INTRODUCED

April 21, 2009

**S. 725**

Introduced by Senator Fair

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Read the first time April 21, 2009.

**A** **BILL**

TO AMEND CHAPTER 3, TITLE 24, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 SO AS TO ENACT THE “TEMPORARY EMERGENCY ACT FOR CORRECTIONS”, TO ALLOW THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS TO DEAL WITH BUDGET REDUCTIONS BY CLOSING PRISONS AND ALLOWING THE EARLY RELEASE OF PRISONERS TO ALLOW THE CLOSURES, TO ALLOW RELEASES PURSUANT TO A STATE OF EMERGENCY DECLARED BY THE GENERAL ASSEMBLY BY LAW, TO PROVIDE THOSE PRISONERS ELIGIBLE AND INELIGIBLE FOR EARLY RELEASE, TO PROVIDE THE METHOD AND MANNER OF THESE EARLY RELEASES, AND TO PROVIDE FOR THE OPERATION OF THE PAROLE SYSTEM AS IT RELATES TO PRISONERS RECEIVING AN EARLY RELEASE.

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

SECTION 1. Chapter 3, Title 24 of the 1976 Code is amended by adding:

“Article 11

Temporary Emergency Act for Corrections

Section 24‑3‑1110. This article may be cited as the ‘Temporary Emergency Act for Corrections’.

Section 24‑3‑1120. As used in this article:

(1) ‘Close’ means the closing or deactivation, or both, of a prison and includes inmate population reduction in an operating prison.

(2) ‘Department of Corrections’ or ‘department’ means the South Carolina Department of Corrections.

(3) ‘Prison’ means a correctional facility operated by the department.

(4) ‘Prison system’ means the prisons operated by the department.

(5) ‘Prisoner’ means every person who, at the time of the declaration of a state of emergency or at any time during the continuation of a state of emergency, is serving a criminal sentence under commitment to the department, including persons serving sentences in local detention facilities designated under the provisions of applicable law and regulations.

(6) ‘Prison system population’ means the total number of prisoners housed in the prisons operated by the department.

(7) ‘Reduction in force’ refers to the reduction or abolishing of positions because of reduced funding, change in workload, or reorganization.

(8) ‘Release date’ means the date projected by the department on which a prisoner will be released from prison, in accordance with all laws, regulations, and policies.

(9) ‘State of emergency’ means an emergency caused by funding shortages or budget shortfalls, or both, as recognized by the General Assembly by the enactment of legislation declaring a state of emergency for the purpose of invoking the authority pursuant to this article.

Section 24‑3‑1130. The General Assembly may invoke this article by enacting legislation declaring a state of emergency for the purpose of invoking the authority provided by this article and the declaration authorizes the Governor and the Director of the Department of Corrections to use the powers granted in this article. The General Assembly may provide specific guidance to the Governor and the director regarding specific budgetary constraints and limits. Once invoked, the powers in this article continue until specifically revoked by a later enactment.

Section 24‑3‑1140. (A) When this article is invoked, the Governor may order the release of inmates in numbers sufficient to close a sufficient number of prisons to conform to amounts appropriated to the department in the annual general appropriations act or acts supplemented thereto, or to comply with the specific guidance provided in the state of emergency declaration invoking this article.

(B) An inmate convicted of a crime requiring registration pursuant to Article 7, Chapter 3, Title 23, the Sex Offender Registry, is not eligible for early release consideration pursuant to this article and the Governor may exclude other offenses from consideration.

(C) In implementing early releases, the Governor may order only the release of inmates who are certain to be released. Absent specific limits in the state of emergency declaration, the Governor may order implementation of early release for a sufficient number of inmates to reduce the prison system population by the number of inmates housed in the prisons to be closed.

(D) The Governor may use any combination of statutorily provided sentence‑related credits to implement early releases. Inmates may be released in chronological order consistent with their normally scheduled release dates until the targeted prison system population is reached.

(E) The director shall maintain the authority to preserve good order, control and discipline. The invocation of this article does not affect the director’s ability to administer the prison system and to establish and enforce policy and procedures within the prison system and in accordance with law including, but not limited to, the loss of good time and credits for inmates.

Section 24‑3‑1150. During the state of emergency the Governor may order release of prisoners each month to maintain the prison system population at a level reduced by the number of inmates formerly housed in the closed prisons.

Section 24‑3‑1160. During the continuation of a state of emergency, the Director of the South Carolina Department of Corrections shall provide a monthly certification to the Governor, the President Pro Tempore of the Senate, the Speaker of the House, and the State Budget and Control Board of the prison system population.

Section 24‑3‑1170. Revocation of an early release date awarded pursuant to this article is a permissible disciplinary action according to the same procedures governing the forfeiture of credits for good behavior as a prison disciplinary action.

Section 24‑3‑1180. (A) The department shall prescribe policies and procedures to implement the objectives of this article.

(B) Inmates released pursuant to this article are deemed by the department to have satisfied the incarcerative portion of their sentence. Should the inmates’ sentences require further nonincarcerative supervision pursuant to an applicable law or order, the South Carolina Department of Probation, Parole and Pardon Services shall prescribe conditions of supervision consistent with existing statutes, laws, and regulations applicable after release from the jurisdiction of the department.

(C) While under the supervision of the South Carolina Department of Probation, Parole and Pardon Services, pursuant to release under this article, releasees are considered to be in the legal custody of the Board of Probation, Parole and Pardon Services. Violation after release under this section may be the basis, pursuant to the procedures of Section 24‑21‑680, for revocation of release and return of the releasee to the department for imprisonment and to serve the releasee’s sentence as though he had not been released. Credit on the time of the sentence is not given for time elapsing between release and revocation.

Section 24‑3‑1190. To further the purposes of this article, the director of the department may close prisons operated by the department. The director may implement reductions in force of the employees of those prisons that are closed.”

SECTION 2. This act takes effect upon approval by the Governor.

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