female;

(g) the purposeful infliction of shame and disgrace; or

(h) resistance to lawful authority.

(2) A person who commits an aggravated assault and battery is guilty of a misdemeanor, and, upon conviction, must be sentenced by imprisonment for not more than ten years.

(D)(1) A person is guilty of attempted murder if the person attempts to murder another person with malice aforethought, either express or implied.

(2) A person who commits an attempted murder is guilty of a felony and, upon conviction, must be sentenced by imprisonment for not more than twenty years.

(E) If a person is convicted of assault and battery, aggravated assault and battery, attempted murder, or manslaughter, and the assault and battery, aggravated assault and battery, attempted murder, or manslaughter was committed with a deadly weapon as described in Section 16‑23‑460 carried concealed upon the person of the defendant, the judge shall, in addition to the punishment provided for such assault and battery, aggravated assault and battery, attempted murder, or manslaughter, sentence the person to a fine of not less than two hundred dollars, imprisonment for not less than three months, or both.

(F) A student who commits an assault and battery, other than one that is aggravated, on school grounds or at a school‑sponsored event against any person affiliated with the school in an official capacity including, but not limited to, administrators, teachers, faculty, substitute teachers, teachers’ assistants, student teachers, custodial staff, food service staff, volunteers, law enforcement officers, school bus drivers, school crossing guards, or other regularly assigned school‑contracted persons is guilty of assault and battery against school personnel, which is a misdemeanor and upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(G) A person convicted of assault and battery upon an employee of a state or local correctional facility performing job‑related duties must serve a mandatory minimum sentence of not less than six months nor more than five years. A sentence under this provision must be served consecutively to any other sentence the person is serving.

(H)(1) A person is guilty of the misdemeanor of assault and battery upon an emergency medical service provider, firefighter, or home healthcare worker and, upon conviction, must be fined not more than one thousand dollars or imprisoned not less than two months nor more than three years, or both, if he knowingly or wilfully resists or obstructs an emergency medical service provider, firefighter, or home healthcare worker, or commits an assault on an emergency medical service provider, firefighter, or home healthcare worker in the lawful discharge of that person’s official duties, and the resistance, obstruction, or assault is unaccompanied by any of the circumstances of aggravation listed in subsection (H)(2). A person sentenced under this subsection for a second or subsequent offense shall not have his sentence suspended to less than six months’ imprisonment nor shall the person be eligible for parole until after service of six months.

(2) A person is guilty of the felony of assault and battery of a high and aggravated nature upon an emergency medical service provider, firefighter, or home healthcare worker and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not less than one year nor more than ten years, or both, if he knowingly or wilfully resists or obstructs an emergency medical service provider, firefighter, or home healthcare worker, or commits an assault on an emergency medical service provider, firefighter, or home healthcare worker, in the lawful discharge of that person’s official duties, and the resistance, obstruction, or assault is accompanied by at least one of the following circumstances of aggravation:

(a) physical injury to an emergency medical service provider, firefighter, or home healthcare worker;

(b) the use of a deadly weapon;

(c) great disparity in the physical conditions of the parties;

(d) great disparity in the ages of the parties;

(e) great disparity in the sizes of the parties; or

(f) indecent liberties with a female.

(I) A court may punish by fine not exceeding one thousand dollars or imprisonment for a term not exceeding sixty days, or both, all assaults and batteries against sports officials and coaches when, in committing an assault and battery, the offender knows the individual assaulted to be a sports official or coach at any level of competition, and the act causing the assault and battery to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contests held at the athletic facility.”

SECTION 7. Repeal Sections 16‑3‑610, 16‑3‑612 16‑3‑620, 16‑3‑630, and 16‑3‑635 of the 1976 Code.

SECTION 8. Section 22‑3‑560 of the 1976 Code is amended to read:

“Section 22‑3‑560. ~~(A)~~ Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both, all ~~assaults and batteries and other~~ breaches of the peace ~~when the offense is neither an assault and battery against school personnel pursuant to Section 16‑3‑612 nor an assault and battery of a high and aggravated nature requiring, in their judgment or by law, greater punishment~~.

~~(B)~~ ~~Magistrates may punish by fine not exceeding one thousand dollars or imprisonment for a term not exceeding sixty days, or both, all assaults and batteries against sports officials and coaches when, in committing an assault and battery, the offender knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault and battery to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contests held at the athletic facility. For the purposes of this subsection, “sports official” means a person at an athletic contest who enforces the rules of the contest, such as an umpire, referee, scorekeeper, and “coach” means a person recognized as a coach by the sanctioning authority that conducted the athletic contest.~~”

SECTION 9. Section 17‑15‑30 of the 1976 Code is amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, the court may, on the basis of available information, consider the nature and circumstances of the offense charged and the accused’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) The court shall consider:

(1) the accused’s criminal record;

(2) all incident reports generated as a result of the offense charged, if available; and

(3) whether the accused is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status.

(C) Prior to or at the time of the hearing, the prosecutor or law enforcement officer shall provide the court with the accused’s criminal record, all incident reports generated as a result of the offense charged, if available, and any other information that will assist the court in determining conditions of release.”

SECTION 10. Section 22‑5‑510 of the 1976 Code is amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty-four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) Prior to or at the time of the bond hearing, the prosecutor or law enforcement officer shall provide the court with the person’s criminal record, all incident reports generated as a result of the offense charged, if available, and any other information that will assist the court in determining conditions of release.”

SECTION 11. Section 16‑11‑312(C) of the 1976 Code is amended to read:

“Section 16‑11‑312.(C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one‑third of the term of the sentence.”

SECTION 12. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It shall be unlawful:

(1) For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.

(B) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not less than thirty days nor more than ninety days.

(C) The magistrates court is vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

SECTION 13. Amend Article 1, Chapter 25, Title 17 of the 1976 Code by adding:

“Section 17‑25‑65. (A) Upon the State’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the State’s motion made more than one year after sentencing, the court may reduce a sentence if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision shall be filed by that circuit’s solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge within five days of filing. The chief judge or a circuit court judge currently assigned to that county shall have jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 14. Section 56‑1‑440 of the 1976 Code is amended to read:

“Section 56‑1‑440. (A) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty-five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty-five days nor more than six months. However, a charge of driving a motor vehicle without a driver’s license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The magistrates court is vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

SECTION 15. Section 56‑1‑390 of the 1976 Code is amended to read:

“Section 56‑1‑390. ~~(1~~A) Whenever the Department of Motor Vehicles suspends or revokes the license of a person under its lawful authority, the license remains suspended or revoked and must not be reinstated or renewed nor may another license be issued to that person until he also remits to the department a reinstatement fee of one hundred dollars for each suspension on his driving record that has not been reinstated. The reinstatement fee may be paid to the clerk of court or magistrate at the time of the verdict, guilty plea, or plea of nolo contendere for the offense for which the license is suspended or revoked. If the fee is paid at the time of the verdict, guilty plea, or plea of nolo contendere, the clerk or magistrate shall remit the fee to the department pursuant to the procedures set forth in Section 56‑1‑365(B). The director or his designee may waive or return the reinstatement fee if it is determined that the suspension or revocation is based upon a lack of notice being given to the department or other similar error.

~~(2~~B) The fees collected by the Department of Motor Vehicles under this provision must be distributed as follows: seventy dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles, and one dollar must be credited to the ‘Keep South Carolina Beautiful Fund’ established pursuant to Section 56‑3‑3950. From the ‘Keep South Carolina Beautiful Fund’, the Department of Transportation shall expend funds necessary to employ, within the Department of Transportation, a person with training in horticulture to administer a program for beautifying the rights‑of‑way along state highways and roads. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:

Fees and Penalties General Fund Department of

Collected After of the State Transportation

State Non‑Federal Aid

Highway Fund

June 30, 2005 60 percent 40 percent

June 30, 2006 20 percent 80 percent

June 30, 2007 0 percent 100 percent.

(C) The Department of Motor Vehicles shall establish a driver’s license suspension amnesty period. The amnesty period must be for one week on an annual basis at the discretion of the Department of Motor Vehicles. During the amnesty period, a person who has had his driver’s license suspended may apply to the Department of Motor Vehicles to have the driver’s license reinstated. If the person has met all other conditions for reinstatement, the Department of Motor Vehicles must reinstate the person’s driver’s license and must waive the driver’s license reinstatement fee. This subsection does not apply to a person whose driver’s license has been suspended pursuant to Section 16‑13‑185, Section 56‑1‑291, Section 56‑1‑171, Section 56‑1‑286, Section 56‑1‑740, Section 56‑1‑746, Section 56‑1‑1030, Section 56‑5‑750, Section 56‑5‑1620, Section 56‑5‑2780, Section 56‑5‑2920, Section 56‑5‑2941, Section 56‑5‑2945, Section 56‑5‑2947, Section 56‑5‑2951, or Section 56‑5‑2990.”

SECTION 16. Section 16‑13‑420 of the 1976 Code is amended to read:

“Section 16‑13‑420. (A) A person having any ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property within seventy-two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of his lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is five thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than one thousand dollars but less than five thousand dollars;

(3) misdemeanor triable in magistrate’s court if the value of the rented or leased item is one thousand dollars or less. Upon conviction, the person must be fined or imprisoned not more than is permitted by law without presentment or indictment by the grand jury.”

SECTION 17. Repeal Section 16‑13‑425 of the 1976 Code.

SECTION 18. Section 56‑1‑460(A) of the 1976 Code is amended to read:

“Section 56‑1‑460. (A)(1) Except as provided in subitems (2) and (3), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or ~~imprisoned~~ confined to the person’s place of residence pursuant to the Home Detention Act for thirty days, or both;

(b) for a second offense, fined six hundred dollars or ~~imprisoned~~ confined to the person’s place of residence pursuant to the Home Detention Act for sixty consecutive days, or both; and

(c) for a third and subsequent offense, fined one thousand dollars and ~~imprisoned~~ confined to the person’s place of residence pursuant to the Home Detention Act for not less than ninety days nor more than six months, no portion of which may be suspended by the trial judge.

Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense punishable under this subitem may be tried in magistrate’s court. For purposes of this section, if a court sentences a person to be confined to the person’s place of residence pursuant to the Home Detention Act, the person is required to pay for the cost of such confinement.

(2) A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56‑5‑2990 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

No portion of the minimum sentence imposed under this subitem may be suspended.

(3)(a) A person who drives a motor vehicle on any public highway of this State when his license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony and, upon conviction, must be punished:

(i) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(ii) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results.

A part of the mandatory sentences required to be imposed by this subitem must not be suspended, and probation must not be granted for any portion.

(b) As used in this subitem, ‘great bodily injury’ means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

SECTION 19. Section 16‑5‑50 of the 1976 Code is amended to read:

“Section 16‑5‑50. Any person who shall (a) hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not ~~less than fifty nor~~ more than ~~one~~ three thousand dollars or imprisonment for not ~~less than three months nor~~ more than ~~one year~~ three years, or both, at the discretion of the court having jurisdiction.”

SECTION 20. Section 17‑25‑45(A) of the 1976 Code is amended to read:

“Section 17‑25‑45. (A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has either:

(1) one or more prior convictions for:

~~(1~~a) a most serious offense; or

~~(2~~b) a federal or out‑of‑state conviction for an offense that would be classified as a most serious offense under this section; or

~~(3) any combination of the offenses listed in items (1) and (2) above~~

(2) two or more prior convictions for:

(a) a serious offense; or

(b) a federal or out-of-state conviction for an offense that would be classified as a serious offense under this section.”

SECTION 21. Section 17‑25‑45(G) of the 1976 Code is amended to read:

“Section 17‑25‑45. (G) The decision to invoke sentencing under ~~Section 17‑25‑45(B)~~ this section is in the discretion of the solicitor. ~~The provisions of Section 17‑25‑45(A) shall be mandatory.~~”

SECTION 22. Section 16‑3‑20(A) of the 1976 Code is amended to read:

“Section 16‑3‑20. (A) A person who is convicted of or pleads guilty to murder must be punished by death, ~~by imprisonment for life,~~ or by a mandatory minimum term of imprisonment for thirty years to life. If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14 of Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(B) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pleaded guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of South Carolina or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(C) The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(1) The murder was committed while in the commission of the following crimes or acts:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) burglary in any degree;

(d) robbery while armed with a deadly weapon;

(e) larceny with use of a deadly weapon;

(f) killing by poison;

(g) drug trafficking as defined in Section 44‑53‑370(e), 44‑53‑375(B), 44‑53‑440, or 44‑53‑445;

(h) physical torture;

(i) dismemberment of a person; or

(j) arson in the first degree as defined in Section 16‑11‑110(A).

(2) The murder was committed by a person with a prior conviction for murder.

(3) The offender by his act of murder knowingly created a great risk of death to more than one person in a public place by means of a weapon or device which normally would be hazardous to the lives of more than one person.

(4) The offender committed the murder for himself or another for the purpose of receiving money or a thing of monetary value.

(5) The murder of a judicial officer, former judicial officer, solicitor, former solicitor, or other officer of the court during or because of the exercise of his official duty.

(6) The offender caused or directed another to commit murder or committed murder as an agent or employee of another person.

(7) The murder of a federal, state, or local law enforcement officer or former federal, state, or local law enforcement officer, peace officer or former peace officer, corrections officer or former corrections officer, including a county or municipal corrections officer or a former county or municipal corrections officer, a county or municipal detention facility employee or former county or municipal detention facility employee, or fireman or former fireman during or because of the performance of his official duties.

(8) The murder of a family member of an official listed in subitems (5) and (7) above with the intent to impede or retaliate against the official. ‘Family member’ means a spouse, parent, brother, sister, child, or person to whom the official stands in the place of a parent or a person living in the official’s household and related to him by blood or marriage.

(9) Two or more persons were murdered by the defendant by one act or pursuant to one scheme or course of conduct.

(10) The murder of a child eleven years of age or under.

(11) The murder of a witness or potential witness committed at any time during the criminal process for the purpose of impeding or deterring prosecution of any crime.

(12) The murder was committed by a person deemed a sexually violent predator pursuant to the provisions of Chapter 48, Title 44, or a person deemed a sexually violent predator who is released pursuant to Section 44‑48‑120.

(b) Mitigating circumstances:

(1) The defendant has no significant history of prior criminal conviction involving the use of violence against another person.

(2) The murder was committed while the defendant was under the influence of mental or emotional disturbance.

(3) The victim was a participant in the defendant’s conduct or consented to the act.

(4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor.

(5) The defendant acted under duress or under the domination of another person.

(6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(7) The age or mentality of the defendant at the time of the crime.

(8) The defendant was provoked by the victim into committing the murder.

(9) The defendant was below the age of eighteen at the time of the crime.

(10) The defendant had mental retardation at the time of the crime. “Mental retardation” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

Where a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. Where a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in subsection (A). Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. Where a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. No person sentenced to life imprisonment or a mandatory minimum term of imprisonment for thirty years to life under this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for such penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant found guilty of murder, the trial judge shall dismiss such jury and shall sentence the defendant to life imprisonment as provided in subsection (A).

(D) Notwithstanding the provisions of Section 14‑7‑1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(E) In a criminal action in which a defendant is charged with a crime which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless such beliefs or attitudes would render him unable to return a verdict according to law.”

SECTION 23. Repeal Sections 16‑3‑30, 16‑3‑40, and 16‑3‑430 of the 1976 Code.

SECTION 24. Section 14‑25‑65 of the 1976 Code is amended to read:

“Section 14‑25‑65. If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an amount not to exceed ~~five thousand~~ seven thousand five hundred dollars. In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 25. Section 22‑3‑550(A) of the 1976 Code is amended to read:

“Section 22‑3‑550. (A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed ~~five thousand~~ seven thousand five hundred dollars. In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 26. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑500. (A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any firearm or ammunition to a person who has been convicted of a violent crime, as defined in Section 16‑1‑60.

(B) It is unlawful for a person who has been convicted of a violent crime, as defined in Section 16‑1‑60, to acquire or possess a firearm or ammunition within this State.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(D) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.”

SECTION 27. Section 16‑1‑60 of the 1976 Code is amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10 ); criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first and second degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); kidnapping (Section 16‑3‑910); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); criminal domestic violence of a high and aggravated nature (Section 16‑25‑65); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); attempt to commit any of the above offenses (Section 16‑1‑80); ~~and~~ taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑33‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); lewd act upon a child under 16 (Section 16‑15‑140); sexual exploitation of a minor first Degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(A)(2)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); and obstruction of a railroad resulting in death (Section 58‑17‑4090). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 28. Section 16‑23‑490(C) of the 1976 Code is amended to read:

“Section 16‑23‑490. (C) Except as provided in this subsection, ~~The~~ the person sentenced under this section is not eligible during this five-year period for parole, work release, or extended work release. The person is eligible for work release or extended 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. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good‑time credits or work credits, but may earn credits during this period.”

SECTION 29. Section 17‑25‑45(D) of the 1976 Code is amended to read:

“Section 17‑25‑45. (D) Except as provided in this subsection or subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release. 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.”

SECTION 30. Section 24‑13‑125(A) of the 1976 Code is amended to read:

“Section 24‑13‑125. (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, a prisoner convicted of a “no parole offense”, as defined in Section 24‑13‑100, and sentenced to the custody of the Department of Corrections, including a prisoner serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20, is not eligible for work release until the prisoner 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~~ nothing in this section may be construed to allow a prisoner convicted of murder or a prisoner prohibited from participating in work release by another provision of law to be eligible for work release.”

SECTION 31. Section 24‑13‑650 of the 1976 Code is amended to read:

“Section 24‑13‑650. (A) No offender committed to incarceration for a violent offense as defined in Section 16‑1‑60 or a “no parole offense” as defined in Section 24‑13‑100 may be released back into the community in which the offender committed the offense under the work release program, except in those cases wherein, where applicable, the victim of the crime for which the offender is charged or the relatives of the victim who have applied for notification under Article 15, Chapter 3, Title 16 if the victim has died, the law enforcement agency which employed the arresting officer at the time of the arrest, and the circuit solicitor all agree to recommend that the offender be allowed to participate in the work release program in the community where the offense was committed. The victim or the victim’s nearest living relative, the law enforcement agency, and the solicitor, as referenced above, must affirm in writing that the offender be allowed to return to the community in which the offense was committed to participate in the work release program.

(B) An offender committed to incarceration 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)), may be released under the work program back into the community in which the offender committed the offense , if the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, the person is within three years of release from imprisonment, and the provisions of subsection (A) are fulfilled.”

SECTION 32. Section 24‑3‑20(B)(2) of the 1976 Code is amended to read:

“Section 24‑3‑20. (B)(2) the rates of pay and other conditions of employment will not be less than those paid and provided for work of similar nature in the locality in which the work is to be performed.

The department shall notify victims registered pursuant to Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and sheriff of the county or the law enforcement agency of the jurisdiction where the offense occurred before releasing inmates on work release. However, the trial judge may waive his right to receive the notification contained in this section by notifying the department of this waiver in writing. The department has the authority to deny release based upon opinions received from these persons, if any, as to the suitability of the release.

A prisoner’s place of confinement may not be extended as permitted by this subsection ~~who~~ if the prisoner:

(a) is currently serving a sentence for or has a prior conviction for criminal sexual conduct in the first, second, or third degree; attempted criminal sexual conduct; assault with intent to commit criminal sexual conduct; criminal sexual conduct when the victim is his legal spouse; criminal sexual conduct with a minor; committing or attempting to commit a lewd act on a child; engaging a child for sexual performance; spousal sexual battery; ~~or a violent offense as defined in Section 16‑1‑60,~~ a harassment or stalking offense pursuant to Article 17, Chapter 3 of Title 16, or a burglary offense pursuant to Section 16‑11‑311 or 16‑11‑312(B)~~.~~ ; or

(b) is currently serving a sentence for a violent offense as defined in Section 16‑1‑60, except that a prisoner serving a sentence for kidnapping, pursuant to Section 16‑3‑910, voluntary manslaughter, pursuant to Section 16‑3‑50, armed robbery, pursuant to Section 16‑11‑330(A), attempted armed robbery, pursuant to Section 16‑11‑330(B), burglary in the second degree, pursuant to Section 16‑11‑312(B), or carjacking, pursuant to Section 16‑3‑1075 may be eligible to participate in the work release programs so long as the prisoner is within three years from the date of his release from incarceration, and the prisoner is not serving a sentence involving criminal sexual conduct or other violent crime, as classified under Section 16‑1‑60.

(3) A prisoner who is serving a sentence for a ‘no parole offense’ as defined in Section 24‑13‑100 and who is otherwise eligible for work release shall not have his place of confinement extended until he has served the minimum period of incarceration as set forth in Section 24‑13‑125.”

SECTION 33. Section 24‑19‑10 of the 1976 Code is amended to read:

“Section 24‑19‑10. As used herein:

(a) ‘Department’ means the Department of Corrections.

(b) ‘Division’ means the Youthful Offender Division.

(c) ‘Director’ means the Director of the Department of Corrections.

(d) Youthful offender’ means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less~~, or~~;

(ii) seventeen but less than twenty-five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for parole or probation until the person has served the three‑year minimum sentence;

(iv) seventeen but less than twenty-one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for parole or probation until the person has served the three‑year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing a lewd act upon a child pursuant to Section 16‑15‑140, and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty-five years of age at the time of conviction for committing a lewd act upon a child pursuant to Section 16‑15‑140, and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 34. Section 24‑19‑110 of the 1976 Code is amended to read:

“Section 24‑19‑110. (A) The division may at any time after reasonable notice to the director release conditionally under supervision a committed youthful offender. When, in the judgment of the director, a committed youthful offender should be released conditionally under supervision he shall so report and recommend to the division.

(B) The division may regularly assess a reasonable fee to be paid by the youthful offender who is on conditional release to offset the cost of his supervision.

(C) The division may discharge a committed youthful offender unconditionally at the expiration of one year from the date of conditional release.

(D) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender. The division has the authority to deny conditional release and unconditional discharge based upon information received from the victim as to the suitability of the release.”

SECTION 35. Section 24‑19‑120 of the 1976 Code is amended to read:

“Section 24‑19‑120. (A) A youthful offender shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

(B) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender.”

SECTION 36. Section 14‑1‑213(A) of the 1976 Code is amended to read:

“Section 14‑1‑213. (A) In addition to all other assessments and surcharges required to be imposed by law, a ~~one‑hundred‑dollar~~ one hundred and twenty-five dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.”

SECTION 37. Section 44‑53‑160(4) of the 1976 Code of Laws is amended to read:

“Section 44‑53‑160. (4) If any substance is added, deleted, or rescheduled as a controlled substance under Federal law or regulation ~~and notice of the designation is given to the Department~~, the Department shall by rule, at its first regular or special meeting ~~recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly not less than thirty days~~ after publication in the Federal register of ~~a~~ the final order designating ~~a~~ the substance as a controlled substance or rescheduling or deleting ~~a~~ the substance, ~~unless the Department objects to the change. In that case, the Department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the Department’s recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be~~.

~~If the Department does not object to the change of schedule, it shall by rule, at its first regular or special meeting after the final order by the Bureau or its successor agency is published in the Federal register,~~ reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly~~; in such case, no hearing need be given unless requested by an interested party~~. This rule issued by the Department shall be in substance identical with the order published in the Federal register effecting the change in Federal status of the substance. The Department shall notify the General Assembly in writing of the change in Federal law or regulation and of the corresponding change in South Carolina law.”

SECTION 38. Section 44‑53‑370 of the 1976 Code is amended to read:

“Section 44‑53‑370. (a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(c) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.

(d) A person who violates subsection (c) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) possession of more than: ten grains of cocaine, one hundred milligrams of alpha‑ or beta‑eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty-eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty‑ eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44‑53‑450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17‑22‑10 through 17‑22‑160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14‑1‑205. The assessment portion of the bail must be distributed as provided in Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

(1) ten pounds or more of marijuana is guilty of a felony which is known as “trafficking in marijuana” and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;

3. for a third or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(2) ten grams or more of cocaine or any mixtures containing cocaine, as provided in Section 44‑53‑210(b)(4), is guilty of a felony which is known as “trafficking in cocaine” and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten grams or more, but less than twenty-eight grams:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty-eight grams or more, but less than one hundred grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(3) four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44‑53‑190 or 44‑53‑210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as “trafficking in illegal drugs” and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty-eight grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty-eight grams or more, a mandatory term of imprisonment of not less than twenty-five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(4) fifteen grams or more of methaqualone is guilty of a felony which is known as “trafficking in methaqualone” and, upon conviction, must be punished as follows if the quantity involved is:

(a) fifteen grams but less than one hundred fifty grams:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) fifteen kilograms or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as “trafficking in LSD” and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(6) one gram or more of flunitrazepam is guilty of a felony which is known as “trafficking in flunitrazepam” and, upon conviction, must be punished as follows if the quantity involved is:

(a) one gram but less than one hundred grams;

1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) five kilograms or more, a term of imprisonment of not less than twenty-five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as “trafficking in gamma hydroxybutyric acid” and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

(b) for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24‑13‑610, or supervised furlough, as provided in Section 24‑13‑710. Notwithstanding Section 44‑53‑420, a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one‑half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in Section 44‑53‑370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.

(8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4‑methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as ‘trafficking in MDMA or ecstasy’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars.

(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16‑3‑910;

(2) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

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

(4) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

(5) spousal sexual battery, Section 16‑3‑615;

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

(7) committing lewd act upon child under sixteen, Section 16‑15‑140;

(8) petit larceny, Section 16‑13‑30 (A); or

(9) grand larceny, Section 16‑13‑30 (B).

(g) A person who violates subsection (f) with respect to:

(1) a controlled substance classified in Schedule I (b) or (c) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this subsection must not be suspended and probation must not be granted;

(2) any other controlled substance or gamma hydroxy butyrate is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty‑five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this subsection must not be suspended and probation must not be granted.”

SECTION 39. Section 44‑53‑375 of the 1976 Code is amended to read:

“Section 44‑53‑375. (A) A person possessing ~~or attempting to possess~~ less than one gram of methamphetamine or cocaine base, as defined in Section 44‑53‑110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44‑53‑370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44‑53‑110, 44‑53‑210(d)(1), or 44‑53‑210(d)(2), is guilty of a felony which is known as ‘trafficking in methamphetamine or cocaine base’ and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty‑eight grams:

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(2) twenty‑eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains twelve grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony and, upon conviction, must be punished as follows if the quantity involved is:

(a) ~~twelve~~ nine grams or more, but less than twenty‑eight grams:

(i) for a first offense, a term of imprisonment of not ~~less than three years nor~~ more than ten years~~, no part of which may be suspended nor probation granted,~~ and a fine of twenty‑five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years~~, no part of which may be suspended nor probation granted,~~ and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years~~, no part of which may be suspended nor probation granted,~~ and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years~~, no part of which may be suspended nor probation granted,~~ and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products:

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(4) Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(F) ~~Except for a first offense, as provided in subsection (A) of this section, sentences~~ Sentences for violation of the provisions of ~~this section~~ subsection (C) may not be suspended and probation may not be granted. A person convicted and sentenced under ~~this~~ subsection (C) to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24‑13‑610, or supervised furlough as provided in Section 24‑13‑710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 63‑5‑70, if a child was present at any time during the unlawful manufacturing of methamphetamine.”

SECTION 40. Section 44‑53‑445 of the 1976 Code is amended to read:

“Section 44‑53‑445. (A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B) In order for a person to be charged with an offense pursuant to subsection (A), the person must:

(1) have knowledge that that he is in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and

(2) actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(C) A person must not be charged with an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

~~(B)(1)~~(D)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

~~(2)~~ ~~When a violation involves the distribution, sale, manufacture, or possession with intent to distribute crack cocaine, the person is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and imprisoned not less than ten nor more than fifteen years.~~

~~(3)~~(2) When a violation involves only the purchase of a controlled substance, ~~including crack cocaine,~~ the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

~~(C~~E) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44‑53‑370 and 44‑53‑375 apply to criminal prosecutions under this section.”

SECTION 41. Section 44‑53‑450 of the 1976 Code is amended to read:

“Section 44‑53‑450. ~~(a~~A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any State or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370 (c) and (d), or Section 44‑53‑375 (A) ~~except narcotic drugs classified in Schedule I (b) and (c) and narcotic drugs classified in Schedule II~~, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a State‑supported facility or a facility approved by the Commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

~~(b~~B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (a), ~~and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug,~~ the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (a)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of twenty‑five dollars. No portion of the fee may be waived, reduced, or suspended. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 42. Section 44‑53‑470 of the 1976 Code is amended to read:

“Section 44‑53‑470. (A) An offense is considered a second or subsequent offense if:

~~(1)~~ ~~for a possession offense pursuant to the provisions of this article, the offender has been convicted within the previous ten years of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs; and~~

~~(2)~~ ~~for all other offenses pursuant to the provisions of this article, the offender has at any time been convicted of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs.~~”

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance, offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later.”

SECTION 43. Section 44‑53‑582 of the 1976 Code is amended to read:

“Section 44‑53‑582. All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation must be returned to the State or local agency or unit of government furnishing the monies upon a determination by the court that the monies were used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation. The court may order a defendant to return the monies to the state or local agency or unit of government at the time of sentencing.”

SECTION 44. Article 3, Chapter 53, Title 44 of the 1976 Code of Laws is amended by adding:

“Section 44‑53‑595. (A) As used in this section:

(1) ‘firearm’ means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, or is designed to, or may readily be converted to expel a projectile; and

(2) ‘in possession’ means on the person or reasonably accessible to the person.

(B) If a person is in possession of a firearm during the commission of a controlled substance offense, except possession of a controlled substance, and is convicted of committing or attempting to commit the controlled substance offense, except possession of a controlled substance, the person may be imprisoned for five years, in addition to the punishment provided for the principal crime.

(C) The additional punishment may not be imposed unless the indictment alleged as a separate count that the person was in possession of a firearm during the commission of the controlled substance offense and conviction was had upon this count in the indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time indicted and convicted of the controlled substance offense.”

SECTION 45. Section 56‑1‑745(A) of the 1976 Code of Laws is amended to read:

“Section 56‑1‑745.(A) The driver’s license of a person under eighteen years of age convicted of a controlled substance violation involving hashish or marijuana must be suspended for a period of six months. The driver’s license of a person under eighteen years of age convicted of any other controlled substance violation must be suspended for a period of one year. If the person does not have a driver’s license, the court shall order the Department of Motor Vehicles not to issue a driver’s license for six months after the person legally is eligible for the issuance of a driver’s license if the offense involves hashish or marijuana. If the offense involves any other controlled substance, the court shall order the department not to issue a driver’s license for one year after the person legally is eligible for the issuance of a driver’s license. For each subsequent conviction under this section, the court shall order the driver’s license to be suspended for an additional six months or one year, as the case may be. The additional period of suspension for a subsequent offense runs consecutively and does not commence until the expiration of the suspension for the prior offense.”

PART II

Release and Supervision Revisions

SECTION 46. It is the intent of the General Assembly that the provisions in PART II of this Act shall provide cost‑effective prison release and community supervision mechanisms and cost‑effective and incentive-based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety.

SECTION 47. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑5. As used in this chapter:

(1) ‘Administrative supervision’ means a less restrictive form of probation in which the only remaining condition of probation not completed is the payment of restitution. Upon petition from the department, a court may remove the offender from active supervision and place the offender on administrative supervision until the payment of restitution is fulfilled or a consent order of offer of judgment is filed. Under administrative supervision, all terms of the probations shall be removed except for the payment of restitution, unless otherwise ordered. The offender shall register with the department’s representative in his county, notify the probation agent of his current address each month, make payments on fines, fees, or restitution owed, continue to report until the restitution is paid in full or a consent order of offer of judgment is filed, and comply with any other term of administrative supervision as ordered.

(2) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(3) ‘Department’ means the Department of Probation, Parole and Pardon Services.

(4) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.”

SECTION 48. Section 24‑21‑10 of the 1976 Code is amended to read:

“Section 24‑21‑10. (A) The department ~~Department of Probation, Parole, and Pardon Services, hereafter referred to as the ‘department’,~~ is governed by the director of the department. The director must be appointed by the Governor with the advice and consent of the Senate. To qualify for appointment, the director must be a graduate of an accredited four‑year college or university and must have at least ten years of training and experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work.

(B) The Board of Probation, Parole, and Pardon Services is composed of seven members. The terms of office of the members are for six years. Six of the seven members must be appointed from each of the congressional districts and one member must be appointed at large. The at‑large appointee shall have at least five years of experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work. Vacancies must be filled by gubernatorial appointment with the advice and consent of the Senate for the unexpired term. If a vacancy occurs during a recess of the Senate, the Governor may fill the vacancy by appointment for the unexpired term pending the consent of the Senate, provided the appointment is received for confirmation on the first day of the Senate’s next meeting following the vacancy. A chairman must be elected annually by a majority of the membership of the board. The chairman may serve consecutive terms.

(C) The Governor shall deliver an appointment within sixty days of the expiration of a term, if an individual is being reappointed, or within ninety days of the expiration of a term, if an individual is an initial appointee. If a board member who is being reappointed is not confirmed within sixty days of receipt of the appointment by the Senate, the appointment is considered rejected. For an initial appointee, if confirmation is not made within ninety days of receipt of the appointment by the Senate, the appointment is deemed rejected. The Senate may by resolution extend the period after which an appointment is considered rejected. If the failure of the Senate to confirm an appointee would result in the lack of a quorum of board membership, the seat for which confirmation is denied or rejected shall not be considered when determining if a quorum of board membership exists.

(D) Within six months of a parole board member’s appointment by the Governor, the board member must complete a comprehensive training course developed by the department using training components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training course must include classes regarding the following: 1) the elements of the decision‑making process, through the use of evidence based practices for determining offender risk, needs and motivations to change, including the actuarial assessment tool that is used by the parole agent; 2) security classifications as established by the Department of Corrections; 3) programming and disciplinary processes and the department’s supervision, case planning, and violation process; and 4) collaboration with corrections‑related stakeholders, both public and private, to increase offender success and public safety. The department must promulgate regulations setting forth the minimum number of hours of training required for the board members and the specific requirements of the course that the members must complete.

(E) Each parole board member is also required to complete a minimum of eight hours of training annually, which shall be provided for in the department’s annual budget. This annual training course must be developed using the training components consistent with those offered by the National Institute of Corrections or American Probation and Parole Association and must offer classes regarding: 1) a review and analysis of the effectiveness of the assessment tool used by the parole agents; 2) a review of the department’s progress toward public safety goals; 3) the use of data in decision‑making; and 4) any information regarding promising and evidence-based practices offered in the corrections‑related field. The department must promulgate regulations setting forth the specific criteria for the course that the members must complete.

(F) The department must develop a plan that includes the following:

(1) establishment of a process for adopting a validated actuarial risk and needs assessment tools consistent with evidence‑based practices and factors that contribute to criminal behavior, which the Parole Board shall use in making parole decisions, including additional objective criteria that may be used in parole decisions;

(2) establishment of procedures for the department on the use of the validated assessment tool to guide the department, Parole Board, and agents of the department in determining supervision strategies and conditions for all offenders under the department’s supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism; and

(3) establishment of goals for the department, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and performance safety performance indicators.

(G) The director shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the department must submit an annual report to the Sentencing Reform Oversight Committee on its performance for the previous fiscal year and plans for the upcoming year. The department must collect and report all relevant data in a uniform format of both board decisions and field services and must annually compile a summary of past practices and outcomes.”

SECTION 49. Section 24‑21‑13 of the 1976 Code is amended to read:

“Section 24‑21‑13. (A) It is the duty of the director to oversee, manage, and control the department. The director shall develop written policies and procedures for the following:

(1) the supervising of offenders on probation, parole, community supervision, and other offenders released from incarceration prior to the expiration of their sentence~~;~~,which supervising shall be based on a structured decision-making guide designed to enhance public safety, which uses evidence‑based practices and focuses on considerations of offenders’ criminal risk factors;

(2) the consideration of paroles and pardons and the supervision of offenders in the community supervision program, and other offenders released from incarceration prior to the expiration of their sentence. The requirements for an offender’s participation in the community supervision program and an offender’s progress toward completing the program are to be decided administratively by the Department of Probation, Parole, and Pardon Services. No inmate or future inmate shall have a “liberty interest” or an “expectancy of release” while in a community supervision program administered by the department;

(3) the operation of community‑based correctional services and treatment programs; and

(4) the operation of public work sentence programs for offenders as provided in item (1) of this subsection. This program also may be utilized as an alternative to technical revocations. The director shall establish priority programs for litter control along state and county highways. This must be included in the “public service work” program.

(B) It is the duty of the board to consider cases for parole, pardon, and any other form of clemency provided for under law.”

SECTION 50. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑32. Notwithstanding the provisions of Section 24‑21‑30 and Section 24‑21‑560, an inmate who has not been placed on parole pursuant to the provisions of Article 7, Chapter 21, Title 24, and who must have served, at the least, his minimum sentence, shall be placed on parole at least one hundred eighty days before the expiration of the inmate’s maximum sentence in order to ensure a period of reentry supervision in the community under the supervision of the department.”

SECTION 51. Section 24‑21‑220 of the 1976 Code is amended to read:

“Section 24‑21‑220. The director is vested with the exclusive management and control of the department and is responsible for the management of the department and for the proper care, assessment, treatment, supervision, and management of offenders under its control. The director shall manage and control the department and it is the duty of the director to carry out the policies of the department. The director is responsible for scheduling board meetings, assuring that the proper cases and investigations are prepared for the board, maintaining the board’s official records, and performing other administrative duties relating to the board’s activities. The director must employ within his office such personnel as may be necessary to carry out his duties and responsibilities including the functions of probation, parole, and community supervision, community‑based programs, financial management, research and planning, staff development and training, and internal audit. The director shall make annual written reports to the board, the Governor, and the General Assembly providing statistical and other information pertinent to the department’s activities.”

SECTION 52. Section 24‑21‑280(A) of the 1976 Code is amended to read:

“24‑21‑280. (A) A probation agent must investigate all cases referred to him for investigation by the judges or director and report in writing. He must furnish to each person released on probation, parole, or community supervision under his supervision a written statement of the conditions of probation, parole, or community supervision and must instruct him regarding them. He must keep informed concerning the conduct and condition of each person on probation, parole, or community supervision under his supervision by visiting, requiring reports, and in other ways, and must report in writing as often as the court or director may require. He must use practicable and suitable methods that are consistent with evidence based practices to aid and encourage persons on probation, parole, or community supervision to bring about improvement in their conduct and condition and to reduce the risk of recidivism for the offenders under his supervision. A probation agent must keep detailed records of his work, make reports in writing, and perform other duties as the director may require.”

SECTION 53. Section 24‑21‑430 of the 1976 Code is amended to read:

“Section 24‑21‑430. (A) The court may impose by order duly entered and may at any time modify the conditions of probation and may include among them any of the following or any other condition not prohibited in this section.

(B) To effectively supervise probationers, the director shall develop policies and procedures for imposing conditions of supervision on probationers. These conditions may enhance but must not diminish the court imposed conditions and may require an expedited review by the court to moderate the conditions. The director shall require an actuarial assessment of offender risks and needs, including criminal risk factors, of each probationer, which shall be used to make objectively based decisions that are consistent with evidence‑based practices on the type of supervision and services necessary. This shall include all offenders to be evaluated pursuant to Chapter 21 of Title 24, Chapter 22of Title 24, and Chapter 23 of Title 24. The director shall also require each agent to receive annual training on evidence based practices and criminal risks factors and how to target these factors to reduce recidivism.

(C) In addition to the conditions required in the policies and procedures, the ~~The~~ probationer shall:

(1) refrain from the violations of any state or federal penal laws;

(2) avoid injurious or vicious habits;

(3) avoid persons or places of disreputable or harmful character;

(4) permit the probation agent to visit at his home or elsewhere;

(5) work faithfully at suitable employment as far as possible;

(6) pay a fine in one or several sums as directed by the court;

(7) perform public service work as directed by the court;

(8) submit to a urinalysis or a blood test or both upon request of the probation agent;

(9) submit to curfew restrictions;

(10) submit to house arrest which is confinement in a residence for a period of twenty-four hours a day, with only those exceptions as the court may expressly grant in its discretion;

(11) submit to intensive surveillance which may include surveillance by electronic means;

(12) support his dependents; and

(13) follow the probation agent’s instructions and advice regarding recreational and social activities.”

(D) The agent, in consultation with his supervisor, shall identify an individual under the supervision of the department, pursuant to Section 24‑21‑80, who is eligible to earn compliance credits for offenders with a term of supervision of more than one year. Credits are earned from the first day of supervision on a monthly basis, but shall not be applied until after each year of supervision has been completed. Earned credits may be denied for noncompliance on a monthly basis. Such an individual may earn up to twenty days of earned compliance credit for every thirty days that he has fulfilled all of the conditions of his supervision, has no new arrests, and who makes scheduled payments for fines, fees, or restitution.

(E) Any earned compliance credit shall be revoked if a probationer violates a condition of supervision.”

SECTION 54. Section 24‑21‑440 of the 1976 Code of Laws is amended to read:

“Section 24‑21‑440. (A) The period of probation or suspension of sentence shall not exceed a period of five years and shall be determined by the judge of the court and may be continued or extended within the above limit.

(B) Notwithstanding subsection (A), when an individual under the department’s supervision has not fulfilled his obligations for payment of restitution, then the individual shall remain on administrative supervision until such time as the restitution is paid in full or a consent order of offer of judgment is filed.”

SECTION 55. Section 24‑21‑450 of the 1976 Code is amended to read:

“Section 24‑21‑450. (A) At any time during the period of probation or suspension of sentence the court, or the court within the venue of which the violation occurs, or the probation agent may issue or cause the issuing of a warrant and cause the defendant to be arrested for violating any of the conditions of probation or suspension of sentence. Any police officer or other agent with power of arrest, upon the request of the probation agent, may arrest a probationer. In case of an arrest, the arresting officer or agent must have a written warrant from the probation agent setting forth that the probationer has, in his judgment, violated the conditions of probation, and such statement shall be warrant for the detention of such probationer in the county jail or other appropriate place of detention, until such probationer can be brought before the judge of the court or of the court within the venue of which the violation occurs. Such probation agent must forthwith report such arrest and detention to the judge of the court, or of the court within the venue of which the violation occurs, and submit in writing a report showing in what manner the probationer has violated his probation. Provided, that any person arrested for the violation of the terms of probation must be entitled to be released on bond pending a hearing, and such bond shall be granted and the amount thereof determined by a magistrate in the county where the probationer is confined or by the magistrate in whose jurisdiction the alleged violation of probation occurred.

(B)(1) Instead of causing the issuing a warrant and the arresting of the defendant for violating any of the conditions of probation or suspension of the sentence, the probation agent, with the concurrence of his supervisor, may serve on the defendant a Notice of Administrative Intermediate Sanctions, if the agent and supervisor determine that the violations of probation warrant an alternative to arrest or incarceration. The agent may not, however, issue Administrative Intermediate Sanctions on a probationer for violations of special conditions of probation when the sentencing court provided that such violations would be heard by the court. The Administrative Intermediate Sanctions must be equal to or less restrictive than the sanctions set by the sentencing court.

(2) The Administrative Intermediate Sanctions shall be established by regulations of the department, as set forth by established administrative procedures. The department shall delineate in the regulations a listing of administrative intermediate sanctions for the most common types of supervision violations, including, but not limited to: failure to report, failure to pay fines, fees, and victim restitution, failure to participate in a required program or service, failure to complete community service, and failure to refrain from the use of alcohol or controlled substances. The sanctions shall be imposed with swiftness and certainty. The sanctions shall consider the severity of the current violation, the probationer’s previous criminal record, the number and severity of previous supervision violations, the probationer’s assessment, and the extent to which administrative intermediate sanctions were imposed for previous violations. The department, in determining the list of administrative intermediate sanctions to be served on a probationer, shall ascertain the availability of community based program and treatment options including, but not limited to: inpatient and outpatient substance abuse treatment facilities; day reporting centers; restitution centers; intensive supervision; electronic monitoring; community service; programs to reduce criminal risk factors; and other community based options consistent with evidence based practices.

(3) If the probationer agrees in writing to the additional conditions set forth in the Administrative Intermediate Sanctions, the conditions must be implemented with swiftness and certainty. If the probationer does not agree, or if the probationer fails to fulfill the additional conditions to the satisfaction of the probation agent and his supervisor, then the probation agent may commence probation revocation proceedings as set forth in this section and Section 24‑21‑460.

(4) The department shall provide annually to the Sentencing Reform Oversight Committee the number of probationers who are placed on administrative intermediate sanctions, and who are not returned to incarceration.

(5) The department shall provide annually to the Sentencing Reform Oversight Committee:

(a) the number and percentage of probationers whose probations are revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment in the Department of Corrections. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010;

(b) the number and percentage of probationers who are convicted of a new offense and sentenced to a term of imprisonment in the Department of Corrections. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010.”

SECTION 56. Section 24‑21‑680 of the 1976 Code is amended to read:

“Section 24‑21‑680. (A) Upon failure of any prisoner released on parole under the provisions of this chapter to do or refrain from doing any of the things set forth and required to be done by and under the terms of his parole, the parole agent ~~must~~ may issue a warrant or citation charging the violation of parole, and a final determination must be made by the board as to whether the prisoner’s parole should be revoked and whether he should be required to serve any part of the remaining unserved sentence. But such prisoner must be eligible to parole thereafter when and if the board thinks such parole would be proper. The board shall be the sole judge as to whether or not a parole has been violated and no appeal ~~therefrom~~ shall be allowed; provided, that any person arrested for violation of terms of parole may be released on bond, for good cause shown, pending final determination of the violation by the Probation, Parole and Pardon Board. No bond shall be granted except by the presiding or resident judge of the circuit wherein the prisoner is arrested, or, if there be no judge within such circuit, by the judge, presiding or resident, in an adjacent circuit, and the judge granting the bond shall determine the amount ~~thereof~~.

(B)(1) Instead of issuing a warrant or citation, the agent, with the concurrence of his supervisor, may serve on the parolee a Notice of Administrative Intermediate Sanctions, if the agent and supervisor determine that the violations of parole warrant an alternative to arrest or incarceration. The agent shall not, however, issue Administrative Intermediate Sanctions on a parolee for violations of special conditions of parole when the Board provided that such violations would be heard by the Board. The Administrative Intermediate Sanctions must be equal to or less restrictive than the conditions set by the Board.

(2) The Administrative Intermediate Sanctions shall be established by regulations of the department as set forth by established administrative procedures, and shall be consistent with the regulations on administrative intermediate sanctions for probationers.

(3) If the parolee agrees in writing to the additional conditions set forth in the Administrative Intermediate Sanctions, the conditions must be implemented with swiftness and certainty. If the parolee does not agree, or if the parolee fails to fulfill the additional conditions to the satisfaction of the agent and his supervisor, the agent may commence parole revocation proceedings as set forth in this chapter.

(4) The department shall provide annually to the Sentencing Reform Oversight Committee the number and percentage of parolees who are placed on administrative intermediate sanctions, and who are not returned to incarceration.

(5) The department shall provide annually to the Sentencing Reform Oversight Committee:

(a) the number and percentage of parolees whose paroles are revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment in the Department of Corrections. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010;

(b) the number and percentage of parolees who are convicted of a new offense and sentenced to a term of imprisonment in the Department of Corrections. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010.”

SECTION 57. Article 7, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑715. (A) As contained in this section:

(1) ‘terminally ill’ means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk;

(2) ‘geriatric’ means an inmate who is seventy years of age or older and suffers from chronic infirmity, illness, or disease related to aging, which has progressed so the inmate is incapacitated to the extent that the inmate does not pose a public safety risk; and

(3) ‘permanently incapacitated’ means an inmate who no longer poses a public safety risk because of a medical condition that is not terminal but that renders him permanently and irreversibly incapacitated and which requires immediate and long term residential care.

(B) Notwithstanding another provision of law, only the full Parole Board, upon a petition filed by the Director of the Department of Corrections, may order the release of an inmate who is terminally ill, geriatric, permanently incapacitated, or any combination of these conditions.

(C) The parole order issued by the Parole Board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate’s supervision and conditions for his participation and removal.

(D) An inmate granted a parole pursuant to this section is under the supervision of the department. The inmate must reside in an approved residence and abide by all conditions ordered by the Parole Board. The department is responsible for supervising an inmate’s compliance with the conditions of the parole board’s order as well as monitoring the inmate in accordance with the department’s policies.

(E) The department shall retain jurisdiction for all matters relating to the parole granted pursuant to this section and conduct an annual review of the inmate’s status to ensure that he remains eligible for parole pursuant to this section. If the Parole Board determines that the inmate is no longer eligible to participate in the parole set forth in this section, then the Parole Board shall order the inmate to be incarcerated in a facility operated by the Department of Corrections.”

SECTION 58. Chapter 22, Title 17 of the 1976 Code is amended by adding:

”Article 11

Section 17‑22‑1110. As used in this chapter:

(1) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(2) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

Section 17‑22‑1120. (A) In addition to the information collected and processed by the Office of Pretrial Intervention Coordinator within the Commission on Prosecution Coordination pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office of Pretrial Intervention Coordination shall be responsible for collecting data on all programs administered by a circuit solicitor, the Commission on Prosecution Coordination, or a court, which divert offenders from prosecution to an alternative program or treatment.

(B) This shall include programs administered by circuit solicitors, which are either statutorily mandated or established by judicial order, and shall include, but are not limited to: alcohol education programs; drug courts for adults or juveniles; traffic education programs; worthless checks units; pre‑trial intervention; mental health courts; or juvenile arbitration.

(C) Notwithstanding the provisions of Section 17‑22‑130, Section 17‑22‑360, Section 17‑22‑370, or Section 17‑22‑560, the Office of Pretrial Intervention Coordinator shall collect and make available for public inspection a yearly report on the numbers of individuals who apply for a diversion program, the number of individuals who begin a diversion program or treatment, the number of individuals who successfully complete a program or treatment within the year, the number of individuals who do not successfully complete a program or treatment within the same year, but who are still participating in the program or treatment, the number of individuals who did not complete the program within the year and who are now being prosecuted for the offense committed, and the number of individuals with fees fully or partially waived for indigence. The data collected and made available for public inspection shall be listed by each county, by each program or treatment, and the offense originally committed, but shall not contain any identifying information on the participant.

(D) A copy of the report shall be sent to the Sentencing Reform Oversight Committee for evaluation on which diversion programs and treatments are being administered in the State, the effectiveness of each program, and to ascertain the need for additional programs, program modifications, or repeal of existing programs. In evaluating the programs and treatments, the Sentencing Reform Oversight Committee may request information on the evidence‑based practices used in each program or treatment to identify offender risks and needs, and the specific interventions employed in each program or treatment to identify criminal risk factors and reduce recidivism.”

SECTION 59. Section 24‑13‑2130 of the 1976 Code is amended to read:

“Section 24‑13‑2130. (A) The memorandum of understanding between the South Carolina Department of Corrections, Probation, Parole and Pardon Services, the Department of Vocational Rehabilitation, Employment Security Commission, Alston Wilkes Society, and other private sector entities shall establish the role of each agency in:

(1) ascertaining an inmate’s opportunities for employment after release from confinement and providing him with vocational and academic education and life skills assessments based on evidence-based practices and criminal risk factors analysis as may be appropriate;

(2) developing skills enhancement programs for inmates, as appropriate;

(3) coordinating job referrals and related services to inmates prior to release from incarceration;

(4) encouraging participation by inmates in the services offered;

(5) developing and maintaining a statewide network of employment referrals for inmates at the time of their release from incarceration and aiding inmates in the securing of employment;

(6) identifying and facilitating other transitional services within both governmental and private sectors;

(7) surveying employment trends within the State and making proposals to the Department of Corrections regarding potential vocational training activities.

(B) Further, the Department of Corrections and the Department of Probation, Parole and Pardon Services are directed to work with the Department of Motor Vehicles to develop and implement a plan for providing inmates who are being released from a correctional facility with a valid photo identification card. To the extent that funds are available from an individual inmate’s account, the Department of Corrections or the Department of Probation, Parole and Pardon Services shall transfer five dollars to the Department of Motor Vehicles to cover the cost of issuing the photo identification card. The Department of Motor Vehicles shall use existing resources and technology to produce the photo identification card.”

PART III

Oversight Established

SECTION 60. It is the intent of the General Assembly that the provisions in PART III provide oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

SECTION 61. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑74. (A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) Whenever legislation is introduced in the General Assembly, which would establish a new criminal offense or would amend the sentencing provisions of an existing criminal offense, the principal author shall affix a statement of estimated fiscal impact of the proposed legislation. The Office of State Budget shall assist the principal author in preparing the fiscal impact statement.

(C) If the fiscal impact statement is not affixed to the legislation at the time of introduction, the Office of State Budget shall deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred within thirty calendar days of introduction.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Office of State Budget, and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the Office of State Budget in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Office of State Budget in a timely fashion.

(G) In preparing fiscal impact statements, the Office of State Budget must accurately report to the General Assembly information provided to the Office of State Budget by state agencies and political subdivisions.

(H) The Office of State Budget may request information from non‑governmental agencies and organizations to assist in preparing the fiscal impact statement.”

SECTION 62. Title 24 of the 1976 Code is amended by adding:

“Chapter 28

Sentencing Reform Oversight Committee

Section 24‑28‑10. There is hereby established a committee to be known as the Sentencing Reform Oversight Committee, hereinafter called the oversight committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 24‑28‑20. (A) The oversight committee shall be composed of seven members, two of whom shall be members of the Senate, including the Chair of the Judiciary Committee or his designee; two of whom shall be members of the House of Representatives, including the Chair of the House Judiciary Committee or his designee; one of whom shall be appointed by the Chair of the Senate Judiciary Committee from the general public at large; one of whom shall be appointed by the Chair of the House Judiciary Committee from the general public at large; and one of whom shall be appointed by the Governor. Provided, however, that in making appointments to the oversight committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent of all segments of the population of the State. The members of the general public appointed by the chairs of the Judiciary Committees must be representative of all citizens of this State and must not be members of the General Assembly.

(B) The oversight committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of six members.

Section 24‑28‑30. The oversight committee has the following powers and duties:

(1) to review the implementation of the recommendations made in the Sentencing Reform Commission report of February 2010, including, but not limited to:

(a) the plan required from the Department of Probation, Parole and Pardon Services on the Parole Board training and other goals identified in Section 24‑21‑10;

(b) the report from the Department of Probation, Parole and Pardon Services on its goals and development of assessment tools consistent with evidence-based practices;

(c) the report from the Office of Pretrial Intervention Coordinator in the Commission on Prosecution Coordination on diversion programs; and

(d) the report from the Department of Probation, Parole and Pardon Services on

(i) the number and percentage of individuals placed on administrative intermediate sanctions and the number and percentage of individuals who have earned compliance credits; and

(ii) the number and percentage of probationers and parolees whose probation or parole have been revoked for violations of conditions or for convictions of new offenses;

(2) to submit to the General Assembly, on an annual basis, the oversight committee’s evaluation of the implementation of the recommendations of the Sentencing Reform Commission report of February 2010;

(3) to make reports and recommendations to the General Assembly on matters relating to the powers and duties set forth in this section, including recommendations on transfers of funding based on the success or failure of implementation of the recommendations; and

(4) to undertake such additional studies or evaluations as the oversight committee considers necessary to provide sentencing reform information and analysis.

Section 24‑28‑40. (A) The oversight committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The oversight committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 24‑28‑50. (A) The oversight committee must use clerical and professional employees of the General Assembly for its staff, who must be made available to the oversight committee.

(B) The oversight committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the oversight committee.

(C) The oversight committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Sentencing Reform Commission report of February 2010.”

PART IV

SECTION 63. The General Assembly finds that all the provisions contained in this act related to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of sentencing reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 64. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 65. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 66. The provisions of PART I and PART II take effect on January 3, 2011. All other provisions become effective upon signature of the Governor.

‑‑‑‑XX‑‑‑‑