**South Carolina General Assembly**

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**H. 3439**

**STATUS INFORMATION**

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Currently residing in the House Committee on **Judiciary**

Summary: Prosecution Coordination Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/25/2011 House Introduced and read first time ([House Journal‑page 49](file:///h:\hj%20archive\2011\01-25-11.docx))

1/25/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 49](file:///h:\hj%20archive\2011\01-25-11.docx))

2/17/2011 Scrivener's error corrected

**VERSIONS OF THIS BILL**

[1/25/2011](file:///p:\pprever\2011-12\3439_20110125.docx)

[2/17/2011](file:///p:\pprever\2011-12\3439_20110217.docx)

**A** **BILL**

TO AMEND ARTICLE 7, CHAPTER 7, TITLE 1, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROSECUTION COORDINATION COMMISSION, SO AS TO TRANSFER THE COMMISSION TO THE OFFICE OF THE ATTORNEY GENERAL, TO CREATE THE PROSECUTION COORDINATION DIVISION IN THAT OFFICE, AND TO PROVIDE THAT THE FORMER COMMISSION MEMBERSHIP SHALL CONTINUE AS AN ADVISORY BOARD IN THE DISCRETION OF THE ATTORNEY GENERAL; AND TO AMEND SECTION 1‑5‑40, AS AMENDED, RELATING TO THE DUTY OF THE SECRETARY OF STATE TO MONITOR STATE BOARDS AND COMMISSIONS, SECTION 8‑11‑260, AS AMENDED, RELATING TO PERSONNEL ADMINISTRATION EXEMPTIONS FOR CERTAIN EMPLOYEES OF THE STATE, SECTION 8‑13‑770, AS AMENDED, RELATING TO EXEMPTIONS FOR MEMBERS OF THE GENERAL ASSEMBLY TO SERVE ON STATE BOARDS AND COMMISSIONS, SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM EMPLOYEE GRIEVANCE PROCEDURES FOR CERTAIN EMPLOYEES OF THE STATE, SECTION 8‑21‑320, AS AMENDED, RELATING TO MOTION FEES IN THE COURT OF COMMON PLEAS AND FAMILY COURT, SECTION 14‑1‑204, AS AMENDED, RELATING TO DISTRIBUTION OF COURT FILING FEES, SECTION 14‑1‑212, RELATING TO GENERAL SESSIONS, MAGISTRATES, AND MUNICIPAL COURT SURCHARGES ON FINES, SECTION 14‑1‑213, AS AMENDED, RELATING TO SURCHARGES ON FINES FOR DRUG OFFENSES, SECTION 16‑1‑130, AS AMENDED, RELATING TO PERSONS NOT ELIGIBLE FOR A DIVERSION PROGRAM, SECTION 16‑3‑1410, AS AMENDED, RELATING TO VICTIM ASSISTANCE SERVICES AND MEMBERSHIP OF THE VICTIM SERVICES COORDINATING COUNCIL, SECTION 16‑3‑1525, AS AMENDED, RELATING TO VICTIM NOTIFICATION UNDER CERTAIN CIRCUMSTANCES, SECTION 17‑3‑510, RELATING TO CIRCUIT PUBLIC DEFENDER SELECTION PANELS, SECTION 17‑22‑30, RELATING TO PRETRIAL INTERVENTION PROGRAMS, SECTION 17‑22‑40, RELATING TO THE PRETRIAL INTERVENTION COORDINATOR, SECTION 17‑22‑310, RELATING TO THE ESTABLISHMENT OF TRAFFIC EDUCATION PROGRAMS, SECTION 17‑22‑360, RELATING TO TRAFFIC EDUCATION PROGRAM ANNUAL REPORTS, SECTION 17‑22‑370, RELATING TO THE CREATION AND MAINTENANCE OF A LIST OF PARTICIPANTS OF A TRAFFIC EDUCATION PROGRAM, SECTION 17‑22‑510, RELATING TO THE ESTABLISHMENT OF ALCOHOL EDUCATION PROGRAMS, SECTION 17‑22‑530, RELATING TO DISPOSITION OF AN ALCOHOL‑RELATED OFFENSE UPON COMPLETION OF A ALCOHOL EDUCATION PROGRAM, SECTION 17‑22‑560, RELATING TO THE CREATION AND MAINTENANCE OF A LIST OF PARTICIPANTS OF AN ALCOHOL EDUCATION PROGRAM, SECTION 22‑3‑546, RELATING TO THE ESTABLISHMENT OF A PROGRAM FOR PROSECUTION OF FIRST OFFENSE MISDEMEANOR CRIMINAL DOMESTIC VIOLENCE OFFENSES, AND SECTION 43‑35‑310, RELATING TO THE MEMBERSHIP OF THE ADULT PROTECTION COORDINATING COUNCIL, ALL SO AS TO MAKE CONFORMING CHANGES TO REFLECT THE CHANGE OF THE PREVIOUS COMMISSION TO THE PROSECUTION COORDINATION DIVISION WITHIN THE OFFICE OF THE ATTORNEY GENERAL.

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

SECTION 1. Article 7, Chapter 7, Title 1 of the 1976 Code is amended to read:

“Article 7

~~Commission on~~ Prosecution Coordination Division

Section 1‑7‑910. There is created a ~~commission~~ division within the Office of the Attorney General to coordinate all activities involving the prosecution of criminal cases in this State. The ~~commission~~ division is known as the ~~South Carolina Commission on~~ Prosecution Coordination Division.

Section 1‑7‑920. In the discretion of the Attorney General, the ~~commission~~ division may be assisted in an advisory capacity by a board ~~is~~ composed of the following persons for terms as indicated:

(1) the Chairmen of the Senate and House Judiciary Committees for the terms for which they are elected or their legislative designees;

(2) the Chief of the South Carolina Law Enforcement Division for the term for which he is appointed;

(3) the Director of the Department of Public Safety shall serve during the term for which he is appointed;

(4) a director of a Judicial Circuit Pretrial Intervention Program appointed by the Governor for a term of two years;

(5) a Judicial Circuit Victim‑Witness Assistance Advocate appointed by the Governor for a term of two years; and

(6) five judicial circuit solicitors appointed by the Governor for a term of four years. However, upon initial appointment, the Governor shall select one for a two‑year term, two for a three‑year term, and two for a four‑year term. If a solicitor appointed to the ~~commission~~ board is not ~~re‑elected~~ reappointed, a vacancy occurs and it must be filled pursuant to the provisions of Section 1‑7‑930.

Section 1‑7‑930. If a vacancy occurs, it must be filled for the remainder of the term in the same manner as the initial appointment.

Section 1‑7‑940 (A) The ~~commission~~ division has the following duties:

(1) coordinate all administrative functions of the offices of the solicitors and ~~any~~ affiliate services operating in conjunction with the solicitors’ offices;

(2) submit the budgets of the solicitors and their affiliate services to the General Assembly;

(3) encourage and develop legal education programs and training programs for solicitors and their affiliate services, organize and provide seminars to help increase the effectiveness and efficiency of the prosecution of criminal cases in this State, and act as a clearinghouse and distribution source for publications involving solicitors and their affiliate services and provide legal updates on matters of law affecting the prosecution of cases in this State; and

(4) provide blank indictments for the circuit solicitors.

(B) Nothing in this section may be construed to displace or otherwise affect the functions and responsibilities of the State Victim/Witness Assistance Program as established in Section 16‑3‑1410.

Section 1‑7‑950. The chairman of the ~~commission~~ board must be elected by a majority vote of the membership of the ~~commission~~ board for a two‑year term. A majority of the entire membership constitutes a quorum. Other officers as needed by the ~~commission~~ board must be elected in the same manner.

Section 1‑7‑960. The ~~commission~~ Attorney General has the authority to appoint ~~an executive~~ a director who shall serve at ~~the~~ his pleasure ~~of the commission~~. ~~He~~ The director is responsible for the day‑to‑day operation of the ~~commission~~ division and the coordination of the work with other state agencies. The ~~commission~~ director has the authority, with the consent of the Attorney General, to hire additional staff as provided for in the annual appropriations act in order to perform the duties of the ~~commission~~ division.

Section 1‑7‑970. Members of the ~~commission~~ board ~~shall~~ serve without pay but are allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions. The ~~executive~~ director of the ~~commission~~ division shall approve all vouchers for necessary expenses which must be paid from an appropriation as provided for by the General Assembly for the operation of the ~~commission~~ division.

Section 1‑7‑980. Funding for the ~~commission~~ division must be derived from the per capita funding for state services for solicitors based upon a formula to be determined by the ~~commission~~ Attorney General.

Section 1‑7‑990. The ~~Commission on~~ Prosecution Coordination Division may promulgate those regulations necessary to assist it in performing its required duties as provided by this chapter.

Section 1‑7‑1000. Circuit solicitors shall receive a salary as provided by the General Assembly in the annual general appropriations act.”

SECTION 2. Section 1‑5‑40(A)(85) of the 1976 Code is amended to read:

“(85) ~~Prosecution Coordination, Commission on~~ Reserved”

SECTION 3. Section 8‑11‑260(d) of the 1976 Code, as last amended by Act 452 of 1994, is further amended to read:

“(d) all judges within the unified court system, all officers and employees of the judicial department, all employees of the ~~Commission on~~ Prosecution Coordination Division, and all judges, officers, and employees of the Administrative Law Judge Division;”

SECTION 4. Section 8‑13‑770 of the 1976 Code, as last amended by Act 103 of 2005, is further amended to read:

“Section 8‑13‑770. A member of the General Assembly may not serve in any capacity as a member of a state board or commission, except for the State Budget and Control Board, the Advisory Commission on Intergovernmental Relations, the Legislative Audit Council, the Legislative Council, the Legislative Information Systems, the Judicial Council, the ~~Commission on~~ Prosecution Coordination Division, the South Carolina Tobacco Community Development Board, the Tobacco Settlement Revenue Management Authority, the South Carolina Transportation Infrastructure Bank, the Commission on Indigent Defense, and the joint legislative committees.”

SECTION 5. Section 8‑17‑370(4) of the 1976 Code, as last amended by Act 284 of 1996, is further amended to read:

“(4) all judges, officers, and employees of the Judicial Department; jurors; all employees of the ~~Commission on~~ Prosecution Coordination Division; and the judges, officers, and employees of the Administrative Law ~~Judge Division~~ Court;”

SECTION 6. Section 8‑21‑320 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“Section 8‑21‑320. (A) There is assessed for every motion made in the court of common pleas and family court, not including motions made in family court juvenile delinquency proceedings, a fee of twenty‑five dollars. The fee must accompany each motion filed. The Supreme Court has authority to issue administrative rules to exempt from the motion fee certain family court matters involving rules to show cause in child and spousal support matters. The Supreme Court may waive the filing fees imposed by this section upon a proper showing of indigency. The revenue from this fee must be collected by the clerk of court in each court and remitted to the State Treasurer and credited to a separate judicial department support fund for the exclusive use of the judicial department.

(B) The revenue collected pursuant to this section ~~shall~~ must be distributed by the State Treasurer in the following manner:

(1) The first four hundred fifty thousand dollars of these funds must be transferred to the Prosecution Coordination ~~Commission~~ Division. The funds ~~shall~~ must be distributed equally to the third, fourth, and eleventh judicial circuits to fund drug courts.

(2) Any remaining funds must be transferred to the Judicial Department for operating purposes.”

SECTION 7. Section 14‑1‑204(B)(1)(d) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(d) Prosecution Coordination ~~Commission~~ Division‑‑4.37 percent; and”

SECTION 8. Section 14‑1‑212(B)(1)(a) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(a) 18.50 percent to the Prosecution Coordination ~~Commission~~ Division for allocations to circuit solicitors in the manner provided pursuant to this subsection for the operations of solicitors’ offices, a portion of which, at the option of a solicitor, may be used for drug courts in the judicial circuit;”

SECTION 9. Section 14‑1‑212(B)(2) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(2) The State Treasurer shall transmit the portion of these funds earmarked for the solicitors’ offices to the Prosecution Coordination ~~Commission~~ Division which then shall apportion these funds among the circuit solicitors of this State 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. Amounts generated by this section for use by solicitors’ offices must be in addition to any amounts presently being provided by the county for these services and may not be used to supplant funding already allocated for these services by the county.

SECTION 10. Section 14‑1‑213(B) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(B) The revenue collected pursuant to subsection (A) 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~~ Division 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.”

SECTION 11. Section 16‑1‑130(B) of the 1976 Code, as added by Act 106 of 2005, is amended to read:

“(B) The provisions of this section do not apply to a diversion program administered by the ~~South Carolina~~ Prosecution Coordination ~~Commission~~ Division or by a circuit solicitor.”

SECTION 12. Section 16‑3‑1410(B)(5) of the 1976 Code, as last amended by Act 271 of 2008, is further amended to read:

“(5) the director of the ~~South Carolina Commission on~~ Prosecution Coordination Division, or his designee;”

SECTION 13. Section 16‑3‑1525(L) of the 1976 Code, as added by Act 106 of 2005, is amended to read:

“(L) A diversion program, except a diversion program administered by the ~~South Carolina~~ Prosecution Coordination ~~Commission~~ Division or by a circuit solicitor, reasonably must attempt to notify the victim of a crime prior to the defendant’s release from the program unless the defendant is released to a law enforcement agency.”

SECTION 14. Section 17‑3‑510(B) of the 1976 Code, as added by Act 108 of 2007, is amended to read:

“(B) A solicitor, assistant solicitor, an employee of a solicitor’s office, or an employee of the ~~South Carolina~~ Prosecution Coordination ~~Commission~~ Division may not serve as a member of a Circuit Public Defender Selection Panel. Members of a Circuit Public Defender Selection Panel must reside in the judicial circuit in which they serve. Circuit Public Defender Selection Panel members ~~shall~~ serve for a term of five years. A vacancy for an appointed member must be in the same manner of the original appointment filled by the appointing authority.”

SECTION 15. Section 17‑22‑30(D) of the 1976 Code is amended to read:

“(D) The ~~South Carolina Commission on~~ Prosecution Coordination Division shall oversee administrative procedures for the Circuit Solicitors’ Pretrial Intervention Programs.”

SECTION 16. Section 17‑22‑40 of the 1976 Code is amended to read:

“Section 17‑22‑40. There is established the office of Pretrial Intervention Coordinator whose responsibility is to assist the solicitor in each judicial circuit in establishing and maintaining a pretrial intervention program. The office of Pretrial Intervention Coordinator must be within the ~~South Carolina Commission on~~ Prosecution Coordination Division. The coordinator and ~~such~~ staff as is necessary to assist in the implementation of the provisions of this article must be employed by the ~~South Carolina Commission on~~ Prosecution Coordination Division. The office of the coordinator must be funded by an appropriation to the ~~Commission on~~ Prosecution Coordination Division in the state general ~~appropriation~~ appropriations act.”

SECTION 17. Section 17‑22‑310(D) of the 1976 Code, as added by Act 176 of 2008, is amended to read:

“(D) The ~~South Carolina Commission on~~ Prosecution Coordination Division shall oversee administrative procedures for the traffic education programs.”

SECTION 18. Section 17‑22‑360 of the 1976 Code, as added by Act 176 of 2008, is amended to read:

“Section 17‑22‑360. Each governmental agency that administers a traffic education program shall submit a traffic education program annual report, by the first day of August, to the ~~Commission on~~ Prosecution Coordination Division providing the total number of participants by original traffic‑related offenses, the total number of participants that successfully completed the traffic education program, the total amount of fees collected, and the total revenue remitted to the municipalities, counties, and the Office of the State Treasurer for the state’s fiscal year. The ~~Commission on~~ Prosecution Coordination Division may establish additional guidelines for the annual reports. The annual reports must be made available for public inspection.”

SECTION 19. Section 17‑22‑370 of the 1976 Code, as added by Act 176 of 2008, is amended to read:

“Section 17‑22‑370. Each governmental agency that administers a traffic education program shall submit to the ~~Commission on~~ Prosecution Coordination Division necessary identifying information on each participant for the creation and maintenance of a list of participants in traffic education programs. This list is to be used by the ~~commission~~ division for the sole purpose of complying with Section 17‑22‑320(A). The information collected by the ~~commission~~ division only may be released to a governmental agency administering the program for the purpose of determining eligibility for a traffic education program.”

SECTION 20. Section 17‑22‑510(D) of the 1976 Code, as added by Act 35 of 2007, is amended to read:

“(D) The ~~South Carolina Commission on~~ Prosecution Coordination Division shall oversee administrative procedures for the alcohol education programs. The ~~commission~~ division shall consult with the Department of Alcohol and Other Drug Abuse Services before the approval of these administrative procedures.”

SECTION 21. Section 17‑22‑530(A) of the 1976 Code, as added by Act 35 of 2007, is amended to read:

“(A) When a person successfully completes an alcohol education program, the circuit solicitor shall effect a noncriminal disposition, as defined in this chapter, of the alcohol‑related offense, and there must be no record maintained of the alcohol‑related offense except by the ~~Commission on~~ Prosecution Coordination Division in order to ensure that a person does not benefit from the provisions of this article more than once.”

SECTION 22. Section 17‑22‑560 of the 1976 Code, as added by Act 35 of 2007, is amended to read:

“Section 17‑22‑560. Each circuit solicitor shall submit to the ~~Commission on~~ Prosecution Coordination Division necessary identifying information on each enrollee for the creation and maintenance of a list of enrollees in alcohol education programs. This list is to be used by the ~~commission~~ division for the sole purpose of complying with Section 17‑22‑520(A) and (B). The information maintained by the ~~commission~~ division may be released only to a circuit solicitor for the purpose of determining eligibility for an alcohol education program.”

SECTION 23. Section 22‑3‑546 of the 1976 Code, as added by Act 366 of 2006, is amended to read:

“Section 22‑3‑546. A circuit solicitor, in a circuit with five or more counties, may establish a program under his discretion and control, to prosecute first offense misdemeanor criminal domestic violence offenses, as defined in Section 16‑25‑20, in general sessions court. Whether to establish a program, and which cases may be prosecuted in general sessions court, are within the sole discretion of the solicitor. A solicitor shall report the results of the program to the Prosecution Coordination ~~Commission~~ Division.”

SECTION 24. Section 43‑35‑310(A)(2)(m) of the 1976 Code as added by Act 110 of 1993, is amended to read:

“(m) Prosecution Coordination ~~Commission~~ Division, ~~Executive~~ Director, or a designee;”

SECTION 25. The Code Commissioner is authorized to change references to the “Commission on Prosecution Coordination” and the “Prosecution Coordination Commission” to the “Prosecution Coordination Division”, to change references to the “commission” to the “division”, and to change references to the “executive director” of the commission to the “director” of the division, as appropriate.

SECTION 26. This act takes effect upon approval by the Governor.

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