**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 2 TO TITLE 23 SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY; TO AMEND SECTION 1‑3‑240, AS AMENDED, RELATING TO THE REMOVAL OF CERTAIN STATE OFFICERS BY THE GOVERNOR, SO AS TO DELETE THE TERM THE “DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”; TO AMEND SECTION 1‑7‑920, RELATING TO THE MEMBERS OF THE COMMISSION ON PROSECUTION COORDINATION, SO AS TO DELETE THE TERM “DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”; TO AMEND SECTION 1‑30‑10, RELATING TO THE DEPARTMENTS OF STATE GOVERNMENT, SO AS TO DELETE THE TERM “DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”; TO AMEND SECTION 1‑30‑90, RELATING TO THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO SUBSTITUTE THE TERM “DIVISION OF PUBLIC SAFETY” FOR THE TERM “DEPARTMENT OF PUBLIC SAFETY”; TO AMEND SECTION 2‑13‑240, AS AMENDED, RELATING TO THE DISTRIBUTION OF THE CODE OF LAWS OF SOUTH CAROLINA TO VARIOUS ENTITIES, SO AS TO DELETE THE TERM “DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”; TO AMEND SECTIONS 5‑3‑90, 5‑7‑110, 9‑11‑180, AS AMENDED, 10‑11‑80, AS AMENDED, 11‑35‑710, AS AMENDED, 12‑28‑1910, AS AMENDED, 12‑28‑2325, 12‑45‑70, AS AMENDED, 13‑7‑70, AS AMENDED, 13‑7‑160, AS AMENDED, 14‑1‑206, AS AMENDED, 14‑1‑207, AS AMENDED, 14‑1‑208, AS AMENDED, 14‑1‑212, 16‑3‑1410, AS AMENDED, 17‑5‑130, 17‑22‑350, AND 23‑1‑230, RELATING TO THE SCOPE OF THE PROVISIONS THAT PROVIDE FOR THE STRUCTURE, ORGANIZATION, POWERS, AND DUTIES OF MUNICIPAL GOVERNMENTS, THE DEPARTMENT OF PUBLIC SAFETY’S CONTRIBUTIONS INTO THE STATE RETIREMENT SYSTEM ON BEHALF OF ACTIVE HIGHWAY PATROL MEMBER EMPLOYEES, PARKING ON CERTAIN STATE PARKING LOTS, STATE PROCUREMENT CODE EXEMPTIONS, THE INSPECTION OF FUEL AND SHIPPING PAPERS, LAW ENFORCEMENT ASSISTANCE PROVIDED TO THE DEPARTMENT OF REVENUE BY THE DEPARTMENT OF PUBLIC SAFETY, PAYING TAXES AND THE DELEGATION OF COLLECTION OF TAXES, RULES AND REGULATIONS REGARDING THE TRANSPORTATION OF MATERIALS, REGULATIONS RELATING TO THE TRANSPORTATION OF NUCLEAR MATERIALS, COURT ASSESSMENTS AND SURCHARGES, VICTIM ASSISTANCE SERVICES, QUALIFICATIONS AND AGE REQUIREMENTS FOR CORONERS, TRAFFIC EDUCATION PROGRAM FEES, AND THE FIRST RESPONDERS ADVISORY COMMITTEE, ALL SO AS TO DELETE THE TERM “DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”; TO AMEND CHAPTER 6, TITLE 23, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO REESTABLISH IT AS A DIVISION OF SLED; TO AMEND SECTIONS 23‑23‑30, AS AMENDED, 23‑25‑20, 24‑5‑340, 36‑9‑410, 38‑55‑530, AS AMENDED, 38‑55‑570, AS AMENDED, 38‑73‑470, AS AMENDED, 38‑77‑1120, 39‑9‑230, AS AMENDED, 43‑5‑1250, AS AMENDED, 44‑4‑130, AS AMENDED, 54‑17‑60, 56‑1‑286, AS AMENDED, 56‑1‑460, AS AMENDED, 56‑1‑1320, 56‑1‑1760, 56‑1‑2220, 56‑1‑2230, 56‑3‑662, 56‑3‑663, AS AMENDED, 56‑3‑840, AS AMENDED, 56‑5‑330, 56‑5‑380, 56‑5‑765, 56‑5‑1270, 56‑5‑1300, 56‑5‑1320, 56‑5‑1330, 56‑5‑1340, 56‑5‑1350, 56‑5‑1520, 56‑5‑2930, AS AMENDED, 56‑5‑2933, AS AMENDED, 56‑5‑2945, AS AMENDED, 56‑5‑2951, AS AMENDED, 56‑5‑2953, AS AMENDED, 56‑5‑3660, 56‑5‑3670, 56‑5‑3680, 56‑5‑3690, 56‑5‑3900, 56‑5‑4030, 56‑5‑4035, 56‑5‑4070, 56‑5‑4075, 56‑5‑4140, AS AMENDED, 56‑5‑4160, AS AMENDED, 56‑5‑4170, 56‑5‑4840, 56‑5‑4880, 56‑5‑4970, 56‑5‑5015, 56‑5‑5080, 56‑5‑5120, 56‑5‑5140, 56‑5‑5810, AS AMENDED, 56‑5‑5870, 56‑5‑5880, 56‑5‑6170, 56‑5‑6525, AS AMENDED, 56‑5‑6560, 56‑5‑6565, 56‑7‑10, 56‑7‑12, 56‑7‑30, AS AMENDED, 56‑9‑350, 56‑10‑45, 56‑10‑552, 56‑11‑20, 56‑11‑40, 56‑15‑420, 56‑19‑420, AS AMENDED, 56‑35‑50, 57‑3‑180, 58‑23‑50, AS AMENDED, 58‑23‑1120, AS AMENDED, 59‑67‑20, 59‑67‑260, 59‑67‑570, 61‑6‑2900, 61‑6‑4250, 61‑6‑4290, 63‑19‑1860, 63‑19‑1880, RELATING TO THE SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL, THE SOUTH CAROLINA LAW ENFORCEMENT OFFICERS HALL OF FAME COMMITTEE, RESERVE DETENTION OFFICERS, UNLAWFUL SALE OR DISPOSAL OF PERSONAL PROPERTY SUBJECT TO A SECURITY INTEREST, INSURANCE FRAUD AND REPORTING IMMUNITY, THE DISPOSITION OF UNINSURED MOTOR PREMIUMS, MOTOR VEHICLE THEFT AND MOTOR VEHICLE INSURANCE FRAUD‑REPORTING IMMUNITY ACT, THE IMPLEMENTATION OF THE METRIC SYSTEM, THE STATEWIDE NETWORK OF MASS TRANSIT SYSTEMS, THE EMERGENCY HEALTH POWERS ACT, ACCOUNT BALANCES RELATING TO HUNTING AND FISHING LICENSES, ACTIVITIES OF THE MARITIME SECURITY COMMISSION AND THE NAVAL MILITIA, MOTOR VEHICLE DRIVER’S LICENSES, THE REGISTRATION AND LICENSING OF MOTOR VEHICLES, THE REGULATION OF TRAFFIC TRAVELING ALONG THE STATE’S HIGHWAYS, THE ISSUANCE OF TRAFFIC TICKETS, VERIFICATION OF MOTOR VEHICLE INSURANCE, THE CONFISCATION OF REGISTRATION CERTIFICATES AND LICENSE PLATES, THE UNINSURED ENFORCEMENT FUND, THE ROAD TAX ON MOTOR CARRIERS, THE PROMULGATION OF REGULATIONS RELATING TO MOTOR VEHICLE DEALER AND WHOLESALER LICENSES, MOTOR VEHICLE CERTIFICATES OF TITLE, DIESEL IDLING RESTRICTIONS, PERMITS ISSUED BY THE DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE CARRIERS, THE TRANSPORTATION OF SCHOOL CHILDREN, THE ALCOHOLIC BEVERAGE CONTROL ACT, THE CONDITIONAL RELEASE OF A JUVENILE, AND THE APPOINTMENT OF JUVENILE PROBATION COUNSELORS, ALL SO AS TO DELETE THE TERM “DEPARTMENT OF PUBLIC SAFETY” AND REPLACE IT WITH THE TERM “DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY”, OR “DIVISION OF PUBLIC SAFETY”; TO AMEND CHAPTER 21, TITLE 24, RELATING TO THE CREATION AND OPERATION OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES AND THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO TRANSFER ALL FUNCTIONS, POWERS, DUTIES, RESPONSIBILITIES AND AUTHORITY STATUTORILY EXERCISED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES TO THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY; TO AMEND SECTION 23‑3‑10, 23‑3‑680, AND 23‑3‑690, RELATING TO THE CREATION OF SLED, SO AS TO PROVIDE THAT ITS DUTIES AND FUNCTIONS ARE TRANSFERRED TO THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY; BY ADDING ARTICLE 7 TO CHAPTER 6, TITLE 23 SO AS TO CREATE THE NATURAL RESOURCES ENFORCEMENT DIVISION WITHIN THE DEPARTMENT OF LAW ENFORCEMENT AND PUBLIC SAFETY; TO AMEND SECTION 23‑6‑30, RELATING TO THE DUTIES OF THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO GIVE IT JURISDICTION TO ENFORCE THE LAWS REGARDING BIRDS AND FISHERIES; AND TO REPEAL SECTIONS 50‑3‑110, 50‑3‑120, 50‑3‑130, 50-3-140, 50-3-150, 50-3-160, 50-3-310, 50‑3‑315, 50‑3‑316, 50‑3‑320, 50‑3‑330, 50‑3‑340, 50‑3‑350, 50‑3‑370, 50‑3‑380, 50‑3‑390, 50‑3‑395, 50‑3‑396, 50‑3‑400, 50‑3‑410, AND 50‑3‑420 ALL RELATING TO THE NATURAL RESOURCES ENFORCEMENT DIVISION.

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

SECTION 1. Title 23 of the 1976 Code is amended by adding:

“CHAPTER 2

South Carolina Department of Law Enforcement and Public Safety

Section 23‑2‑10. (A) The South Carolina Department of Law Enforcement and Public Safety is established as an administrative agency of state government which is comprised of a Division of Public Safety, a State Law Enforcement Division, a Division of Probation, Parole and Pardon Services, and a Natural Resources Enforcement Division.

(B) The functions, powers, duties, responsibilities, and authority statutorily exercised by the following offices, sections, departments, or divisions of the following state agencies as existing on the effective date of this act are transferred to and devolved on the department to include the Department of Public Safety, State Law Enforcement Division, Department of Probation, Parole and Pardon Services, and the Natural Resources Enforcement Division of the South Carolina Department of Natural Resources. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act, or otherwise provided.

Section 23‑2‑20. (A) The Governor, with the advice and consent of the Senate, shall appoint the director of the department who shall serve a term of four years. The director only may be removed pursuant to the provisions of Section 1‑3‑240(C). He shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the annual general appropriation act. The term of office for the first appointment under the provisions of this section shall be February 1, 1994 for a term of two years. The Governor shall submit the name of his appointee to the Senate by December first of the year prior to the date on which the term begins. A person appointed by the Governor with the advice and consent of the Senate to fill a vacancy shall serve for the unexpired term only. This shall not prohibit the Governor from reappointing a person who is appointed to fill a vacancy as director of the department. All subsequent appointments shall be made in the manner of the original appointment for a term of four years.

(B) The director must administer the affairs of the department and must represent the department in its dealings with other state agencies, local governments, special purpose districts, and the federal government. The director must appoint a deputy director for each division and employ such other personnel for each division and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by statute and for which funds have been authorized in the annual general appropriation act.

(C) The deputy director for each division shall serve at the pleasure of the director and the director shall recommend the salary for each deputy director as allowed by statute or applicable law.”

SECTION 2. Section 1‑3‑240(C)(1)(h) of the 1976 Code, as last amended by Act 137 of 2005, is further amended to read:

“(h) Director of the Department of Law Enforcement and Public Safety ;”

SECTION 3. Section 1‑7‑920 of the 1976 Code is amended to read:

“Section 1‑7‑920. The commission 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 Law Enforcement andPublic 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 is not ~~re‑elected~~ reelected, a vacancy occurs and it must be filled pursuant to the provisions of Section 1‑7‑930.”

SECTION 4. Section 1‑30‑10(A)(16) of the 1976 Code is amended to read:

“(16) Department of Law Enforcement and Public Safety”

SECTION 5. Section 1‑30‑90 of the 1976 Code is amended to read:

“Section 1‑30‑90. The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities, as well as the employees, funds, property and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the ~~Department~~ Division of Public Safety to be initially divided into divisions for Highway Patrol, State Police, and Training and Continuing Education.

(A) Law Enforcement Hall of Fame, formerly provided for in Section 23‑25‑10, et seq.;

(B) State Highway Patrol, formerly provided for in Section 23‑5‑10, et seq.;

(C) Public Service Commission Safety Enforcement, formerly provided in Section 58‑3‑310;

(D) Law Enforcement Training Council, formerly provided for in Section 23‑23‑30, et seq.;

(E) Public Safety Division, formerly of the Governor’s Office.”

SECTION 6. Section 2‑13‑240(a)(69) of the 1976 Code is amended to read:

“(69) Department of Law Enforcement and Public Safety~~,~~ ~~five~~;”

SECTION 7. Section 5‑3‑90 of the 1976 Code is amended to read:

Section 5‑3‑90. Any municipality increasing its territory shall file a notice with the Secretary of State, Department of Transportation, and the ~~Department~~ Division of Public Safety describing its new boundaries. The notice shall include a written description of the boundary, along with a map or plat which clearly defines the new territory added.”

SECTION 8. Section 5‑7‑110 of the 1976 Code is amended to read:

“Section 5‑7‑110. Any municipality may appoint or elect as many police officers, regular or special, as may be necessary for the proper law enforcement in such municipality and fix their salaries and prescribe their duties.

Police officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality.

Any such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the ~~State Law Enforcement Division~~ Department of Law Enforcement and Public Safety, and the office of the county sheriff ~~and the Department of Public Safety~~.”

SECTION 9. Section 9‑11‑180 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 9‑11‑180. The Department of ~~Public Safety~~ Law Enforcement and Public Safety is hereby authorized to pay into the Police Officers’ Retirement System fund prior to July 1, 1967, on behalf of active highway patrol member employees, an amount equal to the sum such members would be required to contribute to the fund for creditable prior service pursuant to Section 9‑11‑170. The amounts paid into the fund shall be used for the payment of retirement benefits under the Police Officers’ Retirement System or shall be refunded to the Department of ~~Public Safety~~ Law Enforcement and Public Safety. None of the ~~moneys~~ monies paid into the fund pursuant to this section shall be disbursed in any other manner to patrol member employees upon termination of employment with the department nor shall any such funds be paid to a patrol member employee’s surviving beneficiary as a residual credit to any patrol member employee’s account which may have existed upon his death. Provided, however, that the interest accruing after July 1, 1967 on the amount paid into the fund may be credited to the patrol member employee’s account just as if he had made the contribution for creditable prior service for his account. Any time that the Police Officers’ Retirement System closes the account of an active patrol member employee because of death or termination of employment with the department the System shall refund to the department the amount that it has paid into the fund on behalf of patrol member employees for creditable prior service under the Supplemental Allowance Program of the System.”

SECTION 10. Section 10‑11‑80(1) of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“(1) Parking lots which are situated on the property of the State shall be reserved for the employees of the State. The parking lots referred to by this section shall be policed by the ~~Department~~ Division of Public Safety and no person not authorized by this section shall be allowed to occupy such parking lots. Parking lots referred to in this section are confined to those located in the City of Columbia.”

SECTION 11. Section 11‑35‑710(1) of the 1976 Code, as last amended by Act 459 of 1996, is further amended to read:

“(1) the construction, maintenance, and repair of bridges, highways, and roads; vehicle and road equipment maintenance and repair; and other emergency‑type parts or equipment utilized by the Department of Transportation or the ~~Department~~ Division of Public Safety;”

SECTION 12. Section 12‑28‑1910(B) of the 1976 Code is amended to read:

“(B) Inspections to determine violations under this chapter may be conducted by the ~~Department~~ Division of Public Safety, agents of the Department of Revenue, motor carrier inspectors in this State in addition to their duties otherwise defined, and other law enforcement officers through procedures established by the Department of Revenue. Agents of the Department of Revenue have the same power and authority provided to authorized personnel under the applicable statute.”

SECTION 13. Section 12‑28‑2325 of the 1976 Code is amended to read:

“Section 12‑28‑2325. The ~~Department~~ Division of Public Safety and law enforcement agents, upon request of the Department of Revenue, may assist in the enforcement of all laws relating to the inspection of petroleum products.”

SECTION 14. Section 12‑45‑70(C) of the 1976 Code, as last amended by Act 386 of 2006, is further amended to read:

“(C) The county official charged with the collection of taxes shall send a list of the institutions collecting the taxes to the ~~Department~~ Division of Public Safety. Each institution shall certify to the ~~Department~~ Division of Public Safety that the taxes have been paid, and the ~~Department~~ Division of Public Safety may accept certification instead of the tax receipt given to the taxpayer if that certification contains the information required in Section 12‑37‑2650.”

SECTION 15. Section 13‑7‑70(4)(a) of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“(a) Rules and regulations adopted by the department pursuant to this section may be enforced, within their respective jurisdiction, by any authorized representative of the department, the ~~Department~~ Division of Public Safety, and the Department of Transportation, and the Public Service Commission, according to mutual understandings between such bodies of their respective responsibilities and authority.”

SECTION 16. Section 13‑7‑160C of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“C. Rules and regulations adopted by the department pursuant to this section may be enforced, within their respective jurisdiction, by any authorized representative of the department, the ~~Department~~ Division of Public Safety and the Public Service Commission, according to mutual understandings between such bodies of their respective responsibilities and authority.”

SECTION 17. Section 14‑1‑206(C)(3) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(3) .45 percent to the ~~Department~~ Division of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the ~~Department~~ Division of Public Safety, the department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;”

SECTION 18. Section 14‑1‑207(C)(3) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(3) .60 percent to the ~~Department~~ Division of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the ~~Department~~ Division of Public Safety department may retain, carry forward, and expend the surplus to defray the costs of maintaining and operating the Hall of Fame;”

SECTION 19. Section 14‑1‑208(C)(9)(a) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(a) 9.16 percent to the ~~Department~~ Division of Public Safety for the programs established pursuant to Section 56‑5‑2953(E); and”

SECTION 20. Section 14‑1‑212(B)(1)(j) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“(j) 14.44 percent to the ~~Department~~ Division of Public Safety for the Highway Patrol Division for equipment, vehicle purchases, and associated vehicle expenses, including maintenance and gasoline.”

SECTION 21. Section 16‑3‑1410(14) of the 1976 Code, as last amended by Act 271 of 2008, is further amended to read:

“the administrator of the Office of Justice Programs, ~~Department~~ Division of Public Safety, or his designee;”

SECTION 22. Section 17‑5‑130(B) and (F) of the 1976 Code, is amended to read:

“(B) Each person serving as coroner in his first term is required to complete a basic training session to be determined by the ~~Department~~ Division of Public Safety. This basic training session must be completed no later than the end of the calendar year following his election as coroner. A person appointed to fill the unexpired term in the office of coroner must complete a basic training session to be determined by the ~~department~~ division within one calendar year of the date of appointment. This section must not be construed to require an individual to repeat the basic training session if he has successfully completed the session prior to his election or appointment as coroner. A coroner who is unable to attend this training session when offered because of an emergency or extenuating circumstances must, within one year from the date the disability or cause terminates, complete the standard basic training session required of coroners. A coroner who does not fulfill the obligations of this subsection is subject to suspension by the Governor until the coroner completes the training session.

(F) The Director of the ~~Department~~ Division of Public Safety must appoint a Coroners Training Advisory Committee to assist in the determination of training requirements for coroners and deputy coroners. The committee must consist of no fewer than five coroners and at least one physician trained in forensic pathology as recommended by the South Carolina Coroners Association. The members of the committee must serve without compensation.”

SECTION 23. Section 17‑22‑350(B)(3) of the 1976 Code, as added by Act 176 of 2008, is amended to read:

“(3) .44 percent to the ~~Department~~ Division of Public Safety’s South Carolina Law Enforcement Officers Hall of Fame;”

SECTION 24. Section 23‑1‑230(A)(1)(c) and (H) of the 1976 Code is amended to read:

“(c) the Director of the ~~Department~~ Division of Public Safety;

(H) The First Responders Advisory Committee shall receive clerical and related assistance from the staff of the ~~South Carolina~~ State Law Enforcement Division, the ~~Department~~ Division of Public Safety, and the Office of Information Resources.”

SECTION 25. Chapter 6, Title 23 of the 1976 Code is amended to read:

“CHAPTER 6

Department of Law Enforcement

~~of~~ and Public Safety

Section 23‑6‑10. ~~For the purposes of this title, the following words, phrases, and terms are defined as follows:~~

~~(1) “Department” means the Department of Public Safety.~~

~~(2) “Director” means the chief administrative officer of the Department of Public Safety.~~ Reserved

Section 23‑6‑20. (A) ~~The Department of Public Safety is established as an administrative agency of state government which~~ There is created within the South Carolina Department of Law Enforcement and Public Safety the Division of Public Safety. The Division of Public Safety is comprised of ~~a~~ the South Carolina Highway Patrol Division, ~~a~~ the South Carolina State Police Division, and ~~a~~ the Division of Training and Continuing Education.

(B) The functions, powers, duties, responsibilities, and authority statutorily exercised by the following offices, sections, departments, or divisions of the following state agencies as existing on the effective date of this act are transferred to and devolved on the ~~department~~ Division of Public Safety to include the South Carolina Highway Patrol and the Safety Office Section of the Division of Finance and Administration of the South Carolina Department of Highways and Public Transportation; the Safety Enforcement Officers of the Office of Enforcement within the Transportation Division of the South Carolina Public Service Commission and the Governor’s Office of Public Safety, together with all assets, liabilities, records, property, personnel, unexpended appropriations, and other funds shall be transferred to the control of the department. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act, or otherwise provided.

Section 23‑6‑30. The ~~department~~ Division of Public Safety shall have the following duties and powers:

(1) carry out highway and other related safety programs;

(2) engage in driver training and safety activities;

(3) enforce the traffic, motor vehicle, commercial vehicle, and related laws;

(4) enforce size, weight, and safety enforcement statutes relating to commercial motor vehicles;

(5) operate a comprehensive law enforcement personnel training program;

(6) promulgate such rules and regulations in accordance with the Administrative Procedures Act and Article 7 of this chapter for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;

(7) operate such programs and disseminate information and material so as to continually improve highway safety;

(8) receive and disburse funds and grants, including any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter; and

(9) do all other functions and responsibilities as required or provided for by law.

Section 23‑6‑40. (A) The ~~Governor, with the advice and consent of the Senate,~~ Director of the Department of Law Enforcement and Public Safety shall appoint the colonel as the ~~director~~ Director of the Division of Public Safety. ~~The director may only be removed pursuant to the provisions of Section 1‑3‑240(C). He shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the annual general appropriation act. The term of office for the first appointment under the provisions of this section shall be February 1, 1994 for a term of two years. The Governor shall submit the name of his appointee to the Senate by December first of the year prior to the date on which the term begins. A person appointed by the Governor with the advice and consent of the Senate to fill a vacancy shall serve for the unexpired term only. This shall not prohibit the Governor from reappointing a person who is appointed to fill a vacancy as director of the department. All subsequent appointments shall be made in the manner of the original appointment for a term of four years.~~

(B) The director must administer the affairs of the ~~department~~ division ~~and must represent the department in its dealings with other state agencies, local governments, special purpose districts, and the federal government~~. ~~The director must appoint a deputy director for each division and employ such other personnel for each division and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by statute and for which funds have been authorized in the annual general appropriation act.~~

(C) The deputy director for each division of the Division of Public Safety shall serve at the pleasure of the director ~~and the director shall recommend the salary for each deputy director as allowed by statute or applicable law~~.

Section 23‑6‑50. The director of the Department of Law Enforcement and Public Safety shall annually cause the ~~department~~ Division of Public Safety to be audited. The audit must be conducted by a certified public accountant or firm of certified public accountants to be selected by the State Auditor. The ~~department~~ division may undergo an Agreed Upon Procedures audit in lieu of audited financial statements. The audit shall be in coordination with the State Auditor’s Office and will be in accordance with generally accepted accounting principles and must comprise all financial records and controls. The audit must be completed by November ~~1~~ first following the close of the fiscal year. The costs and expenses of the audit must be paid by the department out of its funds.

Notwithstanding any other provision of law, all revenue generated by the ~~department~~ division from the sale of vehicles, various equipment, less the cost of disposition incurred by the State Budget and Control Board Division of Operations, gasoline and insurance claims, during the prior fiscal year may be retained and carried forward into the current fiscal year and expended for the purpose of purchasing like items. Any unexpended balance on June ~~30~~ thirtieth of the prior fiscal year authorized to be expended or used for any federal grant program may be retained and carried forward to the current fiscal year and used for matching committed or unanticipated grant funds, or both. ~~The Department of Motor Vehicles is authorized to carry forward and expend all motor carrier registration fees collected pursuant to Chapter 23 of Title 58 for fiscal years 1996‑1997, 1997‑1998, 1998‑1999 into fiscal year 1999‑2000.~~

Notwithstanding any other provision of law, revenue received from the sale of publications, postal reimbursement, photo copying, electronic data from traffic collisions, sale of miscellaneous refuse and recyclable materials, insurance claim receipts, coin operated telephones, and revenue from building management services, and the ~~Department~~ Division of Public Safety training series shall be retained by the ~~department~~ division and expended in budgeted operations for professional training, fees and dues, clothing allowance, and other related services or programs as the Director of the ~~Department~~ Division of Public Safety may deem necessary. In order to complete projects begun in a prior fiscal year, the department is authorized to expend federal and earmarked funds in the following fiscal year for expenditures incurred in the prior fiscal year.

Section 23‑6‑90. The ~~department~~ division may employ, equip, and provide such officers as may be necessary to maintain the security of the Governor’s Mansion Compound, and other governmental facilities, including the State Capitol Building, the facilities of the Capitol Complex, and other state buildings. The director must determine the most efficient and effective method of placing these officers within a law enforcement division in the department.

Article 3

Highway Patrol Division

Section 23‑6‑100. (A) There is created a South Carolina Highway Patrol Division and a South Carolina State Police Division within the ~~Department~~ Division of Public Safety. The South Carolina Highway Patrol Division shall have such troopers, officers, agents and employees as the department may deem necessary and proper for the enforcement of the traffic and other related laws, and the South Carolina State Police Division shall have such troopers, officers, agents and employees as the ~~department~~ Division of Public Safety may deem necessary and proper for the enforcement of the commercial motor carrier related laws, the enforcement of which is devolved upon the ~~department~~ division. Such officers and troopers shall be commissioned by the Governor upon the recommendation of the Director of the ~~Department~~ Division of Public Safety. Such commissions may be terminated at the pleasure of the director.

(B) The ~~department~~ Division of Public Safety must provide the officers of the Highway Patrol and of the State Police with distinctive uniforms and suitable arms and equipment for use in the performance of their duties. Such officers and troopers shall at all times, when in the performance of their duties, wear complete uniforms with badges conspicuously displayed on the outside of their uniforms.

(C) The commanding officers of the South Carolina Highway Patrol and the South Carolina State Police respectively, with the approval of the director of the ~~department~~ Division of Public Safety, shall prescribe a unique and distinctive official uniform, with appropriate insignia to be worn by all officers when on duty and at such other times as the director shall order, and a distinctive color or colors and appropriate emblems for all motor vehicles used by the Highway Patrol and the State Police except those designated by the ~~director~~ Director of the Division of Public Safety. No other law enforcement agency, private security agency, or any person shall wear a similar uniform and insignia which may be confused with the uniform and insignia of the Highway Patrol or State Police. An emblem must not be used on a nondepartment motor vehicle, nor may such vehicle be painted in a color or in any manner which would cause the vehicle to be similar to a Highway Patrol or State Police vehicle or readily confused with it.

(D) The ~~director~~ Director of the Division of Public Safety shall file with the Legislative Council for publication in the State Register a description and illustration of the official highway patrol uniform with insignia and the emblems of the official highway patrol and motor vehicles including a description of the color of such uniforms and vehicles and a description and illustration of the official state police uniform with insignia and the emblems of the official state police and motor vehicles including a description of the color of such uniforms and vehicles.

(E) The South Carolina Highway Patrol Division shall transfer the service sidearm of an active duty trooper killed in the line of duty to the trooper’s surviving spouse upon request at no charge once the sidearm has been rendered permanently inoperable.

Section 23‑6‑110. In order to carry out the provisions of Section 23‑6‑100 in an orderly and economical manner it is intended that all serviceable uniforms be continued in use until such time as the ~~director~~ Director of the Division of Public Safety considers it necessary for them to be replaced. These provisions shall also apply to the emblems for motor vehicles.

Section 23‑6‑120. Every officer and trooper commissioned pursuant to this chapter shall file a bond, or be covered by a surety bond, with the ~~department~~ division in the amount of not less than two thousand dollars, subscribed by a duly licensed surety company, which shall be conditioned on the faithful performance of his duties. The duties include but are not limited to the prompt and proper accounting of all funds coming into his hands, the payment of any judgment recovered against him in any court of competent jurisdiction upon a cause of action arising out of breach or abuse of official duty or power, or the payment of damages sustained by any member of the public from any unlawful act of such officer or trooper. Coverage under such bond shall not include damage to persons or property arising out of the negligent operation of a motor vehicle. Such bond may be individual, schedule or blanket and on a form approved by the Attorney General. The premiums on such bonds shall be paid by the department.

Section 23‑6‑130. Any violation of Section 23‑6‑100 may be enjoined by the court of common pleas upon petition of the director after due notice to the person violating the provisions of Section 23‑6‑100 and after a hearing on the petition.

Section 23‑6‑140. The patrol of the highways of the State and the enforcement of the laws of the State relative to highway traffic, traffic safety, and motor vehicles shall be the primary responsibility of the troopers and officers of the South Carolina Highway Patrol. The troopers and officers of the State Police shall have the primary responsibility for the enforcement of laws relating to commercial motor carriers relating to size, weight, permits, licensing, and inspections for size and weight tolerance and safety. All officers and troopers shall have the same power to serve criminal processes against offenders as sheriffs of the various counties and also the same power as such sheriffs to arrest without warrants and to detain persons found violating or attempting to violate any laws of the State relative to highway traffic, motor vehicles or commercial motor carriers. These officers and troopers shall also have the same power and authority held by deputy sheriffs for the enforcement of the criminal laws of the State.

Section 23‑6‑145. A commissioned officer or a uniformed officer of the ~~department~~ Division of Public Safety may, upon reasonable belief that any vehicle is being operated in violation of any provision of statutory law, require the driver thereof to stop and exhibit the registration card issued for the vehicle, the individual’s driver’s license, and submit to an inspection of such vehicle and license.

Section 23‑6‑150. When any person is apprehended by a officer upon a charge of violating any laws of the State relative to highway traffic, motor vehicles or commercial motor carriers such person shall immediately be served with an official summons. The person charged may deposit bail with the arresting officer in lieu of being immediately brought before the proper magistrate, recorder, or other judicial officer to enter into a formal recognizance or make direct the deposit of a proper sum of money in lieu of a recognizance or incarceration. The apprehending officer may accept a sum of money as bail, not less than the minimum nor more than the maximum fine, but in no case to exceed two hundred dollars, to be in due course turned over to the judicial officer as money for bail. The bail deposited shall be in lieu of entering into a recognizance for his appearance for trial as set in the aforesaid summons or being incarcerated by the arresting officer and held for further action by the appropriate judicial officer. A receipt for the sum so deposited shall be given to such person by the arresting officer. The summons duly served as herein provided shall give the judicial officer jurisdiction to dispose of the matter. Upon receipt of the fixed sum of money the officer may release the person so charged as above provided for his further appearance before the proper judicial officer as provided for and required by the summons.

Section 23‑6‑170. No officer or trooper may be promoted to a higher rank until such time as the council adopts a promotion policy for commissioned personnel and officers as provided for in Section 23‑6‑520.

Section 23‑6‑180. The ~~Department~~ Division of Public Safety is directed to keep permanent records of all ~~Highway Patrolmen~~ highway patrolmen who are killed in the line of duty or die in any other manner while actively employed as well as records of those who are retired.

Section 23‑6‑185. Notwithstanding any other provisions of law, enforcement by the State Transport Police Division, of Articles 3 and 5, Chapter 23 ~~of~~, Title 58, shall be funded from the motor carrier registration fees collected by the Department of Motor Vehicles that previously were collected by the Public Service Commission and the ~~Department~~ Division of Public Safety. Additionally, the State Transport Police is authorized to expend the motor carrier registration fees to build or renovate weigh stations. All unexpended funds from prior years collected pursuant to this section may be retained and carried forward by the department for the same purposes.

Section 23‑6‑187. The ~~department~~ Division of Public Safety may charge a witness fee of one hundred thirty dollars per hour, up to one thousand dollars per day for each trooper trained in Advanced Accident Investigation testifying in civil matters which do not involve the State as a party in interest. The fee shall be charged in addition to any court prescribed payment due as compensation or reimbursement for judicial appearances and deposited into a designated revenue account. The ~~department~~ Division of Public Safety is authorized to receive, expend, retain, and carry forward these funds.

Section 23‑6‑190. All monies collected in the ~~Department~~ Division of Public Safety Building Fund, as established in Section 56‑3‑840 that exceed the annual bond payment and the amount needed for building repair must be utilized by the department to support the Highway Patrol.

Section 23‑6‑191. The ~~Department~~ Division of Public Safety may pay the cost of physical examinations for ~~department~~ division personnel who are required to receive physical examinations prior to or after receiving a law enforcement commission.

Section 23‑6‑193. The ~~department~~ Division of Public Safety may collect, expend, retain, and carry forward all funds received from other state or federal agencies as reimbursement for expenditures incurred when personnel and equipment are mobilized and expenses incurred due to an emergency.

Section 23‑6‑195. The ~~department~~ Division of Public Safety may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.

Article 5

~~Department~~ Division of Public Safety Special Constable

Section 23‑6‑200. For purposes of this article:

(1) ‘Former law enforcement officer’ means:

(a) an officer who was previously commissioned by the Governor and who during his law enforcement career worked for the ~~department~~ division;

(b) an officer who was commissioned by the Governor, and whose agency, office, or unit was transferred to the ~~department~~ division pursuant to governmental restructuring, including former retired officers;

(c) an officer who was previously commissioned by the Governor whose agency, office, or unit was transferred to the ~~department~~ division pursuant to governmental restructuring or any subsequent restructuring, including former retired officers; or

(d) other formerly commissioned law enforcement officers or retired officers in good standing from any law enforcement agency, state constables, or volunteer state constables serving without compensation whose appointment is certified by the State Law Enforcement Division as having completed the requisite training to maintain an active commission.

(2) ‘~~Department~~ Division of Public Safety Special Constable’ means a commission authorized by the ~~department~~ division for a former law enforcement officer as defined in (1).

(3) ‘Director’ means the chief administrative officer of the ~~Department~~ Division of Public Safety.

(4) ‘~~Department~~ Division’ means ~~Department~~ Division of Public Safety.

Section 23‑6‑210. (A) The director is authorized to establish programs for the commissioning of former law enforcement officers of the ~~department~~ division. An individual commissioned pursuant to this section shall receive a ~~Department~~ Division of Public Safety Special Constable commission.

(B) The powers and duties of these special constables shall be determined by the director and specified in writing, and individuals commissioned pursuant to this section shall be subject to removal by the director at any time. Before assuming their duties, special constables shall take the oath of office required by law and successfully complete a course of training specified by the director.

(C) A constable shall be entitled to enforce the laws of this State and exercise the duties of his office throughout the State except as may be limited in subsection (B).

(D) The course of training required in subsection (B) does not apply to former officers holding a valid commission issued by another agency or governmental entity, except that all officers shall meet any annual continuing training requirements established by the director in order to maintain their commissions.

Section 23‑6‑220. (A) Constables may not receive compensation including, but not limited to, salary for services rendered absent specific statutory authorization.

(B) Any uniforms and equipment issued by the ~~department~~ division shall remain the property of the ~~department~~ division, but may, in the discretion of the ~~director~~ division, be entrusted to the care and control of the constables. A constable assisting a full‑time ~~department~~ division law enforcement officer shall wear uniforms or other insignia which identify the constable as a special law enforcement officer assisting the ~~department~~ division.

(C) Workers’ compensation benefits may be provided on an as needed basis for special constables by the director in the same manner as benefits are provided for full‑time officers. For purposes of compensation or benefits arising from duty‑related injury or death, special constables shall be considered as employees of the ~~department~~ division.

Section 23‑6‑230. Identification cards registering a special constable must be issued by the ~~Department~~ Division of Public Safety for all individuals commissioned pursuant to this article.

Section 23‑6‑240. Notwithstanding any other provision of law, constables who have received the required training shall be authorized by the director to carry pistols on and about their persons unless otherwise restricted by the director in writing. However, the director, after hearing and for cause, may deny such privilege to any constable pursuant to this section who is guilty of using his pistol at any time in a manner inconsistent with accepted law enforcement procedures as determined by the director or who has been convicted of any crime for which a penalty of imprisonment for more than one year may be imposed. The term ‘conviction’ shall include a plea of guilty, a plea of nolo contendere, or forfeiture of bail.

Article 11

~~South Carolina Public Safety~~ Division of Public Safety Coordinating Council

Section 23‑6‑500. There is created a council to administer certain responsibilities of the ~~Department~~ Division of Public Safety and coordinate certain activities between the ~~department~~ division, the South Carolina Law Enforcement Division and municipal and county law enforcement agencies. The council is to be known as the ~~South Carolina~~ Division of Public Safety Coordinating Council.

Section 23‑6‑510. The council is composed of the following persons for terms as indicated:

(1) the Governor or his designee, to serve as chairman, for the term of the Governor;

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

(3) the Chairman of the Senate Judiciary Committee for his term of office in the Senate or his designee;

(4) the Chairman of the House of Representatives Judiciary Committee for his term of office in the House of Representatives or his designee;

(5) the Director of the ~~Department~~ Division of Public Safety;

(6) a sheriff appointed by the Governor for the term of office for which he is elected;

(7) a municipal police chief appointed by the Governor for a term of two years; and

(8) a victim representative appointed by the Governor for a term of four years.

Any vacancy occurring must be filled in the manner of the original appointment for the unexpired portion of the term.

Section 23‑6‑520. The council has the following duties to:

(1) recommend a hiring and promotion policy for commissioned personnel or officers to be administered under the sole authority of the director;

(2) establish a process for the solicitation of applications for public safety grants and to review and approve the disbursement of funds available under Section 402 ~~of~~, Chapter 4 ~~of~~, Title 1 of the Federal Highway Safety Program, public law 89‑564 in a fair and equitable manner;

(3) coordinate the use of ~~department~~ division personnel by other state or local agencies or political subdivisions;

(4) advise and consult on questions of jurisdiction and law enforcement and public safety activities between the ~~Department~~ Division of Public Safety, the South Carolina Law Enforcement Division and law enforcement agencies of local political subdivisions.

Section 23‑6‑530. The council may elect such other officers as it deems necessary from its membership and the members of the council shall serve without pay but are authorized, as eligible, to receive the usual per diem, mileage and subsistence provided for by law.”

SECTION 26. Section 23‑23‑30(A)(6) of the 1976 Code as added by Act 317 of 2006, is amended to read:

“(6) the Director of the South Carolina ~~Department~~ Division of Public Safety;”

SECTION 27. Section 23‑25‑20 of the 1976 Code is amended to read:

“Section 23‑25‑20. (A) The South Carolina Law Enforcement Officers Hall of Fame shall hereafter be administered as an office of the ~~Department~~ Division of Public Safety.

(B) There is created a South Carolina Law Enforcement Officers Hall of Fame Advisory Committee. The committee shall consist of the following ex officio members:

(1) the Director of the ~~Department~~ Division of Public Safety, who shall serve as chairman; the Chief of the State Law Enforcement Division;

(2) the Chief of the State Law Enforcement Division;

(3) the Director of the Department of Corrections;

(4) the Secretary of the South Carolina Sheriffs’ Association;

(5) the Executive Director of the South Carolina Law Enforcement Officers Association;

(6) the President of the South Carolina Police Chiefs Association, or his designee; and

(7) a representative of the Natural Resources Enforcement Division, to be appointed by the ~~Director~~ director of the ~~Department of Natural Resources~~ division.

(C) Members of the advisory committee may designate persons to represent them at meetings they are unable to attend.”

SECTION 28. Section 24‑5‑340 of the 1976 Code is amended to read:

“Section 24‑5‑340. Additional requirements beyond those set out in this article may be imposed by the local political entity through the responsible authority.

Upon request by the director and assurance by the director that minimum requirements have been met, identification cards registering a reserve’s status may be issued by the ~~Department~~ Division of Public Safety.”

SECTION 29. Section 36‑9‑410(B)(4) of the 1976 Code, as added by Act 265 of 2004, is amended to read:

“(4) to personal property titled by the ~~Department~~ Division of Public Safety or the Law Enforcement Division of the South Carolina Department of Natural Resources.”

SECTION 30. Section 38‑55‑530(A) of the 1976 Code is amended to read:

“(A) ‘Authorized agency’ means any duly constituted criminal investigative department or agency of the United States or of this State; the Department of Insurance; the Department of Revenue; the Department of Law Enforcement and Public Safety; the Department of Motor Vehicles; the Workers’ Compensation Commission; the State Accident Fund; the Second Injury Fund; the Employment Security Commission; the Department of Consumer Affairs; the Human Affairs Commission; the Department of Health and Environmental Control; the Department of Social Services; the Department of Health and Human Services; the Department of Labor, Licensing and Regulation; all other state boards, commissions, and agencies; the Office of the Attorney General of South Carolina; or the prosecuting attorney of any judicial circuit, county, municipality, or political subdivision of this State or of the United States, and their respective employees or personnel acting in their official capacity.”

SECTION 31. Section 38‑55‑570(C) of the 1976 Code is amended to read:

“(C) Any authorized agency provided with or obtaining information relating to a suspected false statement or misrepresentation as provided for above may release or provide the information to any other authorized agency. The Department of Insurance, the Department of Revenue, the ~~Department~~ Division of Public Safety, and the Department of Motor Vehicles shall report, but not adjudicate, all cases of suspected or reported false statement or misrepresentation to the Insurance Fraud Division of the Office of Attorney General of South Carolina for appropriate investigation or prosecution, or both. The Workers’ Compensation Commission may refer such cases as provided in Section 42‑9‑440.”

SECTION 32. Section 38‑73‑470 of the 1976 Code, as last amended by Act 324 of 2002, is further amended to read:

“Section 38‑73‑470. Two dollars of the yearly premium for uninsured motorist coverage is directed to be paid to the ~~South Carolina Department~~ Division of Public Safety to be placed on deposit with the State Treasurer in the ‘Uninsured Enforcement Fund’, payable on a quarterly basis, to provide for the costs of enforcing and administering the provisions of Article 3, Chapter 10, Title 56. Of the two dollars collected, eighty cents must be distributed to the South Carolina Highway Patrol and one dollar twenty cents must be distributed to the Department of Motor Vehicles. Interest earned by the ‘Uninsured Fund’ must be retained by that fund. There is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits.”

SECTION 33. Section 38‑77‑1120(a)(1) of the 1976 Code is amended to read:

“(1) the ~~South Carolina~~ State Law Enforcement Division, the ~~Department~~ Division of Public Safety, the sheriff’s department of any county of this State, and any duly constituted criminal investigative department or agency of another state of the United States;”

SECTION 34. Section 39‑9‑230 of the 1976 Code, as last amended by Act 501 of 1994, is further amended to read:

“Section 39‑9‑230. The Commissioner of Agriculture has general advisory authority over the implementation of the metric system in this State. To assist in the implementation there is created a nine member advisory committee including the executive officers or their designated staff member from the State Law Enforcement Division, the State Commission on Higher Education, the State Board for Technical and Comprehensive Education, the State Department of Education, the South Carolina Department of Transportation, ~~State Department~~ Division of Public Safety, the Department of Commerce, one member appointed by the Governor who is associated with the textile industry and serves without compensation, and one member appointed by the Governor from his staff. If a designated member ceases to be on the staff of the state agencies provided in this section, he no longer is a member of the advisory committee, and the executive officer shall serve or designate another member of his staff to serve on the committee. Members of the committee serve until this section and Section 39‑9‑240 have been implemented fully. The Commissioner of Agriculture, with the assistance and recommendations of the committee, shall:

(1) formulate a suggested program necessary to plan for the gradual implementation in the commerce of this State to the metric system;

(2) provide to the General Assembly recommendations for achieving conversion of units of measurement as used in this State to the metric system;

(3) encourage all state departments, divisions, agencies, boards, and commissions having authority or responsibility in matters concerning standards of weights and measurement to initiate planning for the gradual conversion to and implementation of the metric system of weights and measures of this State.”

SECTION 35. Section 43‑5‑1250 of the 1976 Code, as added by Act 102 of 1995, is amended to read:

“Section 43‑5‑1250. To promote independence and assist AFDC families in participating in the Department of Social Services employment and training program and in getting to their place of employment, reliable transportation services are needed. The department in conjunction with the ~~Department~~ Division of Public Safety shall endorse local efforts to develop a statewide network of mass transit systems.”

SECTION 36. Section 44‑4‑130(Q) of the 1976 Code is amended to read:

“(Q) ‘Public safety authority’ means the ~~Department~~ Division of Public Safety, the State Law Enforcement Division, or designated persons authorized to act on behalf of the ~~Department~~ Division of Public Safety, the State Law Enforcement Division including, but not limited to, local governmental agencies that act principally to protect or preserve the public safety, or full‑time commissioned law enforcement persons.”

SECTION 37. Section 54‑17‑60 of the 1976 Code, as added by Act 90 of 2003, is amended to read:

“Section 54‑17‑60. The Maritime Security Commission and the Naval Militia must coordinate their activities with federal, state, and local agencies responsible for maritime homeland security and Naval Militia functions as they relate to this title. These agencies shall include, but are not limited to, the State Law Enforcement Division, the Departments of Natural Resources, ~~Public Safety,~~ and Transportation, the Division of Public Safety and the Military Department, and their several state agencies; state, county, and municipal police departments including marine police components; and the South Carolina Army and Air National Guard.”

SECTION 38. Section 56‑1‑286(K)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(1) obtain a temporary alcohol license by filing with the department a form for this purpose. A one‑hundred‑dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be retained by the ~~Department~~ Division of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the administrative hearing provided for in this section or the final decision or disposition of the matter; and”

SECTION 39. Section 56‑1‑460(C) of the 1976 Code is amended to read:

“(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the ~~Department~~ Division of Public Safety for the Highway Patrol.”

SECTION 40. Section 56‑1‑1320(B) of the 1976 Code is amended to read:

“(B) Ninety‑five dollars of the collected fee must be credited to the General Fund of the State for use of the ~~Department~~ Division of Public Safety in the hiring, training, and equipping of members of the South Carolina Highway Patrol and Transportation Police and in the operations of the South Carolina Highway Patrol and Transportation Police.”

SECTION 41. Section 56‑1‑1760 of the 1976 Code is amended to read:

“Section 56‑1‑1760. Every licensee shall have his license in his immediate possession at all times when operating a moped and shall display it upon demand of any officer or agent of the ~~Department~~ Division of Public Safety or any police officer of the State.”

SECTION 42. Section 56‑1‑2220(G) of the 1976 Code, as added by Act 232 of 2008, is amended to read:

“(G) The records required by this section are subject to inspection by the ~~Department~~ Division of Public Safety.”

SECTION 43. Section 56‑1‑2230(E) of the 1976 Code, as added by Act 232 of 2008, is amended to read:

“(E) Fines collected pursuant to this section must be credited to the ~~Department~~ Division of Public Safety’s Transport Police Division.”

SECTION 44. Section 56‑3‑662 of the 1976 Code is amended to read:

“Section 56‑3‑662. The Department of Motor Vehicles shall charge a fee of five dollars for each identifier. The five‑dollar identifier fee must be remitted to the general fund. The Department of Motor Vehicles may promulgate regulations pursuant to this section. The five‑dollar fee collected pursuant to this section must be placed in a special restricted account by the Comptroller General to be used by the ~~Department~~ Division of Public Safety for the administration and enforcement of the provisions contained in Articles 3 and 5 of Chapter 23, Title 58, and for the building or renovation of weigh stations. All unexpended funds from prior years collected under this section may be retained and carried forward by the ~~Department~~ Division of Public Safety and used for these purposes.”

SECTION 45. Section 56‑3‑663 of the 1976 Code is amended to read:

“Section 56‑3‑663. The Department of Motor Vehicles is authorized to enter into reciprocal agreements with the regulatory agencies of other states having jurisdiction and authority over motor carriers to provide for base state agreements in which the registration of interstate carriers operating in participating states may be accomplished by registration in one base state. Carriers registering in this State under these agreements are subject to the jurisdiction and authority of the ~~Department~~ Division of Public Safety and the Department of Motor Vehicles for enforcement purposes. When the carrier’s base state is South Carolina, the Department of Motor Vehicles may require further filings of certificates of insurance, surety bonds, and other documents to show the carrier’s qualifications to operate. Participating carriers shall register their authority directly with the Department of Motor Vehicles and not with other state or local agencies.”

SECTION 46. Section 56‑3‑840 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“Section 56‑3‑840. The owner of every vehicle required to be registered and licensed under the provisions of this chapter who fails to register and license the vehicle and pay the specified fees or renewal, when and as required, upon registering the vehicle shall pay to the Department of Motor Vehicles a delinquency penalty fee of ten dollars, if the owner is delinquent less than fifteen days. If the owner is delinquent by fifteen days but less than thirty days, he shall pay a delinquency penalty of twenty‑five dollars. If the owner is delinquent by more than thirty days but less than ninety days, he shall pay a delinquency penalty fee of fifty dollars to the department. If the owner is delinquent by more than ninety days, he shall pay a delinquency penalty fee of seventy‑five dollars to the department. However, there is no delinquency penalty fee for campers and travel trailers subject to the registration fee under Section 56‑3‑720.

A person who drives, moves, or operates on a highway a vehicle for which a registration and license are required but have not been obtained within thirty days of the date when required is guilty of a misdemeanor.

All monies collected pursuant to this section, not to exceed the actual revenues collected in fiscal year 1999‑2000, must be annually deposited to a separate account and held in reserve for the ~~Department~~ Division of Public Safety. Notwithstanding any other provision of law, these monies must be deposited to the credit of the ~~department~~ division into a special fund in the office of the State Treasurer designated as the ‘~~Department~~ Division of Public Safety Building Fund’. The ~~Department~~ Division of Public Safety must use these monies and other unobligated monies for the purpose of issuing revenue bonds or for entering into a lease purchase agreement for a headquarters facility, including the renovation of existing facilities. The ~~Department~~ Division of Public Safety is authorized to initiate and direct a capital project to purchase or construct a new headquarters facility. Projects funded under this section other than for the construction or purchase of a new headquarters facility, including but not limited to, the expansion or renovation of an existing facility, must be approved by a joint resolution provided that if the ~~Department~~ Division of Public Safety employs a lease purchase agreement to build or purchase a new headquarters facility, the lease purchase agreement must be approved by the State Budget and Control Board. The cost of a headquarters facility must not exceed thirty million dollars unless a parking facility or garage is required.”

SECTION 47. Section 56‑5‑330 of the 1976 Code is amended to read:

“Section 56‑5‑330. ‘Safety glass’ shall mean any product composed of glass, so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when struck or broken or such other or similar product as may be approved by the ~~Department~~ Division of Public Safety.”

SECTION 48. Section 56‑5‑380 of the 1976 Code is amended to read:

“Section 56‑5‑380. Every county and municipality in this State and any other local board or body having authority to maintain any public highways or to regulate the traffic thereon, but not including the ~~Department~~ Division of Public Safety, is a ‘local authority’.”

SECTION 49. Section 56‑5‑765(A) and (B) of the 1976 Code is amended to read:

“(A) When a motor vehicle or motorcycle of a law enforcement agency, except a motor vehicle or motorcycle of the ~~Department~~ Division of Public Safety, is involved in a traffic collision that: (1) results in an injury or a death, or (2) involves a ~~privately‑owned~~ privately owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the State Highway Patrol must investigate the collision and must file a report with findings on whether the agency motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.

(B) When a motor vehicle or motorcycle of the ~~Department~~ Division of Public Safety is involved in a traffic collision that: (1) results in an injury or a death, or (2) involves a ~~privately‑owned~~ privately owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the sheriff of the county in which the collision occurred must investigate the collision, regardless of whether the collision occurred within an incorporated jurisdiction, and must file a report with findings on whether the ~~Department~~ Division of Public Safety’s motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.”

SECTION 50. Section 56‑5‑1270 of the 1976 Code is amended to read:

“Section 56‑5‑1270. The operator or owner of a motor vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars or more which was not investigated by a law enforcement officer, within fifteen days after the accident, shall forward a written report and verification of liability insurance coverage of the accident to the Department of Motor Vehicles, the proof and report to be in a manner prescribed by the Department of Motor Vehicles and the ~~Department~~ Division of Public Safety. The completed and verified form must be returned by the operator or owner to the Department of Motor Vehicles within fifteen days from the accident date. Failure to forward the accident report verified in the proper manner in respect to liability insurance coverage for the operation of the vehicle involved in the accident is prima facie evidence that the vehicle was uninsured.

Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident that results in injury to or death of any person or total property damage to an apparent extent of one thousand dollars or more either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses, within twenty‑four hours after completing the investigation, must forward a written report of the accident to the Department of Motor Vehicles including the names of interviewed participants and witnesses. If a two‑wheeled motorized vehicle is involved in the accident and the operator or a passenger of the vehicle suffers a head injury, the injury must be indicated on the report.”

SECTION 51. Section 56‑5‑1300 of the 1976 Code is amended to read:

“Section 56‑5‑1300. The ~~Department~~ Division of Public Safety shall prepare and upon request supply to police departments, coroners, sheriffs, garages and other suitable agencies or individuals forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved. Every accident report required to be made in writing shall be made on the appropriate form approved by the ~~Department~~ division and shall contain all of the information required therein unless not available.”

SECTION 52. Section 56‑5‑1320 of the 1976 Code is amended to read:

“Section 56‑5‑1320. Every coroner or other official performing like functions shall on or before the tenth day of each month report in writing to the ~~Department~~ Division of Public Safety the death of any person within his jurisdiction during the preceding calendar month as the result of a traffic accident, giving the time and place of the accident and the circumstances relating thereto.”

SECTION 53. Section 56‑5‑1330 of the 1976 Code is amended to read:

“Section 56‑5‑1330. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in Section 56‑5‑1270 or struck by any bullet shall report to the ~~Department~~ Division of Public Safety within twenty‑four hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle.”

SECTION 54. Section 56‑5‑1340 of the 1976 Code is amended to read:

“Section 56‑5‑1340. All accident reports made by persons involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles, ~~Department~~ Division of Public Safety, or other State agencies having use for the records for accident prevention purposes. The Department of Motor Vehicles may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident and may upon request disclose to any person who has suffered injury to his person or property any information contained on any report regarding the existence of insurance. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the Department of Motor Vehicles shall furnish, upon demand of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department of Motor Vehicles solely to prove a compliance or a failure to comply with the requirement that such a report be made to the Department of Motor Vehicles.”

SECTION 55. Section 56‑5‑1350 of the 1976 Code is amended to read:

“Section 56‑5‑1350. The ~~Department~~ Division of Public Safety must tabulate and may analyze all accident reports as required in Section 56‑5‑1270 and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.”

SECTION 56. Section 56‑5‑1520(I) of the 1976 Code is amended to read:

“(I) In expending the funds credited to the state general fund from fines generated under subsection (G), the ~~Department~~ Division of Public Safety first shall consider the need for additional highway patrolmen.”

SECTION 57. Section 56‑5‑2930(F) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(F) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the ~~Department~~ Division of Public Safety the Highway Patrol.”

SECTION 58. Section 56‑5‑2933(F) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(F) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the ~~Department~~ Division of Public Safety the Highway Patrol.”

SECTION 59. Section 56‑5‑2945(C) of the 1976 Code is amended to read:

“(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the ~~Department~~ Division of Public Safety for the Highway Patrol.”

SECTION 60. Section 56‑5‑2951(B)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be retained by the ~~Department~~ Division of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the administrative hearing, the temporary alcohol license remains in effect until the Department of Motor Vehicles issues the hearing officer’s decision and sends notice to the person that he is eligible to receive a restricted license pursuant to subsection (H); and”

SECTION 61. Section 56‑5‑2953(D),(E) and (F) of the 1976 Code is amended to read:

“(D) SLED is responsible for purchasing, maintaining, and supplying all necessary video recording equipment for use at the breath test sites. SLED also is responsible for monitoring all breath test sites to ensure the proper maintenance of video recording equipment. The ~~Department~~ Division of Public Safety is responsible for purchasing, maintaining, and supplying all ~~videotaping~~ video recording equipment for use in all law enforcement vehicles used for traffic enforcement. The ~~Department~~ Division of Public Safety also is responsible for monitoring all law enforcement vehicles used for traffic enforcement to ensure proper maintenance of video recording equipment.

(E) Beginning one month from the effective date of this section, all of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by SLED to equip all breath test sites with video recording devices and supplies. Once all breath test sites have been equipped fully with video recording devices and supplies, eighty‑seven and one‑half percent of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by the ~~Department~~ Division of Public Safety to purchase, maintain, and supply video recording equipment for vehicles used for traffic enforcement. The remaining twelve and one‑half percent of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by SLED to purchase, maintain, and supply video recording equipment for the breath test sites. Funds must be distributed by the State Treasurer to the ~~Department~~ Division of Public Safety and SLED on a monthly basis. The ~~Department~~ Division of Public Safety and SLED are authorized to carry forward any unexpended funds received in accordance with Section 14‑1‑208(C)(9) as of June thirtieth of each year and to expend these carried forward funds for the purchase, maintenance, and supply of video recording equipment. The ~~Department~~ Division of Public Safety and SLED must report the revenue received under this section and the expenditures for which the revenue was used as required in the ~~department’s~~ Divison of Public Safety and SLED’s annual appropriation request to the General Assembly.

(F) The ~~Department~~ Division of Public Safety and ~~the~~ SLED must promulgate regulations necessary to implement the provisions of this section.”

SECTION 62. Section 56‑5‑3660 of the 1976 Code is amended to read:

“Section 56‑5‑3660. It shall be unlawful for any person under the age of twenty‑one to operate or ride upon a two‑wheeled motorized vehicle unless he wears a protective helmet of a type approved by the ~~Department~~ Division of Public Safety. Such a helmet must be equipped with either a neck or chin strap and be reflectorized on both sides thereof. The department is hereby authorized to adopt and amend regulations covering the types of helmets and the specifications therefor and to establish and maintain a list of approved helmets which meet the specifications as established hereunder.”

SECTION 63. Section 56‑5‑3670 of the 1976 Code is amended to read:

“Section 56‑5‑3670. It shall be unlawful for any person under the age of twenty‑one to operate a two‑wheeled motorized vehicle unless he wears goggles or a face shield of a type approved by the ~~Department~~ Division of Public Safety. The ~~department~~ division is hereby authorized to adopt and amend regulations covering types of goggles and face shields and the specifications therefor and to establish and maintain a list of approved goggles and face shields which meet the specifications as established hereunder.”

SECTION 64. Section 56‑5‑3680 of the 1976 Code is amended to read:

“Section 56‑5‑3680. The provisions of Section 56‑5‑3670 with respect to goggles and face shields shall not apply to the operator of a two‑wheeled motorized vehicle equipped with a wind screen meeting specifications established by the ~~Department~~ Division of Public Safety. The ~~department~~ division is hereby authorized to adopt and amend regulations covering types of wind screens and specifications therefor.”

SECTION 65. Section 56‑5‑3690 of the 1976 Code is amended to read:

“Section 56‑5‑3690. It shall be unlawful to sell, offer for sale or distribute any protective helmets, goggles or face shields for use by the operators of two‑wheeled motorized vehicles, or protective helmets for the use of passengers thereon, unless they are of a type and specification approved by the ~~Department~~ Division of Public Safety and appear on the list of approved devices maintained by the ~~department~~ division.”

SECTION 66. Section 56‑5‑3900(B)(2) of the 1976 Code is amended to read:

“(2) the child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load of not less than five thousand pounds for each belt, and of a type approved by the ~~Department~~ Division of Public Safety;”

SECTION 67. Section 56‑5‑4030(B) of the 1976 Code is amended to read:

“(B) The total outside width of a vehicle or the load on it may not exceed one hundred two inches exclusive of safety devices approved by the ~~Department~~ Division of Public Safety.”

SECTION 68. Section 56‑5‑4035 of the 1976 Code is amended to read:

“Section 56‑5‑4035. The Department of Transportation may, under such terms and conditions as it may deem to be in the public interest for safety on the highways and in addition to any other permits required by Title 56, issue annual permits for vehicles transporting culvert pipe on public highways. No permit shall be issued for loads exceeding a width of one hundred six inches, exclusive of safety devices approved by the ~~Department~~ Divisionof Public Safety. The fee for each permit shall be fifteen dollars for each vehicle hauling such loads.

Any person violating the provisions of this section or any regulation promulgated by authority hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed two hundred dollars or imprisoned for a term not to exceed thirty days.”

SECTION 69. Section 56‑5‑4070(A) and (B) of the 1976 Code is amended to read:

“(A) Two or three unit vehicle combinations may be operated on the National System of Interstate and Defense Highways, on those qualifying federal‑aid highways so designated by the United States Secretary of Transportation, and on other highways as designated by the Department of Transportation in accordance with Section 56‑5‑4075. The ~~Department~~ Division of Public Safety may require warning devices which may be necessary to protect public safety. When in use on the National System of Interstate and Defense Highways and ‘other qualifying highways’:

(1) No trailer or semitrailer may be operated in a two unit truck tractor‑trailer or truck tractor‑semitrailer combination in excess of fifty‑three feet, inclusive of the load carried on it. A fifty‑three foot long trailer must be equipped with a rear underride guard, and the distance between the kingpin of the vehicle and the center of the rear axle assembly or to the center of the tandem axle assembly if equipped with two axles may be no greater than forty‑one feet.

(2) A trailer or semitrailer, operating in a three unit combination, may not exceed a length of twenty‑eight and one‑half feet, inclusive of the load carried on it.

(3) Auto and boat transporters may not have an overall length in excess of seventy‑five feet, exclusive of front and rear overhang. However, front overhang may not exceed three feet, and rear overhang may not exceed four feet.

(4) Saddle mounts and full mounts may not have an overall length in excess of seventy‑five feet.

(B) No motor vehicle, exclusive of truck tractors being used in two or three unit combinations on the National System of Interstate and Defense Highways, on those qualifying federal‑aid highways so designated by the United States Secretary of Transportation, and on other highways as designated by the Department of Transportation in accordance with Section 56‑5‑4075, may exceed a length of forty feet extreme overall dimension, inclusive of front and rear bumpers and load carried on it, except buses as approved by the ~~Department~~ Division of Public Safety, or motor homes which may not exceed forty‑five feet in length, if the turning radius of the motor home is forty‑eight feet or less.”

SECTION 70. Section 56‑5‑4075 of the 1976 Code is amended to read:

“Section 56‑5‑4075. The ~~Department~~ Division of Public Safety and the Department of Transportation may promulgate regulations as necessary to implement the provisions of this article. Regulations may be promulgated to make designations as are necessary to provide for those vehicles which operate on the National System of Interstate and Defense Highways and ‘other qualifying highways’ pursuant to Sections 56‑5‑4030 and 56‑5‑4070 reasonable access to:

(a) terminals, facilities for food, fuel, repairs, and rest;

(b) points of loading and unloading for household goods carriers and auto transporters; and

(c) specific industrial, commercial, warehousing, and similar sites, only after consulting with and considering the views of the local governments through whose jurisdictions such specific site access would pass.

The Department of Transportation may cooperate with the United States Government by providing information to accomplish uniformity in designating ‘other qualifying highways’. The information may only be provided after safety and operational requirements of the citizens of this State have been studied by the Department of Transportation. Any proposals by the Department of Transportation to add highways, other than those provided for in (a), (b), and (c) of this section, to the network of ‘qualifying highways’ designated by the U. S. Secretary of Transportation must be approved by the General Assembly before they become effective.

The Governor may petition the Secretary of Transportation of the United States to remove any highway federally designated under the Surface Transportation Assistance Act of 1982 [49 ~~USCS~~ U.S.C. Appx Sections 2301, et seq.], as amended by Congress, and not considered safe.”

SECTION 71. The first two paragraphs of Section 56‑5‑4140(A)(4) of the 1976 Code are amended to read:

“(4) Vehicles with an overall maximum gross weight in excess of 75,185 pounds may operate upon any highway or section of highway in the Interstate System up to an overall maximum of 80,000 pounds in accordance with the following:

The weight imposed upon the highway by any group of two or more consecutive axles may not, unless specially permitted by the ~~Department~~ Division of Public Safety exceed an overall gross weight produced by the application of the following formula:

W = 500 (LN/N‑1 + 12N + 36).”

SECTION 72. Section 56‑5‑4160 of the 1976 Code, as last amended by Act 234 of 2008, is further amended to read:

“Section 56‑5‑4160. (A) An officer or agent of the ~~Department~~ Division of Public Safety having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle and load either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales. Whenever an officer upon weighing a vehicle and load determines that the weight is unlawful, he may require the driver to stop the vehicle in a suitable place and remain standing until the portion of the load necessary to reduce the axle weight, or gross weight of the vehicle, or both, to the limits permitted under this chapter is removed. All material unloaded must be cared for by the owner or operator of the vehicle at his own risk. In determining whether the limits established by Section 56‑5‑4130 or 56‑5‑4140 have been exceeded, the scaled weights of the gross weight of vehicles and combinations of vehicles are considered to be not closer than ten percent to the true gross weight, except as otherwise provided in Section 56‑5‑4140.

(B) A person who operates a vehicle on a public highway whose axle weight is in excess of the limits imposed by Section 56‑5‑4130 or 56‑5‑4140 is guilty of a misdemeanor and, upon conviction, must be fined five cents per pound or imprisoned not more than thirty days, or both. If a vehicle does not exceed the gross weight limits provided for by this article, and the axle weight limits are not exceeded by more than five percent including enforcement tolerances, the fine imposed is reduced by fifty percent with a minimum fine of twenty‑five dollars.

(C) A person who operates a vehicle found to exceed the excess gross weight limitations imposed by Section 56‑5‑4130 or 56‑5‑4140 is guilty of a misdemeanor and, upon conviction, shall pay to the ~~Department~~ Division of Public Safety a fine based on the following scale:

(1) 500‑3,500 pounds: four cents per pound over weight limit;

(2) 3,501‑6000 pounds: six cents per pound over weight limit, beginning with the first pound in excess;

(3) 6,001 pounds and over: ten cents per pound over weight limit, beginning with the first pound in excess.

The fine imposed pursuant to items (1) and (2) must be equal to one‑half the rate for vehicles transporting raw farm or forest products from the farm or forest to the first market, or by fully enclosed motor vehicles designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters, or by motor vehicles operating open top trailers used for hauling recyclables, scrap, and waste materials from sites without facilities for weighing, when operating for those purposes. If an operator is found to be in violation of both gross and axle limits, only one citation may be issued, the fine being for the greater of the two, for that load. No fine may be issued for violation of the vehicle registration statutes if that vehicle is registered for the maximum allowable weight for that class of vehicle as provided in Section 56‑5‑4140.

If the operator of the vehicle, upon conviction, fails to remit the fine imposed by this subsection to the ~~Department~~ Division of Public Safety, the owner of the vehicle is responsible for remitting the fine. The court is prohibited from suspending any portion of this fine.

(D)(1) A person who operates a vehicle found to have out‑of‑service violations, other than violations of brakes out of adjustment and lighting violations which can be repaired at the scene, detected during a roadside inspection, is guilty of a misdemeanor and, upon conviction, shall pay to the ~~Department~~ Division of Public Safety a fine of two hundred dollars.

(2)(a) An individual who operates a commercial motor vehicle on a public highway whose vehicle or driver is in violation of the out‑of‑service order as defined in 49 ~~CFR~~ C.F.R. 390.5 is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars.

(b) A company or individual who operates or allows a commercial motor vehicle to be operated on a public highway in violation of a motor carrier operation out‑of‑service order, or order to cease operation, is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars.

(3) If the operator of the vehicle, upon conviction, fails to remit the fine imposed by this subsection to the ~~Department~~ Division of Public Safety, the owner of the vehicle is responsible for remitting the fine. The court is prohibited from suspending any portion of this fine.

(E) At the time that a uniform size, weight, and safety citation is issued pursuant to this section, the officer or agent who is authorized to issue the citation must inform the individual receiving the citation that he has the option, at that time, to elect to pay his fine directly to the ~~Department~~ Division of Public Safety or to receive a hearing in magistrate’s court. If the individual at the time the citation is issued elects to pay his fine directly to the department within twenty‑eight days, as specified on the citation, no assessments may be added to the original fine pursuant to this section. The fine may be deposited with the arresting officer or a person the ~~department~~ division may designate. The fine must be deposited in full or other arrangements satisfactory to the ~~department~~ division for payment must be made before the operator is allowed to move the vehicle.

(F) Magistrates have jurisdiction of all contested violations of this section. All monies collected pursuant to Section 56‑5‑4160 must be forwarded to the ~~Department~~ Division of Public Safety as provided for in this section. A magistrate, within forty‑five days, must forward all monies collected to the department for deposit in the account established in this section. The department shall use these monies to establish and maintain automated data bases, to upgrade and refurbish existing weigh stations, to purchase and maintain portable scales, to hire additional State Transport Police Officers, to purchase equipment for State Transport Police Officers, and to procure other commercial motor vehicle safety measures, and fund other commercial motor vehicle safety programs that the department considers necessary. The fine may be deposited with the arresting officer or a person the department may designate. The fine must be deposited in full or other arrangements satisfactory to the department for payment must be made before the operator is allowed to move the vehicle. If there is no conviction, the fine must be returned to the owner promptly.

‘Conviction’, as used in this section, also includes the entry of a plea of guilty or nolo contendere and the forfeiture of bail or collateral deposited to secure a defendant’s presence in the court.

If the fine is not paid in full to the ~~Department~~ Division of Public Safety SLED within forty‑five days after conviction, the license and registration of the vehicle found to violate Section 58‑23‑1120 or Regulations 38‑423 et seq. or exceed the limits imposed by Section 56‑5‑4130 or 56‑5‑4140 must be suspended. The owner of the vehicles immediately shall return the license and registration of the vehicle to the Department of Motor Vehicles. If a person fails to return them as provided in this section, the Department of Motor Vehicles may secure possession of them by a commissioned trooper or officer. The suspension continues until the fine is paid in full.

(G) The ~~Department~~ Division of Public Safety shall provide a separate uniform citation to be used by the State Transport Police Division of the ~~Department~~ Division of Public Safety. The uniform citation must be used for all size, weight, idling, and safety violations which the State Transport Police Division of the ~~Department~~ Division of Public Safety is primarily responsible for enforcing.

(H) The issuance of a uniform citation to the operator of a vehicle for a violation of this section, Section 58‑23‑1120, or Regulation 38‑423, et seq., constitutes notice to the owner of the violation. The uniform citation must include the following language in bold letters to be printed across the bottom of the citation ‘THE ISSUANCE OF A UNIFORM CITATION NOTICE TO THE OPERATOR OF A VEHICLE CONSTITUTES NOTICE TO THE OWNER OF A SIZE, WEIGHT, IDLING, OR SAFETY VIOLATION’.

(I) An individual who fails to conduct a safety inspection of a vehicle as required by Part 396 of the Federal Motor Carrier Safety Regulations or fails to have in his possession documentation that an inspection has been performed must be fined one hundred dollars per vehicle operated in violation of this subsection.

(J) Motor carriers, officers, or agents in charge of them, who fail or refuse to permit authorized State Transport Police representatives or employees to examine and inspect their books, records, accounts, and documents, or their plants, property, or facilities, as provided by law and with reasonable notice, are guilty of a misdemeanor. Each day of such failure or refusal constitutes a separate offense and each offense is punishable by a fine of one thousand dollars.

(K) Notwithstanding any other provision of law, all fines collected pursuant to this section must be deposited into an account in the Office of the State Treasurer and called the ‘Size, Weight, and Safety Revitalization Program Fund for Permanent Improvements’. Monies credited to the fund may only be expended as authorized in item (F) of this section.

(L) Notwithstanding any other provision of law, the maximum gross vehicle weight and axle weight limit for a vehicle or combination of vehicles equipped with an idle reduction system, as provided for in 23 U.S.C. 127, may be increased by an amount equal to the weight of the system, not to exceed four hundred pounds. Upon request by a law enforcement officer, the vehicle operator must provide proof that the system is fully functional and that the vehicle’s gross weight increase allowed pursuant to this section is attributable only to the system.”

SECTION 73. Section 56‑5‑4170(C) and (F) of the 1976 Code is amended to read:

“(C) The ~~Department~~ Division of Public Safety State Transport Police, if requested by the State Ports Authority, may as a public safety service, enter upon, and perform courtesy inspections of vehicles for purposes of identifying and tagging vehicles which may require mechanical work before being tendered for use on public highways.

(F) The ~~Department~~ Division of Public Safety shall develop and maintain a separate database on roadside vehicle inspection reports for power unit defects and for defects on any vehicle tendered to the motor carrier. The database may be used to identify and monitor those entities whose responsibility it is to provide any vehicle to motor carriers in roadworthy conditions as prescribed by the FMCSR. Roadside vehicle inspection reports noting defects on any vehicle where there is not ownership by the motor carrier must not be used or applied against the motor carrier when this information may affect the motor carrier’s overall record of compliance with the FMCSR.”

SECTION 74. Section 56‑5‑4840 of the 1976 Code is amended to read:

“Section 56‑5‑4840. It shall be unlawful for any person to sell, offer for sale or use any device or equipment which tends to change the original design or performance of any head lamps or any other lamps or reflectors required by law to be attached to motor vehicles, trailers or semitrailers unless the equipment or device has been approved by the director of the ~~Department~~ Division of Public Safety.”

SECTION 75. Section 56‑5‑4880 of the 1976 Code is amended to read:

“Section 56‑5‑4880. (a) The ~~Department~~ Division of Public Safety is authorized to require an inspection of the braking system on any motor‑driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in Section 56‑5‑4860, or which in its opinion is equipped with a braking system that is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) The Department of Motor Vehicles may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the ~~Department~~ Division of Public Safety determines that the braking system thereon does not comply with the provisions of this section.

(c) No person shall operate on any highway any vehicle referred to in this section in the event the ~~Department~~ Division of Public Safety has disapproved the braking system upon such vehicle.”

SECTION 76. Section 56‑5‑4970 of the 1976 Code is amended to read:

“Section 56‑5‑4970. Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the ~~Department~~ Division of Public Safety, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter event the driver of such vehicle shall sound such siren when necessary to warn pedestrians and other drivers of the approach thereof.”

SECTION 77. Section 56‑5‑5015(E) of the 1976 Code is amended to read:

“(E) Each vehicle equipped with an after‑factory sunscreening device, whether installed by a consumer or professional window tinter, at all times must bear a certificate of compliance. The certificate of compliance must be of a size and form prescribed by the ~~Department~~ Division of Public Safety. Each certificate of compliance must be properly attached to the vehicle on the inside and lower right hand corner of each window containing an after‑factory installed sunscreen device and must contain the following information:

(1) the percentage of light transmission allowed by the sunscreening device;

(2) the identity of the installer by name, address, and telephone number; and

(3) date of installation.”

SECTION 78. Section 56‑5‑5080 of the 1976 Code is amended to read:

“Section 56‑5‑5080. As an alternative it shall be deemed a compliance with Sections 56‑5‑5060 and 56‑5‑5070 in the event the person operating any motor vehicle described therein shall carry in such vehicle three portable reflector units on standards of a type approved by the ~~Department~~ Division of Public Safety. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within five hundred to fifty feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.”

SECTION 79. Section 56‑5‑5120 of the 1976 Code is amended to read:

“Section 56‑5‑5120. In the alternative it shall be deemed a compliance with ~~Sections~~ Section 56‑5‑5090, 56‑5‑5100 or 56‑5‑5110 in the event three portable reflector units on standards of a type approved by the ~~Department~~ Division of Public Safety are displayed at the times and under the conditions specified in said sections, either during the daytime or at nighttime, and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.”

SECTION 80. Section 56‑5‑5140 of the 1976 Code is amended to read:

“Section 56‑5‑5140. Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section. Such vehicle shall be marked or placarded on each side and the rear with the word ‘Explosive’ in letters not less than eight inches high or there shall be displayed on the rear of such vehicle a red flag not less than twenty‑four inches square marked with the word ‘Danger’ in white letters six inches high. Every such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use and placed at a convenient point on the vehicle so used.

The ~~Department~~ Division of Public Safety shall promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as it shall deem advisable for the protection of the public.”

SECTION 81. Section 56‑5‑5810(e) of the 1976 Code is amended to read:

“(e) ‘Colored tag’ means any type of notice affixed to an abandoned or derelict vehicle advising the owner or the person in possession that it has been declared an abandoned or derelict vehicle and will be treated as such. The tag shall be of sufficient size to be easily discernable and shall contain such information as the ~~Department~~ Division of Public Safety deems necessary to carry out the provisions of this article.”

SECTION 82. Section 56‑5‑5870 of the 1976 Code is amended to read:

“Section 56‑5‑5870. The ~~Department~~ Division of Public Safety, or any county or municipality may contract with any federal, other state, county, or municipal authority or private enterprise for tagging, collection, storage, transportation, or any other services necessary to prepare derelict or abandoned vehicles for recycling or other methods of disposal. Publicly‑owned properties, when available, shall be provided as temporary collecting areas for the motor vehicles defined herein.”

SECTION 83. Section 56‑5‑5880 of the 1976 Code is amended to read:

“Section 56‑5‑5880. All officers, employees, and agents of any person under contract with the ~~Department~~ Division of Public Safety, county, or municipality, are authorized to go on private property for the purposes of enforcing this article. No agent or employee of any federal, state, county, or municipal government or other political subdivision, no person or occupant of the premises from which any derelict or abandoned motor vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such motor vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this article unless such person is guilty of ~~willfulness~~ wilfullness, wantonness, or recklessness.”

SECTION 84. Section 56‑5‑6170 of the 1976 Code is amended to read:

“Section 56‑5‑6170. The ~~Department~~ Division of Public Safety shall administer and enforce the provisions of this chapter with respect to State highways, and law enforcement officers generally ~~shall also~~ also shall enforce this chapter within their respective jurisdictions. No police officer in investigating a traffic accident shall necessarily deem the fact that an accident has occurred as giving rise to the presumption that a violation of a law has occurred. Arrests and criminal prosecution for violation of this chapter shall be based upon evidence of a violation of the law.”

SECTION 85. Section 56‑5‑6525(A) of the 1976 Code, as last amended by Act 147 of 2005, is further amended to read:

“(A) The ~~Department~~ Division of Public Safety or any other law enforcement agency must not use a ‘Click It or Ticket’ campaign or a similar endeavor of systematic checkpoints or roadblocks as a law enforcement tool where the principal purpose is to detect and issue a ticket to a violator of the provisions of this article on either a primary or secondary basis.”

SECTION 86. Section 56‑5‑6560(A) and (B) of the 1976 Code, as added by Act 147 of 2005, is amended to read:

“(A) Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, the officer who initiated the stop must complete a data collection form designed by the ~~Department~~ Division of Public Safety that must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle. This information may be gathered and transmitted electronically under the supervision of the department which shall develop and maintain a database storing the information collected. The department must promulgate rules and regulations with regard to the collection and submission of the information gathered.

(B) The ~~Department~~ Division of Public Safety shall develop and maintain a database for the information submitted to the department under subsection (A) and prepare a report to be posted on the department’s website regarding motor vehicle stops using the collected information.”

SECTION 87. Section 56‑5‑6565 of the 1976 Code, as added by Act 147 of 2005, is amended to read:

“Section 56‑5‑6565.(A) The ~~Department~~ Division of Public Safety shall develop and implement education programs designed to create awareness of the state’s safety belt laws and to increase safety belt use in rural and ethnically diverse areas throughout the State. The ~~Department~~ Division of Public Safety, when securing consultant, contractor, and subcontractor services for developing and implementing programs related to safety belt laws, shall select providers that have experience working with the communities the provider is procured to target. The ~~Department~~ Division of Public Safety shall confer with members of the targeted communities for input on the development of effective safety education programs and on the identification of providers that have the appropriate experience with the targeted communities.

(B) The Department of Transportation may develop additional programs to promote safety belt use or may coordinate with the ~~Department~~ Division of Public Safety to fund and carry out the programs jointly. If there is coordination between the two departments, the ~~Department~~ Division of Public Safety has final authority on all issues including, but not limited to, program content and dissemination, allocation of funds, and procurement procedures.

(C) The ~~Department~~ Division of Public Safety may use available federal funds or private sector contributions to meet the requirements of subsection (A). The General Assembly may provide funds to supplement federal or private sector funds used by the ~~Department~~ Division of Public Safety or the Department of Transportation to develop and implement the programs described in subsection (A). The General Assembly shall provide the ~~Department~~ Division of Public Safety the funds necessary to meet the requirements of subsection (A), if federal or private sector funds are unavailable.”

SECTION 88. The final undesignated paragraph of Section 56‑7‑10 of the 1976 Code, as last amended by Act 68 of 2005, is further amended to read:

“No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all traffic, recorders’, and magistrates’ courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served. This ticket will be designed by the department and approved by the Attorney General within thirty days of submission by the department. A law enforcement agency may utilize computers and other electronic devices to issue uniform traffic citations and store information resulting from the issuance of a traffic citation if this method of issuing a citation has been approved by the ~~Department~~ Division of Public Safety.”

SECTION 89. Section 56‑7‑12(A) of the 1976 Code is amended to read:

“(A) When the operator or owner of an individual private passenger automobile as defined in Section 38‑77‑30(5.5) is issued a traffic ticket for a moving violation by a law enforcement officer, he may be furnished a written request form to be completed by him and his insurance company or the agent issuing the policy to verify liability insurance coverage. The form must be prescribed by the Department of Motor Vehicles and the ~~Department~~ Division of Public Safety.”

SECTION 90. Section 56‑7‑30(A) of the 1976 Code, as last amended by Act 68 of 2005, is further amended to read:

“(A) The ~~Department~~ Division of Public Safety shall have the traffic tickets printed. Law enforcement agencies shall order tickets from the ~~Department~~ Division of Public Safety and shall record the identifying numbers of the tickets received by them. The cost of the tickets must be paid by the law enforcement agency. The Department of Motor Vehicles records and audit copy must be forwarded to the Department of Motor Vehicles within ten days of the disposition of the case by final trial court action or by nolle prosequi. The head of each law enforcement agency is responsible for the forwarding of the driver records and audit copies to the Department of Motor Vehicles and for conducting an annual inventory on December thirty‑first of all tickets received but not disposed of by final trial court action or by nolle prosequi, and for forwarding the results of the inventory on a form prescribed by the Department of Motor Vehicles to the Department of Motor Vehicles within ten days of the completion of the inventory.”

SECTION 91. The first undesignated paragraph of Section 56‑9‑350 of the 1976 Code is amended to read:

Section 56‑9‑350. The operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more, or in bodily injury or death, must be furnished a written request form at the time of the accident, or as soon after the accident as possible, by the investigating officer for completion and verification of liability insurance coverage, the form to be in a manner prescribed by the Department of Motor Vehicles and the ~~Department~~ Division of Public Safety.”

SECTION 92. Section 56‑10‑45(A) of the 1976 Code is amended to read:

“(A) The ~~Department~~ Division of Public Safety and the Department of Motor Vehicles each may enter into agreements with other municipal and county law enforcement agencies for the collection of suspended or revoked drivers’ licenses, motor vehicle registrations, and motor vehicle plates. The contracting department must assess a fifty dollar fine for each item recovered pursuant to this section in addition to any other fines assessed. Upon collection, this fine must be returned on a quarterly basis to the general fund of the municipality or county which initiated the enforcement action.”

SECTION 93. Section 56‑10‑552 of the 1976 Code is amended to read:

“Section 56‑10‑552. (A) All funds collected as provided in Section 38‑73‑470 must be directed to the ~~director~~ Director of the ~~Department~~ Division of Public Safety for the establishment and maintenance of a special fund, to be known as the ‘Uninsured Enforcement Fund’, to be used by the ~~Department~~ Division of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56.

(B) Fifty percent of the reinstatement fee as provided by Section 56‑10‑510(1) must be transferred by the ~~Department~~ Division of Public Safety and recorded to the Uninsured Enforcement Fund to be used by the ~~Department~~ Division of Public Safety as provided by subsection (A) of this section. The remaining fifty percent of the reinstatement fee as provided by Section 56‑10‑510 must be retained in the Uninsured Motorist Fund to be used as provided in Sections 56‑10‑550, 38‑77‑151, and 38‑77‑154.”

SECTION 94. Section 56‑11‑20 of the 1976 Code is amended to read:

“Section 56‑11‑20. The Department of Motor Vehicles and the ~~Department~~ Division of Public Safety each shall enforce this chapter with respect to the possession of correct registration and display of the proper identification marker. Notwithstanding other provisions of this chapter, the department may enter into an agreement with other states in a registration and identification marker reciprocal agreement known as the International Fuel Tax Agreement (IFTA). Qualified vehicles operating in accordance with this agreement are not required to purchase other fuel markers in member states.”

SECTION 95. Section 56‑11‑40 of the 1976 Code is amended to read:

“Section 56‑11‑40. The Department of Motor Vehicles, the ~~Department~~ Division of Public Safety, and their agents and representatives have the right at any reasonable time to examine the books and records of any motor carrier.”

SECTION 96. Section 56‑15‑420 of the 1976 Code, as added by Act 9 of 2005, is amended to read:

“Section 56‑15‑420. The ~~Department~~ Division of Public Safety shall promulgate regulations to implement the provisions contained in this article.”

SECTION 97. Section 56‑19‑420(B)(2) of the 1976 Code is amended to read:

“(2) the remainder must be allocated to the ~~Department~~ Division of Public Safety and used to support highway patrol programs.”

SECTION 98. Section 56‑35‑50 of the 1976 Code, as added by Act 234 of 2008, is amended to read:

“Section 56‑35‑50. (A) The State Transport Police Division of the ~~Department~~ Division of Public Safety is primarily responsible for enforcing the provisions of this chapter. An officer or agent of the State Transport Police that observes a vehicle operator violating the provisions of this chapter is authorized to issue a citation to the offender. The provisions of this chapter do not apply to a commercial diesel vehicle idling on the premises of a restricted access facility or in areas on the private property of a business that are generally designed and intended for commercial vehicle access, loading or unloading when the facility or business is located at least five hundred feet away from any church, school, playground, daycare facility, or hospital.

(B) The officer must inform the individual receiving the citation that he has the option, at that time, to elect to pay his fine directly to the ~~Department~~ Division of Public Safety or to receive a hearing in magistrates court. If the individual at the time the citation is issued elects to pay his fine directly to the ~~Department~~ Division of Public Safety within twenty‑eight days, as specified on the citation, no assessments may be added to the original fine pursuant to this section. The fine may be deposited with the arresting officer or a person the ~~Department~~ Division of Public Safety may designate. Within forty‑five days of collection, fifty dollars of the monies collected by the ~~Department~~ Division of Public Safety must be forwarded to the Department of Health and Environmental Control for deposit in the Diesel Idling Reduction Fund, twenty‑five dollars of the monies collected must be deposited into an account to be used by the ~~Department~~ Division of Public Safety’s State Transport Police Division in support of the Idling Restrictions for Commercial Diesel Vehicles program which at the end of a fiscal year does not lapse to the general fund, but is instead carried forward to the succeeding fiscal year.

(C)(1) Magistrates have jurisdiction of all contested violations of this chapter. Where a contested hearing is requested, any fine imposed is subject to all assessments and surcharges applicable by law. The fine, surcharges, and assessments shall be distributed as set forth in the applicable law.

(2) If the fine is not paid in full to the ~~Department~~ Division of Public Safety within forty‑five days after conviction, the driver’s license of the vehicle operator found in violation of this chapter must be suspended. The suspension continues until the fine is paid in full.

(D) The State Transport Police shall use the citation form referenced in Section 56‑1‑4160(G) for idling violations. The ~~Department~~ Division of Public Safety must electronically transmit to the Department of Motor Vehicles all tickets issued pursuant to this section. The ~~Department~~ Division of Public Safety and the Department of Motor Vehicles must work together to develop an electronic exchange of information over the next two years.”

SECTION 99. Section 57‑3‑180 of the 1976 Code is amended to read:

“Section 57‑3‑180. All persons to whom open‑end permits are issued shall file with the Department of Transportation before the twenty‑first day of each January, April, July, and October reports showing the number of trips made during the preceding quarter ending on December thirty‑first, March thirty‑first, June thirtieth, and September thirtieth, respectively, the dates of the trips, and other information the department may require. The fee of ten dollars a trip, required to be paid pursuant to Section 56‑3‑710, must be paid to the Department of Transportation with each report filed. However, the fee for additional trips of less than twelve miles distance made under the open‑end permits is one dollar a trip. Persons to whom open‑end permits are issued shall maintain full and complete records of all oversize mobile homes, modular home units, or utility buildings moved, the records to be open to audit and inspection by the Department of Transportation and ~~the Department of Public Safety~~ SLED.”

SECTION 100. Section 58‑23‑50 of the 1976 Code, as last amended by Act 425 of 1996, is further amended to read:

“Section 58‑23‑50. (A) Articles 1 to 11 of this chapter do not apply to:

(1) motor vehicles used exclusively for transporting persons to and from schools, Sunday Schools, churches, or religious services, or to or from picnics or upon special prearranged excursions;

(2) the United States mail carriers operating star routes, while engaged solely in carrying mail;

(3) farmers or dairymen hauling dairy or farm products;

(4) persons transporting agricultural livestock and poultry feeds, including ingredients;

(5) other persons engaged in hauling perishable products of the farm or dairy products for hire from the farm to the first market when sold in South Carolina;

(6) lumber haulers engaged in transporting lumber from the forest to shipping points in this State;

(7) haulers engaged in transporting logs, chips, or wood residues which are subject to the South Carolina Unmanufactured Forest Products Trucking Regulations which are promulgated and adopted by the ~~Department~~ Division of Public Safety Transport Police Division;

(8) a vehicle engaged in hauling, towing, or transporting wrecked or damaged vehicles;

(9) vehicles used in ridesharing;

(10) single‑source lessors of vehicles and drivers who lease the motor vehicles and drivers to uncertificated motor vehicle carriers that conduct transportation of property (other than used household goods) in furtherance of and within the scope of their nontransportation primary enterprises, when the period of the lease is for thirty days or more, the lessee maintains insurance coverage for the protection of the public, a copy of the lease is carried in the motor vehicle during the period of the lease, and there is displayed on both sides of the motor vehicle a placard identifying the lessee.

(B) For the purposes of this section, perishable products of the farm include hay and straw.”

SECTION 101. Section 58‑23‑1120 of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“Section 58‑23‑1120. Each for‑hire motor carrier of household goods or hazardous waste for disposal must comply with orders and regulations prescribed by the Public Service Commission. The Office of Regulatory Staff may employ the necessary law enforcement personnel to enforce the provisions which apply to holders of certificates A, B, C, and certificates E and F of Public Convenience and Necessity.

The ~~Department~~ Division of Public Safety may promulgate regulations to ensure the safe operation of motor carriers. The Transport Police Division of the ~~Department~~ Division of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.”

SECTION 102. Section 59‑67‑20 of the 1976 Code is amended to read:

“Section 59‑67‑20. The State Board of Education, by and with the advice of the ~~Department~~ Division of Public Safety, shall adopt and enforce regulations not inconsistent with Chapter 5 ~~of~~, Title 56 to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this State and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations. Any officer or employee of any school district who violates any of such regulations or fails to include the obligation to comply with such regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any such regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district.”

SECTION 103. Section 59‑67‑260 of the 1976 Code is amended to read:

“Section 59‑67‑260. The ~~Department~~ Division of Public Safety shall have the operation of school buses spot checked periodically and report all infractions of the laws or misconduct of any kind on the part of the drivers to the chairman of the board of trustees of the school that may be affected thereby.”

SECTION 104. Section 59‑67‑570 of the 1976 Code is amended to read:

“Section 59‑67‑570. The State Board of Education may adopt such rules and regulations as may be necessary to carry out the intent and purposes of this article. Such rules and regulations shall have the full force and effect of law. But rules and regulations that affect the functions of the ~~Department~~ Division of Public Safety under this article or the operation of buses on the highways shall be adopted only jointly with the ~~Department~~ Division of Public Safety.”

SECTION 105. Section 61‑6‑2900 of the 1976 Code is amended to read:

Section 61‑6‑2900. Alcoholic liquors must be shipped or moved from a point outside this State to a point inside the State only by railroad companies, steamship companies, express companies, or truck companies authorized to do business in the State as common carriers by the ~~Department~~ Division of Public Safety, by wholesalers licensed by the department, or by registered producers in their own trucks. Alcoholic liquors must be shipped or moved only to the warehouse of the food manufacturer licensed pursuant to Section 61‑6‑710, or the registered producer in care of the producer representative who is registered to handle the property of the registered producer originating the shipment. The shipment of alcoholic liquors must be either stored in the warehouse of the food manufacturer licensed pursuant to Section 61‑1‑710 or in a licensed warehouse of the registered producer or, after delivery to the producer representative is complete, may then be shipped to a licensed wholesaler by common carriers described in this section, by wholesalers licensed by the department or by registered producers in their own trucks. Shipments of alcoholic liquors from a licensed producer’s warehouse to a licensed South Carolina wholesaler may be made in a vehicle owned or operated by the wholesaler. If alcoholic liquors are stored in the warehouse of a registered producer, or after delivery to the producer representative is complete, they may be shipped to a licensed wholesaler or to a point outside this State. Before any shipment or transfer, the food manufacturer or producer representative, as appropriate, must apply to the department, on forms prescribed by the department, for permission to ship or transfer the alcoholic liquors, and the food manufacturer or producer representative must have received a certificate of approval of the shipment or transfer.”

SECTION 106. Section 61‑6‑4250 of the 1976 Code is amended to read:

Section 61‑6‑4250. The clerk of court of each county in the State must, at the conclusion of each term of the court of general sessions in the county, forward to the department a certificate on forms prescribed and furnished by the department showing the name of each person who is convicted, pleads guilty, enters a plea of nolo contendere, or forfeits bond for the violation of any provision of this article except Section 61‑6‑4720. The department must maintain a file of these violations. A copy of the department’s records pertaining to the convictions, certified as correct by the director or his designee, is admissible in all courts as prima facie evidence of the facts recited in the records. The department must, upon receipt of a record of conviction, plea of guilty, plea of nolo contendere, or forfeiture of bond for the violation of the provisions of this article prohibiting the transportation of alcoholic liquors, forward to the ~~Department~~ Division of Public Safety a certified copy of the record.”

SECTION 107. Section 61‑6‑4290 of the 1976 Code is amended to read:

“Section 61‑6‑4290. The ~~Department~~ Division of Public Safety, upon notice that a person has been convicted, pleaded guilty, forfeited bond, or entered a plea of nolo contendere for the violation of any provision of this article prohibiting the transportation of alcoholic liquors, must suspend the driver’s license of the person for a period of six months for a first offense, for a period of one year for a second offense, and for a period of two years for a third and subsequent offense. During the period of the suspension under this section, no vehicle may be registered in the person’s name under the laws of this State.”

SECTION 108. Section 63‑19‑1860(B) of the 1976 Code is amended to read:

“(B) An aftercare counselor or probation or parole agent who has successfully completed Class I or II law enforcement officer training and received a certificate from the ~~Department~~ Division of Public Safety pursuant to the provisions of Article 9, Chapter 6 ~~of~~, Title 23 has the power, when commissioned by the department, to take a juvenile conditionally released from the custody of the department and subject to the jurisdiction of the releasing entity into custody upon the issuance of a warrant for violating the conditions of his release.”

SECTION 109. Section 63‑19‑1880(D) of the 1976 Code is amended to read:

“(D) A probation counselor who has successfully completed Class I or II law enforcement officer training and received a certificate from the ~~Department~~ Division of Public Safety pursuant to the provisions of Article 9, Chapter 6 ~~of~~, Title 23 has the authority, when commissioned by the department, in the execution of his duties, to take a child under the jurisdiction of the family court into custody pursuant to an order issued by the court directing that the child be taken into custody.”

SECTION 110. Chapter 21, Title 24 of the 1976 Code is amended to read:

“CHAPTER 21

Probation, Parole and Pardon

Article 1

Board of Probation, Parole and Pardon Services

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

(1) ‘Administrative monitoring’ means a form of monitoring by the department beyond the end of the term of supervision in which the only remaining condition of supervision not completed is the payment of financial obligations. Under administrative monitoring, the only condition of the monitoring shall be the requirement that reasonable progress be made toward the payment of financial obligations. The payment of monitoring mandated fees shall continue. When an offender is placed on administrative monitoring, he shall register with the department’s representative in his county, notify the department of his current address each quarter, and make payments on financial obligations owed, until the financial obligations are paid in full or a consent order of judgment is filed.

(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.

(5) ‘Financial obligations’ mean fines, fees, and restitution either ordered by the court or statutorily imposed.

(6) ‘Hearing officer’ means an employee of the department who conducts preliminary hearings to determine probable cause on alleged violations committed by an individual under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law.

Section 24‑21‑10. (A) The ~~department~~ Division of Probation, Parole and Pardon Services is ~~governed by its director. The director must be appointed by the Governor with the advice and consent of the Senate. To qualify for appointment, the director must have a baccalaureate or more advanced degree from an institution of higher learning that has been accredited by a regional or national accrediting body, which is recognized by the Council for Higher Education Accreditation 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~~ a division of the South Carolina Department of Law Enforcement and Public Safety.

(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 work or volunteer 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 ninety days of a parole board member’s appointment by the Governor and confirmation by the Senate, 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;

(4) the dynamics of criminal victimization; and

(5) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety.

The ~~department~~ division 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)(1) 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:

(a) a review and analysis of the effectiveness of the assessment tool used by the parole agents;

(b) a review of the department’s progress toward public safety goals;

(c) the use of data in decision making; and

(d) any information regarding promising and evidence‑based practices offered in the corrections related and crime victim dynamics field.

The ~~department~~ division must promulgate regulations setting forth the specific criteria for the course that the members must complete.

(2) If a parole board member does not fulfill the training as provided in this section, the Governor, upon notification, must remove that member from the board unless the Governor grants the parole board member an extension to complete the training, based upon exceptional circumstances.

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

(1) establishment of a process for adopting a validated actuarial risk and needs assessment tool 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~~ division, parole board, and agents of the ~~department~~ division in determining supervision management and strategies for all offenders under the ~~department’s~~ division’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~~ division, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and safety performance indicators.

(G) The ~~director~~ division shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the ~~department~~ division 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~~ division 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 24‑21‑11. The ~~director and~~ members of the board shall be subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240.

Section 24‑21‑12. The members of the board shall draw no salaries, but each member shall be entitled to such per diem as may be authorized by law for boards, commissions, and committees, plus actual and necessary expenses incurred pursuant to the discharge of official duties.

Section 24‑21‑13. (A) It is the duty of the ~~director~~ Director of the Department of Law Enforcement and Public Safety to oversee, manage, and control the ~~department~~ division. 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~~ Division 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~~ division;

(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 24‑21‑30. (A) A person who commits a ‘no parole offense’ as defined in Section 24‑13‑100 on or after the effective date of this section is not eligible for parole consideration, but must complete a community supervision program as set forth in Section 24‑21‑560 ~~prior to~~ before discharge from the sentence imposed by the court. For all offenders who are eligible for parole, the board shall hold regular meetings, as may be necessary to carry out its duties, but at least four times each year, and as many extra meetings as the chairman, or the Governor acting through the chairman, may order. The board may preserve order at its meetings and punish any disrespect or contempt committed in its presence. The chairman may direct the members of the board to meet as three‑member panels to hear matters relating to paroles and pardons as often as necessary to carry out the board’s responsibilities. Membership on these panels shall be periodically rotated on a random basis by the chairman. At the meetings of the panels, any unanimous vote shall be considered the final decision of the board, and the panel may issue an order of parole with the same force and effect of an order issued by the full board pursuant to Section 24‑21‑650. Any vote that is not unanimous shall not be considered as a decision of the board, and the matter shall be referred to the full board which shall decide it based on a vote of a majority of the membership.

(B) The board may grant parole to an offender who commits a violent crime as defined in Section 16‑1‑60 which is not included as a ‘no parole offense’ as defined in Section 24‑13‑100 on or after the effective date of this section by a two‑thirds majority vote of the full board. The board may grant parole to an offender convicted of an offense which is not a violent crime as defined in Section 16‑1‑60 or a ‘no parole offense’ as defined in Section 24‑13‑100 by a unanimous vote of a three‑member panel or by a majority vote of the full board.

Nothing in this subsection may be construed to allow any person who commits a ‘no parole offense’ as defined in Section 24‑13‑100 on or after the effective date of this section to be eligible for parole.

(C) The board shall conduct all parole hearings in cases that relate to a single victim on the same day.

(D) Upon the request of a victim, the board may allow the victim and an offender to appear simultaneously before the board for the purpose of providing testimony.

Section 24‑21‑32. (A) For purposes of this section, ‘release date’ means the date determined by the South Carolina Department of Corrections on which an inmate is released from prison, based on the inmate’s sentence and all earned credits allowed by law.

(B) Notwithstanding the provisions of this chapter, an inmate, who is not required to participate in a community supervision program pursuant to Article 6, Chapter 21, Title 24, shall be placed on reentry supervision with the ~~department~~ division before the expiration of the inmate’s release date. Inmates who have been incarcerated for a minimum of two years shall be released to reentry supervision one hundred eighty days before their release date. For an inmate whose sentence includes probation, the period of reentry supervision is reduced by the term of probation.

(C) The individual terms and conditions of reentry supervision shall be developed by the ~~department~~ division using an evidence‑based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the ~~department~~ division. The ~~department~~ division shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director.

(D) If the ~~department~~ division determines that an inmate has violated a term or condition of reentry supervision sufficient to revoke the reentry supervision, a probation agent must initiate a proceeding before a ~~department~~ division administrative hearing officer. The proceeding must be initiated pursuant to a warrant or a citation describing the violations of the reentry supervision. No inmate arrested for violation of a term or condition of reentry supervision may be released on bond; however, he shall be credited with time served as set forth in Section 24‑13‑40 toward his release date. If the administrative hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions set forth in the regulations or ~~department~~ division guidelines, and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate’s reentry supervision and the inmate shall be incarcerated up to one hundred eighty days, but the maximum aggregate time that the inmate shall serve on reentry supervision or for revocation of the reentry supervision shall not exceed an amount of time equal to the length of incarceration imposed by the court for the offense that the inmate was serving at the time of his initial reentry supervision. The decision of the administrative hearing officer on the reentry supervision shall be final and there shall be no appeal of his decision.

Section 24‑21‑35. The ~~Department~~ Division of Probation, Parole and Pardon Services Board shall make its administrative recommendations available to a victim of a crime before it conducts a parole hearing for the perpetrator of the crime.

Section 24‑21‑40. The ~~Board~~ board shall keep a complete record of all its proceedings and hold it subject to the order of the Governor or the General Assembly.

Section 24‑21‑50. The board shall grant hearings and permit arguments and appearances by counsel or any individual before it at any such hearing while considering a case for parole, pardon, or any other form of clemency provided for under law. No inmate has a right of confrontation at the hearing.

Section 24‑21‑55. The Department of ~~Probation, Parole and Pardon Services~~ Law Enforcement and Public Safety shall receive a hearing fee under a plan approved by the State Budget and Control Board.

Section 24‑21‑60. Each city, county, or state official or department shall assist and cooperate to further the objectives of this chapter. The board, the ~~director of the department~~ Director of the Department of Law Enforcement and Public Safety, and the probation agents may seek the cooperation of officials and departments and especially of the sheriffs, jailers, magistrates, police officials, and institutional officers. The director may conduct surveys of state correctional facilities, county jails, and camps and obtain information to enable the board to pass intelligently upon all applications for parole. The Director of the Department of Corrections and the wardens, jailers, sheriffs, supervisors, or other officers in whose control a prisoner may be committed must aid and assist the director and the probation agents in the surveys.

Section 24‑21‑70. The Director of the Department of Corrections, when a prisoner is confined in the ~~State Penitentiary~~ Department of Corrections, the sheriff of the county, when a person is confined in the county jail, and the county supervisor or chairman of the governing body of the county if there is no county supervisor, when a prisoner is confined upon a work detail of a county, must keep a record of the industry, habits, and deportment of the prisoner, as well as other information requested by the board or the director and furnish it to them upon request.

Section 24‑21‑80. An adult placed on probation, parole, or community supervision shall pay a regular supervision fee toward offsetting the cost of his supervision for so long as he remains under supervision. The regular supervision fee must be determined by the Department of Law Enforcement and Public Safety, Division of Probation, Parole~~,~~ and Pardon Services based upon the ability of the person to pay. The fee must be not less than twenty dollars nor more than one hundred dollars per month. The fee is due on the date of sentencing or as soon as determined by the ~~department~~ division and each subsequent anniversary for the duration of the supervision period. The ~~department~~ division shall remit from the fees collected an amount not to exceed the regular supervision fees collected during fiscal year 1992‑~~93~~ 1993 for credit to the State General Fund. All regular supervision fees collected in excess of the fiscal year 1992‑~~93~~ 1993 amount must be retained by the ~~department~~ division, carried forward, and applied to the ~~department’s~~ division’s operation. The payment of the fee must be a condition of probation, parole, or community supervision, and a delinquency of two months or more in making payments may operate as a revocation.

If a probationer is placed under intensive supervision by a court of competent jurisdiction, or if the board places a parolee under intensive supervision, or if an inmate who is participating in the Supervised Furlough Program is placed under intensive supervision, or if a person participating in a community supervision program is placed under intensive supervision, the probationer, parolee, inmate, or community supervisee is required to pay not less than ten dollars nor more than thirty dollars each week for the duration of intensive supervision in lieu of the regular supervision fee. The intensive supervision fee must be determined by the ~~department~~ division based upon the ability of the person to pay. Fees derived from persons under intensive supervision must be retained by the ~~department~~ division, carried forward, and applied to the ~~department’s~~ division’s operation. The ~~department~~ division may exempt any individual supervised by the ~~department~~ division on any community supervision program from the payment of a part or all of the yearly or weekly fee during any part or all of the supervision period only if the ~~department~~ division determines that exceptional circumstances exist such that these payments work a severe hardship on the individual. Delinquencies of two months or more in payment of a reduced fee operates in the same manner as delinquencies for the full amount. The ~~department~~ division may substitute public service employment for supervision fees when it considers the same to be in the best interest of the State and the individual.

Section 24‑21‑85. Every person placed on electronic monitoring must be assessed a fee to be determined by the Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services in accordance with Section 24‑21‑80, as long as he remains in the electronic monitoring program. The payment of the fee must be a condition of supervision of any program administered by the ~~department~~ division and a delinquency of two months or more in making payments may operate as a revocation. All fees generated by this assessment must be retained by the ~~department~~ division to support the electronic monitoring program and carried forward for the same purpose.

Section 24‑21‑87. (A) The ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services may charge offenders a fee based on the number of miles and length of time required to perform an extradition. The fee must be used to offset the cost of extradition. All unexpended revenues of this fee at year end must be retained and carried forward by the department and expended for the same purpose.

(B) The department may charge a fee to offenders required to have maintenance polygraphs. This fee may not exceed the actual cost of the maintenance polygraph. All unexpended revenues of this fee at year end must be retained and carried forward by the department and expended for the same purpose.

Section 24‑21‑90. Each supervising agent shall keep an accurate account of the money he collects pursuant to ~~Sections~~ Section 24‑21‑80~~, 24‑23‑210(B), and 24‑23‑220~~ and shall give a receipt to the probationer and individual under supervision for each payment. Money collected must be forwarded to the board and deposited in the state treasury.

Section 24‑21‑100. (A) Notwithstanding the provisions of Section 24‑19‑120, 24‑21‑440, 24‑21‑560(B), or 24‑21‑670, when an individual has not fulfilled his obligations for payment of financial obligations by the end of his term of supervision, then the individual shall be placed under quarterly administrative monitoring, as defined in Section 24‑21‑5, by the ~~department~~ division until such time as those financial obligations are paid in full or a consent order of judgment is filed. If the individual under administrative monitoring fails to make reasonable progress toward the payment of such financial obligations, as determined by the ~~department~~ division, the ~~department~~ division may petition the court to hold an individual in civil contempt for failure to pay the financial obligations. If the court finds the individual has the ability to pay but has not made reasonable progress toward payment, the court may hold the individual in civil contempt of court and may impose a term of confinement in the local detention center until payment of the financial obligations, but in no case to exceed ninety days of confinement. Following any term of confinement, the individual shall be returned to quarterly administrative monitoring by the ~~department~~ division. If the individual under administrative monitoring does not have the ability to pay the financial obligations and has no reasonable likelihood of being able to pay in the future, the ~~department~~ division may submit a consent order of judgment to the court, which shall relieve the individual of any further administrative monitoring.

(B) An individual placed on administrative monitoring shall pay a regular monitoring fee toward offsetting the cost of his administrative monitoring for the period of time that he remains under monitoring. The regular monitoring fee must be determined by the ~~department~~ division based upon the ability of the person to pay. The fee must not be more than ten dollars a month. All regular monitoring fees must be retained by the ~~department~~ division, carried forward, and applied to the ~~department’s~~ division’s operation.

Section 24‑21‑110. (A) In response to a violation of the terms and conditions of any supervision program operated by the ~~department~~ division, whether pursuant to statute or contract with another state agency, the probation agent may, with the concurrence of his supervisor and, as an alternative to issuing a warrant or citation, serve on the offender a notice of administrative sanctions. The agent must not serve a notice of administrative sanctions on an offender for violations of special conditions if a sentencing court provided that those violations would be heard by the court. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation.

(B) If the offender agrees in writing to the additional conditions set forth in the notice or order of administrative sanctions, the conditions must be implemented with swiftness and certainty. If the offender does not agree, or if after agreeing the offender fails to fulfill the additional conditions to the satisfaction of the probation agent and his supervisor, then the probation agent may commence revocation proceedings.

(C) In addition to the notice of administrative sanctions, a hearing officer with the ~~department~~ division may, as an alternative to sending a case forward to the revoking authority, impose on the offender an order of administrative sanctions. The order may be made only after the hearing officer has made a finding of probable cause at a preliminary hearing that an offender has violated the terms and conditions of any supervision program operated by the ~~department~~ division, whether pursuant to statute or a contract with another state agency. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation. The sanctions must be implemented with swiftness and certainty.

(D) The administrative sanctions shall be established by regulations of the ~~department~~ division, as set forth by established administrative procedures. The ~~department~~ division shall delineate in the regulations a listing of administrative sanctions for the most common types of supervision violations including, but not limited to: failure to report; failure to pay fines, fees, and 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 consider the severity of the current violation, the offender’s previous criminal record, the number and severity of previous supervision violations, the offender’s assessment, and the extent to which administrative sanctions were imposed for previous violations. The ~~department~~ division, in determining the list of administrative sanctions to be served on an offender, shall ascertain the availability of community‑based programs 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.

(E) The ~~department~~ division shall provide annually to the Sentencing Reform Oversight Committee:

(1) the number of offenders who were placed on administrative sanctions during the prior fiscal year and who were not returned to incarceration within that fiscal year;

(2) the number and percentage of offenders whose supervision programs were revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment. 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; and

(3) the number and percentage of offenders who were convicted of a new offense and sentenced to a term of imprisonment. 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.

Article 3

The Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services; Probation Officers

Section 24‑21‑220. The director is vested with the exclusive management and control of the ~~department~~ division and is responsible for the management of the ~~department~~ division and for the proper care, assessment, treatment, supervision, and management of offenders under its control. The director shall manage and control the ~~department~~ division and it is the duty of the director to carry out the policies of the ~~department~~ division. 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~~ division’s activities.

Section 24‑21‑221. The ~~director~~ Director of the Department of Law Enforcement and Public Safety must give a thirty‑day written notice of any board hearing during which the board will consider parole for a prisoner to the following persons:

(1) any victim of the crime who suffered damage to his person as a result thereof or if such victim is deceased, to members of his immediate family to the extent practicable;

(2) the solicitor who prosecuted the prisoner or his successor in the jurisdiction in which the crime was prosecuted; and

(3) the law enforcement agency that was responsible for the arrest of the prisoner concerned.

Section 24‑21‑230. (A) The director must employ probation agents required for service in the State and clerical assistants as necessary. The probation agents must take and pass psychological and qualifying examinations as directed by the director. The director must ensure that each probation agent receives adequate training. Until the initial employment requirements are met, no person may take the oath of a probation agent nor exercise the authority granted to them.

(B) The director must employ hearing officers who conduct preliminary hearings to determine probable cause on violations committed by individuals under the supervision of the ~~department~~ division and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The ~~department~~ division shall promulgate regulations for the qualifications of the hearing officers and the procedures for the preliminary hearings. Until regulations are adopted, the qualifications and procedures shall be based on guidelines developed by the director.

Section 24‑21‑235. The Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services is authorized to issue duty clothing for the use of ~~department~~ division employees.

Section 24‑21‑237. Meals may be provided to employees of the ~~department~~ Division of Probation, Parole and Pardon Services who are not permitted to leave duty stations and are required to work during deployments, actual emergencies, emergency simulation exercises, and when the Governor declares a state of emergency.

Section 24‑21‑240. Each person appointed as a probation agent must take an oath of office as required of state officers which must be noted of record by the clerk of court.

Section 24‑21‑250. The probation agents must be paid salaries, to be fixed by the ~~department~~ Department of Law Enforcement and Public Safety, payable semimonthly, and also be paid traveling and other necessary expenses incurred in the performance of their official duties when the expense accounts have been authorized and approved by the director.

Section 24‑21‑260. Probation agents appointed under Section 24‑21‑230 must be assigned to serve in courts or districts or other places the ~~director~~ Director of the Department of Law Enforcement and Public Safety may determine.

Section 24‑21‑270. The governing body of each county in which a probation agent serves shall provide, in or near the courthouse, suitable office space for such agent.

Section 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.

(B) A probation agent has, in the execution of his duties, the power to issue an arrest warrant or a citation charging a violation of conditions of supervision, the powers of arrest, and, to the extent necessary, the same right to execute process given by law to sheriffs. A probation agent has the power and authority to enforce the criminal laws of the State. In the performance of his duties of probation, parole, community supervision, and investigation, he is regarded as the official representative of the court, the ~~department~~ division, and the board.

(C) A probation agent must conduct an actuarial assessment of offender risks and needs, including criminal risk factors and specific needs of each individual, under the supervision of the ~~department~~ division, which shall be used to make objectively based decisions that are consistent with evidence‑based practices on the type of supervision and services necessary. The actuarial assessment tool shall include screening and comprehensive versions. The screening version shall be used as a triage tool to determine offenders who require the comprehensive version. The director also shall require each agent to receive annual training on evidence‑based practices and criminal risks factors and how to target these factors to reduce recidivism.

(D) A probation agent, in consultation with his supervisor, shall identify each individual under the supervision of the ~~department~~ division, with a term of supervision of more than one year, and shall calculate and award compliance credits as provided in this section. Credits may be earned from the first day of supervision on a thirty‑day basis, but shall not be applied until after each thirty‑day period of supervision has been completed. Compliance credits may be denied for noncompliance on a thirty‑day basis as determined by the ~~department~~ division. The denial of nonearned compliance credits is a final decision of the ~~department~~ division and is not subject to appeal. An individual may earn up to twenty days of compliance credits for each thirty‑day period in which he has fulfilled all of the conditions of his supervision, has no new arrests, and has made all scheduled payments of his financial obligations.

(E) Any portion of the earned compliance credits are subject to be revoked by the ~~department~~ division if an individual violates a condition of supervision during a subsequent thirty‑day period.

(F) The ~~department~~ division shall provide annually to the Sentencing Reform Oversight Committee the number of offenders who qualify for compliance credits and the amount of credits each has earned within a fiscal year.

Section 24‑21‑290. All information and data obtained in the discharge of his official duty by a probation agent is privileged information, is not receivable as evidence in a court, and may not be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive reports unless ordered by the court or the ~~director~~ Director of the Department of Law Enforcement and Public Safety.

Section 24‑21‑300. At any time during a period of supervision, a probation agent, instead of issuing a warrant, may issue a written citation and affidavit setting forth that the probationer, parolee, or community supervision release, or a person released or furloughed under the Offender Management Systems Act in the agent’s judgment violates the conditions of his release or suspended sentence. The citation must be directed to the probationer, the parolee, the community supervision releasee, or the person released or furloughed, and must require him to appear at a specified time, date, and court or other place, and must state the charges. The citation must set forth the person’s rights and contain a statement that a hearing will be held in his absence if he fails to appear and that he may be imprisoned as a result of his absence. The citation may be served by a law enforcement officer upon the request of a probation agent. A certificate of service is sufficient proof of service. The issuance of a citation or warrant during the period of supervision gives jurisdiction to the court and the board at any hearing on the violation.

Article 5

Probation

Section 24‑21‑410. After conviction or plea for any offense, except a crime punishable by death or life imprisonment, the judge of a court of record with criminal jurisdiction at the time of sentence may suspend the imposition or the execution of a sentence and place the defendant on probation or may impose a fine and also place the defendant on probation. Probation is a form of clemency. Before a defendant may be placed on probation, he must agree in writing to be subject to a search or seizure, without a search warrant, based on reasonable suspicions, of the defendant’s person, any vehicle the defendant owns or is driving, and any of the defendant’s possessions by:

(1) any probation agent employed by the ~~Department~~ Division of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

A defendant may not be placed on probation by the court if he fails to comply with this provision and instead must be required to serve the suspended portion of the defendant’s sentence. However, a defendant who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the defendant agree to be subject to search or seizure, without a search warrant, with or without cause, of the defendant’s person, any vehicle the defendant owns or is driving, or any of the defendant’s possessions.

Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the ~~Department~~ Division of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the ~~Department~~ Division of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the ~~Department~~ Division of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

Section 24‑21‑420. When directed by the court, the probation agent must fully investigate and report to the court in writing the circumstances of the offense and the criminal record, social history, and present condition of the defendant including, whenever practicable, the findings of a physical and mental examination of the defendant. When the services of a probation agent are available to the court, no defendant charged with a felony and, unless the court shall direct otherwise in individual cases, no other defendant may be placed on probation or released under suspension of sentence until the report of such investigation has been presented to and considered by the court.

Section 24‑21‑430. 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; however, the conditions imposed must include the requirement that the probationer must permit the search or seizure, without a search warrant, based on reasonable suspicions, of the probationer’s person, any vehicle the probationer owns or is driving, and any of the probationer’s possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer, but the conditions imposed upon a probationer who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the probationer agree to be subject to search or seizure, without a search warrant, with or without cause, of the probationer’s person, any vehicle the probationer owns or is driving, or any of the probationer’s possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the ~~Department~~ Division of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on probation. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the ~~Department~~ ~~Division~~ of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

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 court imposed conditions.

Section 24‑21‑440. 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.

Section 24‑21‑450. 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.

Section 24‑21‑460. Upon such arrest the court, or the court within the venue of which the violation occurs, shall cause the defendant to be brought before it and may revoke the probation or suspension of sentence and shall proceed to deal with the case as if there had been no probation or suspension of sentence except that the circuit judge before whom such defendant may be so brought shall have the right, in his discretion, to require the defendant to serve all or a portion only of the sentence imposed. Should only a portion of the sentence imposed be put into effect, the remainder of such sentence shall remain in full force and effect and the defendant may again, from time to time, be brought before the circuit court so long as all of his sentence has not been served and the period of probation has not expired.

Section 24‑21‑480. The judge may suspend a sentence for a defendant convicted of a nonviolent offense, as defined in Section 16‑1‑70, for which imprisonment of more than ninety days may be imposed, or as a revocation of probation, and may place the offender in a restitution center as a condition of probation. The board may place a prisoner in a restitution center as a condition of parole. The ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services, on the first day of each month, shall present to the general sessions court a report detailing the availability of bed space in the restitution center program. The restitution center is a program under the jurisdiction of the ~~department~~ division.

The offender must have paid employment and/or be required to perform public service employment up to a total of fifty hours per week.

The offender must deliver his salary to the restitution center staff who must distribute it in the following manner:

(1) restitution to the victim or payment to the account established pursuant to the Victims of Crime Act of 1984, Public Law 98‑473, Title II, Chapter XIV, Section 1404, as ordered by the court;

(2) payment of child support or alimony or other sums as ordered by a court;

(3) payment of any fines or court fees due;

(4) payment of a daily fee for housing and food. This fee may be set by the department with the approval of the State Budget and Control Board. The fee must be based on the offender’s ability to pay not to exceed the actual costs. This fee must be deposited by the department with the State Treasurer for credit to the same account as funds collected under Sections 14‑1‑210 through 14‑1‑230;

(5) payment of any costs incurred while in the restitution center;

(6) if available, fifteen dollars per week for personal items.

The remainder must be deposited and given to the offender upon his discharge.

The offender must be in the restitution center for not more than six months, nor less than three months; provided, however, in those cases where the maximum term is less than one year the offender must be in the restitution center for not more than ninety days nor less than forty‑five days.

Upon release from the restitution center, the offender must be placed on probation for a term as ordered by the court.

Failure to comply with program requirements may result in a request to the court to revoke the suspended sentence.

No person must be made ineligible for this program by reason of gender.

Section 24‑21‑485. In order for the ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services to establish and maintain restitution centers, the director may:

(1) develop policies and procedures for the operation of restitution centers;

(2) fund other management options advantageous to the State including, but not limited to, contracting with public or nonpublic entities for management of restitution centers;

(3) lease buildings;

(4) develop standards for disciplinary rules to be imposed on residents of restitution centers;

(5) develop standards for the granting of emergency furloughs to participants.

Section 24‑21‑490. (A) The ~~Department~~ Division of Probation, Parole and Pardon Services shall collect and distribute restitution on a monthly basis from all offenders under probationary and intensive probationary supervision.

(B) Notwithstanding Section 14‑17‑725, the ~~department~~ division shall assess a collection fee of twenty percent of each restitution program and deposit this collection fee into a separate account. The ~~department~~ division shall maintain individual restitution accounts that reflect each transaction and the amount paid, the collection fee, and the unpaid balance of the account. A summary of these accounts must be reported to the Governor’s Office, the President of the Senate, the Speaker of the House, the Chairman of the House Judiciary Committee, and the Chairman of the Senate Corrections and Penology Committee every six months following the enactment of this section.

(C) The ~~department~~ division may retain the collection fees described in subsection (B) and expend the fees for the purpose of collecting and distributing restitution. Unexpended funds at the end of each fiscal year may be retained by the department and carried forward for use for the same purpose by the department.

(D) For financial obligations collected by the ~~department~~ division pursuant to administrative monitoring requirements, payments shall be distributed by the department proportionately to pay restitution and fees based on the ratio of each category to the total financial obligation owed. Fines shall continue to be paid and collected pursuant to the provisions of Chapter 17, Title 14.

Article 6

Comprehensive Community Control System

Section 24‑21‑510. The ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services shall develop and operate a comprehensive community control system if the General Assembly appropriates sufficient funds. The system shall include community control centers and sentencing options as a condition of probation, and utilize all sentencing options set forth in Chapter 21, ~~of~~ Title 24.

Section 24‑21‑540. The ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services shall develop and operate Community Control Centers for higher risk offenders, if the General Assembly appropriates funds to operate the centers. If the ~~department~~ division has recommended the placement, offenders may be placed in a center for not less than thirty days nor more than six months by a judge as a condition of probation or as an alternative to probation revocation, or by the board as a condition of parole or as an alternative to parole revocation. An offender may not be placed in the center for more than six months on the same crime. There must not be consecutive sentencing to a Community Control Center.

Section 24‑21‑550. A probation term ordered to end upon the payment of fines, court costs, assessments, and restitution must continue until the clerk of court certifies in writing that all monies have been paid, or the probation term has expired, or the expiration of probation has been changed by a subsequent order.

Section 24‑21‑560. (A) Notwithstanding ~~any other~~ another provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, any sentence for a ‘no parole offense’ as defined in Section 24‑13‑100 must include any term of incarceration and completion of a community supervision program operated by the ~~Department~~ Division of Probation, Parole~~,~~ and Pardon Services. No prisoner who is serving a sentence for a ‘no parole offense’ is eligible to participate in a community supervision program until he has served the minimum period of incarceration as set forth in Section 24‑13‑150. Nothing in this section may be construed to allow a prisoner convicted of murder or a prisoner prohibited from early release, discharge, or work release by any other provision of law to be eligible for early release, discharge, or work release.

(B) A community supervision program operated by the ~~Department~~ Division of Probation, Parole and Pardon Services must last no more than two continuous years. The period of time a prisoner is required to participate in a community supervision program and the individual terms and conditions of a prisoner’s participation shall be at the discretion of the department based upon guidelines developed by the director; however, the conditions of participation must include the requirement that the offender must permit the search or seizure, without a search warrant, with or without cause, of the offender’s person, any vehicle the offender owns or is driving, and any of the offender’s possessions by:

(1) any probation agent employed by the ~~Department~~ Division of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer, but the conditions for participation for an offender who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the offender agree to be subject to search or seizure, without a search warrant, with or without cause, of the offender’s person, any vehicle the offender owns or is driving, or any of the offender’s possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this subsection, the law enforcement officer seeking to conduct the search or seizure must verify with the ~~Department~~ Division of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently in a community supervision program. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the ~~Department~~ Division of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the ~~Department~~ Divison of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this subsection, he is subject to discipline pursuant to the employing agency’s policies and procedures.

A prisoner participating in a community supervision program must be supervised by a probation agent of the ~~department~~ division. The ~~department~~ division must determine when a prisoner completes a community supervision program, violates a term of community supervision, fails to participate in a program satisfactorily, or whether a prisoner should appear before the court for revocation of the community supervision program.

(C) If the ~~department~~ division determines that a prisoner has violated a term of the community supervision program and the community supervision should be revoked, a probation agent must initiate a proceeding in General Sessions Court. The proceeding must be initiated pursuant to a warrant or a citation issued by a probation agent setting forth the violations of the community supervision program. The court shall determine whether:

(1) the terms of the community supervision program are fair and reasonable;

(2) the prisoner has complied with the terms of the community supervision program;

(3) the prisoner should continue in the community supervision program under the current terms;

(4) the prisoner should continue in the community supervision program under other terms and conditions as the court considers appropriate;

(5) the prisoner has wilfully violated a term of the community supervision program.

If the court determines that a prisoner has wilfully violated a term or condition of the community supervision program, the court may impose any other terms or conditions considered appropriate and may continue the prisoner on community supervision, or the court may revoke the prisoner’s community supervision and impose a sentence of up to one year for violation of the community supervision program. A prisoner who is incarcerated for revocation of the community supervision program is not eligible to earn any type of credits which would reduce the sentence for violation of the community supervision program.

(D) If a prisoner’s community supervision is revoked by the court and the court imposes a period of incarceration for the revocation, the prisoner also must complete a community supervision program of up to two years as determined by the ~~department~~ division pursuant to subsection (B) when he is released from incarceration.

A prisoner who is sentenced for successive revocations of the community supervision program may be required to serve terms of incarceration for successive revocations, as provided in Section 24‑21‑560(C), and may be required to serve additional periods of community supervision for successive revocations, as provided in Section 24‑21‑560(D). The maximum aggregate amount of time a prisoner may be required to serve when sentenced for successive revocations may not exceed an amount of time equal to the length of incarceration imposed limited by the amount of time remaining on the original ‘no parole offense’. The prisoner must not be incarcerated for a period longer than the original sentence. The original term of incarceration does not include any portion of a suspended sentence.

If a prisoner’s community supervision is revoked due to a conviction for another offense, the prisoner must complete a community supervision program of up to two continuous years as determined by the department after the prisoner has completed the service of the sentence for the community supervision revocation and any other term of imprisonment which may have been imposed for the criminal offense, except when the subsequent sentence is death or life imprisonment.

(E) A prisoner who successfully completes a community supervision program pursuant to this section has satisfied his sentence and must be discharged from his sentence.

(F) The Department of Corrections must notify the Department of Law Enforcement and Public Safety Division of Probation, Parole~~,~~ and Pardon Services of the projected release date of any inmate serving a sentence for a ‘no parole offense’ one hundred eighty days in advance of his release to community supervision. For an offender sentenced to one hundred eighty days or less, the Department of Corrections immediately must notify ~~the Department~~ the Division of Probation, Parole~~,~~ and Pardon Services.

(G) Victims registered pursuant to Article 15, Chapter 3, Title 16 and the sheriff’s office in the county where a prisoner sentenced for a ‘no parole offense’ is to be released must be notified by the ~~Department~~ Division of Probation, Parole~~,~~ and Pardon Services when the prisoner is released to a community supervision program.

Article 7

Parole; Release for Good Conduct

Section 24‑21‑610. In all cases cognizable ~~under~~ pursuant to this chapter the ~~Board~~ board may, upon ten days’ written notice to the solicitor and judge who participated in the trial of any prisoner, parole a prisoner convicted of a crime and imprisoned in the state penitentiary, in any jail, or upon the public works of any county who if:

(1) sentenced for not more than thirty years has served at least one‑third of the term;

(2) sentenced to life imprisonment or imprisonment for any period in excess of thirty years, has served at least ten years.

If after January 1, 1984, the ~~Board~~ board finds that the statewide case classification system provided for in Chapter 23 of this title has been implemented, that an intensive supervision program for parolees who require more than average supervision has been implemented, that a system for the periodic review of all parole cases in order to assess the adequacy of supervisory controls and of parolee participation in rehabilitative programs has been implemented, and that a system of contracted rehabilitative services for parolees is being furnished by public and private agencies, then in all cases cognizable under this chapter the ~~Board~~ board may, upon ten days’ written notice to the solicitor and judge who participated in the trial of any prisoner, to the victim or victims, if any, of the crime, and to the sheriff of the county where the prisoner resides or will reside, parole a prisoner who if sentenced for a violent crime as defined in Section 16‑1‑60, has served at least one‑third of the term or the mandatory minimum portion of sentence, whichever is longer. For any other crime the prisoner shall have served at least one‑fourth of the term of a sentence or if sentenced to life imprisonment or imprisonment for any period in excess of forty years, has served at least ten years.

The provisions of this section do not affect the parole ineligibility provisions for murder, armed robbery, and drug trafficking as set forth respectively in Sections 16‑3‑20 and 16‑11‑330, and ~~subsection (e) of~~ Section 44‑53‑370(e).

In computing parole eligibility, no deduction of time may be allowed in any case for good behavior, but after June 30, 1981, there must be deductions of time in all cases for earned work credits, notwithstanding the provisions of Sections 16‑3‑20, 16‑11‑330, and 24‑13‑230.

Notwithstanding the provisions of this section, the ~~Board~~ board may parole any prisoner not sooner than one year ~~prior to~~ before the prescribed date of parole eligibility when, based on medical information furnished to it, the ~~Board~~ board determines that the physical condition of the prisoner concerned is so serious that he would not be reasonably expected to live for more than one year. Notwithstanding any other provision of this section or of law, no prisoner who has served a total of ten consecutive years or more in prison may be paroled until the ~~Board~~ board has first received a report as to his mental condition and his ability to adjust to life outside the prison from a duly qualified psychiatrist or psychologist.

Section 24‑21‑615. The board may not review the case of a prisoner convicted of a capital offense for the purpose of determining whether the person is entitled to any of the benefits provided in this chapter during the month of December of each year.

Section 24‑21‑620. Within the ninety‑day period preceding a prisoner having served one‑fourth of his sentence, the board, either acting in a three‑member panel or meeting as a full board, shall review the case, regardless of whether or not any application has been made therefor, for the purpose of determining whether or not such prisoner is entitled to any of the benefits provided for in this chapter; provided, that in cases of prisoners in confinement due to convictions for nonviolent crimes, an administrative hearing officer may be appointed by the director to review the case who must submit to the full board written findings of fact and recommendations which shall be the basis for a determination by the board. Upon an affirmative determination, the prisoner must be granted a provisional parole or parole. Upon a negative determination, the prisoner’s case shall be reviewed every twelve months thereafter for the purpose of such determination.

Section 24‑21‑630. For the purpose of determining the time required to be served by a prisoner before he shall be eligible to be considered for parole, notwithstanding any other provision of law, all prisoners shall be given benefit for time served in prison in excess of three months while awaiting trial or between trials.

Section 24‑21‑635. For the purpose of determining the time required to be served by a prisoner before he shall be eligible to be considered for parole, notwithstanding any other provision of law, all prisoners shall be given benefit of earned work credits awarded pursuant to Section 24‑13‑230.

Section 24‑21‑640. The board must carefully consider the record of the prisoner before, during, and after imprisonment, and no such prisoner may be paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and that suitable employment has been secured for him.

Before an inmate may be released on parole, he must agree in writing to be subject to search or seizure, without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or is driving, and any of the inmate’s possessions by:

(1) any probation agent employed by the ~~Department~~ Division of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

An inmate may not be granted parole release by the board if he fails to comply with this provision. However, an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the inmate agree to be subject to search or seizure, without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or is driving, or any of the inmate’s possessions.

Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the ~~Department~~ Division of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the ~~Department~~ Division of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the ~~Department~~ Division of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

The board must establish written, specific criteria for the granting of parole and provisional parole. This criteria must reflect all of the aspects of this section and include a review of a prisoner’s disciplinary and other records. The criteria must be made available to all prisoners at the time of their incarceration and the general public. The paroled prisoner must, as often as may be required, render a written report to the board giving that information as may be required by the board which must be confirmed by the person in whose employment the prisoner may be at the time. The board must not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for a prior conviction, for violent crimes as defined in Section 16‑1‑60. Provided that where more than one included offense shall be committed within a one‑day period or pursuant to one continuous course of conduct, such multiple offenses must be treated for purposes of this section as one offense.

Any part or all of a prisoner’s in‑prison disciplinary records and, with the prisoner’s consent, records involving all awards, honors, earned work credits and educational credits, are subject to the Freedom of Information Act as contained in Chapter 4, Title 30.

Section 24‑21‑645. (A) The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two‑thirds of the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16‑1‑60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

(B) The conditions of parole must include the requirement that the parolee must permit the search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, and any of the parolee’s possessions by:

(1) any probation agent employed by the ~~Department~~ Division of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

However, the conditions of parole for a parolee who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the parolee agree to be subject to search or seizure, without a search warrant, with or without cause, of the parolee’s person, any vehicle the parolee owns or is driving, or any of the parolee’s possessions.

(C) By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the ~~Department~~ Division of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the ~~Department~~ Division of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the ~~Department~~ Division of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency’s policies and procedures.

(D) Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16‑1‑60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16‑25‑90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This subsection applies retroactively to a prisoner who has had a parole hearing pursuant to Section 16‑25‑90 prior to the effective date of this act.

Section 24‑21‑650. The board shall issue an order authorizing the parole which must be signed by at least a majority of its members with terms and conditions, if any, but at least two‑thirds of the members of the board must sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16‑1‑60. The director, or one lawfully acting for him, then must issue a parole order which, if accepted by the prisoner, provides for his release from custody. Upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16‑1‑60 must have their cases reviewed every two years for the purpose of a determination of parole.

Section 24‑21‑660. Any prisoner who has been paroled is subject during the remainder of his original term of imprisonment, up to the maximum, to the conditions and restrictions imposed in the order of parole or by law imposed. Every such paroled prisoner must remain in the jurisdiction of the board and may at any time on the order of the board, be imprisoned as and where therein designated.

Section 24‑21‑670. Any prisoner who may be paroled under authority of this chapter shall continue on parole until the expiration of the maximum term or terms specified in his sentence without deduction of such allowance for good conduct as may be provided for by law.

Section 24‑21‑680. 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 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.

Section 24‑21‑690. Any person who shall have served the term for which he has been sentenced less deductions allowed therefrom for good conduct shall, upon release, be treated as if he had served the entire term for which he was sentenced.

Section 24‑21‑700. Any prisoner who is otherwise eligible for parole under the provisions of this article, except that his mental condition is deemed by the ~~Probation, Pardon and Parole~~ Board of Probation, Parole and Pardon Services to be such that he should not be released from confinement may, subject to approval by the Veterans Administration, be released to the custody of the Veterans Administration or to a committee appointed to commit such prisoner to a Veterans Administration Hospital. Such a special parole shall be granted in the sole discretion of the ~~Board~~ board and, when so paroled, a prisoner shall be transferred directly from his place of confinement to a Veterans Administration Hospital which provides psychiatric care. When any prisoner paroled for psychiatric treatment is determined to be in a suitable condition to be released, he shall not be returned to penal custody except for a subsequent violation of the conditions of his parole.

Section 24‑21‑710. (A) Film, videotape, or other electronic information that is both visual and aural, submitted pursuant to this section, must be considered by the Board of Probation, Parole~~,~~ and Pardon Services in making its determination of parole.

(B) Upon receipt of the notice required by law, the following people may submit electronic information:

(1) the victim of the crime for which the prisoner has been sentenced;

(2) the prosecuting solicitor’s office; and

(3) the person whose parole is being considered.

(C) The person submitting the electronic information shall provide the Board of Probation, Parole~~,~~ and Pardon Services with the following:

(1) identification of each voice heard and each person seen;

(2) a visual or aural statement of the date the information was recorded; and

(3) the name of the person whose parole eligibility is being considered.

(D) If the film, videotape, or other electronic information is retained by the board, it may be submitted at subsequent parole hearings each time that the submitting person provides a written statement declaring that the information represents the present position of the person who is submitting the information.

(E) The Department of Corrections may install, maintain, and operate a two‑way closed circuit television system in one or more correctional institutions of the department that confines persons eligible for parole. The Board of Probation, Parole and Pardon Services shall install, maintain, and operate closed circuit television systems at locations determined by the board and conduct parole hearings by means of a two‑way closed circuit television system provided in this section. A victim of a crime must be allowed access to this system to appear before the board during a parole hearing.

(F) Nothing in this section shall be construed to prohibit submission of information in other forms as provided by law.

(G) The ~~director~~ Director of the Department of Law Enforcement and Public Safety, Division of Probation, Parole~~,~~ and Pardon Services may develop written policies and procedures for parole hearings to be held pursuant to this section.

(H) The Board of Probation, Parole~~,~~ and Pardon Services is not required to install, maintain, or operate film, videotape, or other electronic equipment to record a victim’s testimony to be presented to the board.

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 as determined by a licensed physician to the extent that the inmate does not pose a public safety risk.

(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 as determined by a licensed physician 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~~ Division of Probation, Parole and Pardon Services. 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~~ division’s policies.

(E) The ~~department~~ division 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 department determines that the inmate is no longer eligible to participate in the parole set forth in this section, a probation agent must issue a warrant or citation charging a violation of parole and the board shall proceed pursuant to the provisions of Section 24‑21‑680.

Article 11

Pardons; Commutation of Death Sentences

Section 24‑21‑910. The Board of Probation, Parole~~,~~ and Pardon Services ~~Board~~ shall consider all petitions for reprieves or the commutation of a sentence of death to life imprisonment which may be referred to it by the Governor and shall make its recommendations to the Governor regarding the petitions. The Governor may or may not adopt the recommendations but in case he does not he shall submit his reasons for not doing so to the General Assembly. The Governor may act on any petition without reference to the board.

Section 24‑21‑920. In all other cases than those referred to in Section 24‑21‑910 the right of granting clemency shall be vested in the ~~Board~~ board.

Section 24‑21‑930. An order of pardon must be signed by at least two‑thirds of the members of the board. Upon the issue of the order by the board, the director, or one lawfully acting for him, must issue a pardon order which provides for the restoration of the pardon applicant’s civil rights.

Section 24‑21‑940. ~~A.~~ (A) ‘Pardon’means that an individual is fully pardoned from all the legal consequences of his crime and of his conviction, direct and collateral, including the punishment, whether of imprisonment, pecuniary penalty or whatever else the law has provided.

~~B.~~ (B) ‘Successful completion of supervision’ as used in this article shall mean free of conviction of any type other than minor traffic offenses.

Section 24‑21‑950. (A) The following guidelines must be utilized by the board when determining when an individual is eligible for pardon consideration.

(1) Probationers must be considered upon the request of the individual anytime after discharge from supervision.

(2) Persons discharged from a sentence without benefit of parole must be considered upon the request of the individual anytime after the date of discharge.

(3) Parolees must be considered for a pardon upon the request of the individual anytime after the successful completion of five years under supervision. Parolees successfully completing the maximum parole period, if less than five years, must be considered for pardon upon the request of the individual anytime after the date of discharge.

(4) An inmate must be considered for pardon before a parole eligibility date only when he can produce evidence comprising the most extraordinary circumstances.

(5) The victim of a crime or a member of a convicted person’s family living within this State may petition for a pardon for a person who has completed supervision or has been discharged from a sentence.

(B) Persons discharged from a sentence without benefit of supervision must be considered upon the request of the individual anytime after the date of discharge.

Section 24‑21‑960. (A) Each pardon application must be accompanied with a pardon application fee of one hundred dollars. The pardon application fee must be retained and applied by the ~~department~~ Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services toward the pardon process.

(B) Any individual who has an application for pardon considered but denied, must wait one year from the date of denial before filing another pardon application and fee.

Section 24‑21‑970. Consideration shall be given to any inmate afflicted with a terminal illness where life expectancy is one year or less.

Section 24‑21‑980. Once delivered, a pardon cannot be revoked unless it was obtained through fraud. If a pardon is obtained through fraud, it is void.

Section 24‑21‑990. A pardon shall fully restore all civil rights lost as a result of a conviction, which shall include the right to:

(1) register to vote;

(2) vote;

(3) serve on a jury;

(4) hold public office, except as provided in Section 16‑13‑210;

(5) testify without having the fact of his conviction introduced for impeachment purposes to the extent provided by Rule 609(c) of the South Carolina Rules of Evidence;

(6) not have his testimony excluded in a legal proceeding if convicted of perjury; and

(7) be licensed for any occupation requiring a license.

Section 24‑21‑1000. For those applicants to be granted a pardon, a certificate of pardon shall be issued by the ~~Board~~ board stating that the individual is absolved from all legal consequences of his crime and conviction, and that all of his civil rights are restored.

Article 12

Interstate Compact for Adult Offender Supervision

Section 24‑21‑1100. This article may be cited as the ‘Interstate Compact for Adult Offender Supervision’.

Section 24‑21‑1105. The purpose of this compact and the Interstate Commission created under it, through means of joint and cooperative action among the compacting states, is to:

(1) promote public safety by providing adequate supervision in the community of adult offenders who are subject to the compact;

(2) provide a means for tracking offenders subject to supervision under this compact;

(3) provide a means of transferring supervision authority in an orderly and efficient manner;

(4) provide a means of returning offenders to the originating jurisdictions when necessary;

(5) provide a means for giving timely notice to victims of the location of offenders subject to supervision under this compact;

(6) distribute the costs, benefits, and obligations of this compact equitably among the compacting states;

(7) establish a system of uniform data collection for offenders subject to supervision under this compact and to allow access to information by authorized criminal justice officials;

(8) monitor compliance with rules established under this compact; and

(9) coordinate training and education regarding regulations relating to the interstate movement of offenders, for officials involved in this activity.

Section 24‑21‑1110. As used in this compact, unless the context clearly requires a different construction:

(A) ‘Adult’ means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(B) ‘By‑laws’ mean those by‑laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission’s actions or conduct.

(C) ‘Compact administrator’ means the individual in each compacting state appointed to administer and manage the state’s supervision and transfer of offenders subject to the terms of this compact and the rules adopted by the Interstate Commission.

(D) ‘Compacting state’ means any state which has enacted the enabling legislation for this compact.

(E) Commissioner’ means the voting representative of each compacting state appointed pursuant to Section 24‑21‑1120 and this compact.

(F) ‘Interstate Commission’ means the Interstate Commission for Adult Offender Supervision.

(G) ‘Member’ means the commissioner of a compacting state or designee, who must be a person officially connected with the commissioner.

(H) ‘Noncompacting state’ means a state which has not enacted the enabling legislation for this compact.

(I) ‘Offender’ means an adult placed under, or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of a court, paroling authority, corrections, or other criminal justice agency.

(J) ‘Person’ means any individual, corporation, business enterprise, or other legal entity, either public or private.

(K) ‘Rules’ means acts of the Interstate Commission, promulgated pursuant to Section 24‑21‑1160 of this compact, substantially affecting interested parties in addition to the Interstate Commission, which have the force and effect of law in the compacting states.

(L) ‘State’ means a state of the United States, the District of Columbia, and any territorial possession of the United States.

(M) ‘State Council’ means the resident members of the state council for Interstate Adult Offender Supervision created by each state under Section 24‑21‑1120.

Section 24‑21‑1120. (A) The compacting states hereby create the ‘Interstate Commission for Adult Offender Supervision’. The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers, and duties contained in this article, including the power to sue and be sued, and any additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(B)(1) The Interstate Commission shall consist of commissioners selected and appointed by the compacting states. The Governor shall appoint as commissioner from the State of South Carolina the Director of the South Carolina Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services, or his designee. The commissioner, acting jointly with similar officers appointed in other states, shall promulgate rules and regulations necessary to effectively carry out the terms of this compact.

(2) The Director of the South Carolina Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services, or his designee, must serve as Compact Administrator for the State of South Carolina.

(3) The Director of the South Carolina Department of Enforcement and Public Safety, Division of Probation, Parole and Pardon Services must establish a state council for Interstate Adult Offender Supervision. The membership of the state council must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. The state council shall act as an advisory body to the commissioner regarding the activities of the state’s interstate compact office, engage in advocacy activities concerning the state’s participation in interstate commission activities, and perform other duties determined by the commissioner.

(C) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. The noncommissioner members must include a member of the National Organization of Governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the Interstate Commission shall be ~~ex‑officio~~ ex officio nonvoting members. The Interstate Commission may provide in its by‑laws for additional ~~ex‑officio~~ ex officio nonvoting members as it considers necessary.

(D) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by‑laws of the Interstate Commission.

(E) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty‑seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(F) The Interstate Commission shall establish an Executive Committee which shall include commission officers, members, and others as shall be determined by the by‑laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of making rules and amendments to the compact. The Executive Committee shall oversee the day‑to‑day activities managed by the ~~Executive Director~~ executive director and Interstate Commission staff. It shall administer enforcement and compliance with the provisions of the compact, its by‑laws, and as directed by the Interstate Commission and perform other duties as directed by the commission or set forth in the by‑laws.

Section 24‑21‑1130. The Interstate Commission shall have the following powers:

(1) to adopt a seal and suitable by‑laws governing the management and operation of the Interstate Commission;

(2) to promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) to oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any by‑laws adopted and rules promulgated by the compact commission;

(4) to enforce compliance with compact provisions, Interstate Commission rules, and bylaws using all necessary and proper means including, but not limited to, the use of the judicial process;

(5) to establish and maintain offices;

(6) to purchase and maintain insurance and bonds;

(7) to borrow, accept, or contract for services of personnel including, but not limited to, members and their staffs;

(8) to establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section 24‑21‑1120(F) which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(9) to elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications, and to establish the Interstate Commission’s personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(10) to accept donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;

(11) to lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any real, personal, or mixed property;

(12) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property;

(13) to establish a budget and make expenditures and levy dues as provided in Section 24‑21‑1180;

(14) to sue and be sued;

(15) to provide for dispute resolution among compacting states;

(16) to perform the functions as may be necessary or appropriate to achieve the purposes of this compact;

(17) to report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission;

(18) to coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in this activity; and

(19) to establish uniform standards for the reporting, collecting, and exchanging of data.

Section 24‑21‑1140. (A) The Interstate Commission, by a majority of the members, within twelve months of the first Interstate Commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact including, but not limited to:

(1) establishing the fiscal year of the Interstate Commission;

(2) establishing an executive committee and other committees as may be necessary;

(3) providing reasonable standards and procedures for the establishment of committees and governing any general or specific delegation of any authority or function of the Interstate Commission;

(4) providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each meeting;

(5) establishing the titles and responsibilities of the officers of the Interstate Commission;

(6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of a compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission;

(7) providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment reserving of all of its debts and obligations;

(8) providing transition rules for ‘start up’ administration of the compact; and

(9) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(B)(1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have the authorities and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided, that subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for a period, upon terms and conditions and for compensation as the Interstate Commission considers appropriate. The executive director shall serve as secretary to the Interstate Commission and hire and supervise other staff as may be authorized by the Interstate Commission. The executive director is not a member of the Interstate Commission.

(C) The Interstate Commission shall maintain its corporate books and records in accordance with the by‑laws.

(D)(1) The members, officers, executive director, and employees of the Interstate Commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that nothing in this subsection may be construed to protect any person from liability for any damage, loss, injury, or liability caused by the person’s intentional, ~~willful~~ wilful, or wanton misconduct.

(2) The Interstate Commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the Interstate Commission’s representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of that person.

(3) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the Interstate Commission’s representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of that person.

Section 24‑21‑1150. (A) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(B) Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the Interstate Commission, the act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(C) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person on behalf of the State and shall not delegate a vote to another member state. However, a state council may appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members’ participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication is subject to the same quorum requirements of meetings where members are present in person.

(D) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(E) The Interstate Commission’s bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating these rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(F) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the ‘Government in Sunshine Act’, 5 U.S.C. Section 552(b), as amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two‑thirds vote that an open meeting would be likely to:

(1) relate solely to the Interstate Commission’s internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing a person of a crime or formally censuring a person;

(5) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigatory records compiled for law enforcement purposes;

(7) disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of that entity;

(8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(9) specifically relate to the Interstate Commission’s issuance of a subpoena or its participation in a civil action or proceeding.

(G) For every meeting closed pursuant to this provision, the Interstate Commission’s chief legal officer shall publicly certify that, in counsel’s opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action must be identified in the minutes.

(H) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

Section 24‑21‑1160. (A) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(B) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. The rulemaking shall substantially conform to the principles of the federal Administrative Procedures Act, 5 U.S.C.~~S.~~ Section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.~~S.~~ app. 2, Section 1 et seq., as amended (hereinafter ‘APA’).

(C) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(D) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

(E) When promulgating a rule, the Interstate Commission shall:

(1) publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(2) allow persons to submit written data, facts, opinions, and arguments, which information must be publicly available;

(3) provide an opportunity for an informal hearing; and

(4) promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

(F) Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission’s principal office is located for judicial review of the rule. If the court finds that the Interstate Commission’s action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(G) Subjects to be addressed within twelve months after the first meeting must at a minimum include:

(1) notice to victims and opportunity to be heard;

(2) offender registration and compliance;

(3) violations and returns;

(4) transfer procedures and forms;

(5) eligibility for transfer;

(6) collection of restitution and fees from offenders;

(7) data collection and reporting;

(8) the level of supervision to be provided by the receiving state;

(9) transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) mediation, arbitration, and dispute resolution.

The existing rules governing the operation of the previous compact superseded by this act shall be null and void twelve months after the first meeting of the Interstate Commission created hereunder.

(H) Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the emergency rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

Section 24‑21‑1170. (A) The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(B) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact’s purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any proceeding and shall have standing to intervene in the proceeding for all purposes.

(1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them, cooperate with, and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.

(3) The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(C) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Section 24‑21‑1200(B).

Section 24‑21‑1180. (A) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(B) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff that must be in a total amount sufficient to cover the Interstate Commission’s annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the State and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs the assessment.

(C) The Interstate Commission shall not incur any obligations of any kind ~~prior to~~ before securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(D) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission must be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the Interstate Commission.

Section 24‑21‑1190. (A) Any state is eligible to become a compacting state.

(B) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty‑five of the states. The initial effective date must be the later of July 1, 2001, or upon enactment into law by the thirty‑fifth jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in Interstate Commission activities on a nonvoting basis ~~prior to~~ before adoption of the compact by all states and territories of the United States.

(C) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Section 24‑21‑1200. (A)(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The Interstate Commission shall notify the other compacting states of the withdrawing state’s intent to withdraw within sixty days of its receipt thereof.

(5) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the Interstate Commission.

(B)(1) If the Interstate Commission determines that any compacting state has at a time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or any duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(a) fines, fees, and costs in amounts as are considered reasonable as fixed by the Interstate Commission;

(b) remedial training and technical assistance as directed by the Interstate Commission; or

(c) suspension and termination of membership in the compact. Suspension must be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension must be given by the Interstate Commission to the Governor, the Chief Justice of the State, the majority and minority leaders of the defaulting state’s legislature, and the state commissions. The grounds for default include, but are not limited to, failure of a compacting state to perform the obligations or responsibilities imposed upon it by this compact, Interstate Commission bylaws, or duly promulgated rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact must be terminated from the effective date of suspension.

(2) Within sixty days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the Governor, the Chief Justice, the majority and minority leaders of the defaulting state’s legislature, and the state commissioners of the termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(C) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and by‑laws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation including reasonable attorney fees.

(D)(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and of no further force or effect, and the business and affairs of the Interstate Commission must be wound up, and any surplus funds must be distributed in accordance with the bylaws.

Section 24‑21‑1210. (A) The provisions of this compact must be severable, and if a phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact must be enforceable.

(B) The provisions of this compact must be liberally constructed to effectuate its purposes.

Section 24‑21‑1220. (A)(1) Nothing in this article prevents the enforcement of another law of a compacting state that is consistent with this compact.

(2) All compacting states’ laws conflicting with this compact are superseded to the extent of the conflict.

(B)(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding the meaning or interpretation.

(4) In the event a provision of this compact exceeds the constitutional limits imposed on the legislature of a compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the Interstate Commission must be ineffective and the obligations, duties, powers, or jurisdiction must remain in the compacting state and must be exercised by the agency to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Article 13

Day Reporting Centers

Section 24‑21‑1300. (A) The Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services may develop and operate day reporting centers within the State.

(B) ‘Day reporting center’ means a state facility providing supervision of inmates or offenders placed on supervision, which includes, but is not limited to, mandatory reporting, program participation, drug testing, community service, and any other conditions as determined by the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services.

(C) ‘Eligible inmate’ means a person sentenced to imprisonment for more than three months, excluding a person sentenced for:

(1) a violent crime, as provided for in Section 16‑1‑60;

(2) a Class A, B, or C felony, as provided for in Section 16‑1‑20;

(3) the following Class D felonies:

(a) robbery, as provided for in Section 16‑11‑325;

(b) disseminating obscene material to a minor twelve years of age or younger, as provided for in Section 16‑15‑355; and

(c) aggravated stalking, as provided for in Section 16‑3‑1730(C);

(4) an unclassified crime which carries a maximum term of imprisonment of fifteen years or more, as provided for in Section 16‑1‑10(D);

(5) the unclassified crime of assault and battery of a high and aggravated nature in which the original indictment was for an offense that would require registration as a sex offender, as provided for in Section 23‑3‑430; or

(6) a crime which requires a registration as a sex offender, as provided for in Section 23‑3‑430. ‘Eligible inmate’ does not include a person who does not provide an approved in‑state residence as determined ~~jointly~~ by the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services.

(D) ‘Eligible offender’ means a person placed on probation, parole, community supervision, or any other supervision program operated by the Department of Law Enforcement and Public Safety, Division of Probation, Parole and Pardon Services, excluding a person sentenced for:

(1) a violent crime, as provided for in Section 16‑1‑60;

(2) a Class A, B, or C felony, as provided for in Section 16‑1‑20;

(3) the following Class D felonies:

(a) robbery, as provided for in Section 16‑11‑325;

(b) disseminating obscene material to a minor twelve years of age or younger, as provided for in Section 16‑15‑355; and

(c) aggravated stalking, as provided for in Section 16‑3‑1730(C);

(4) an unclassified crime which carries a maximum term of imprisonment of fifteen years or more, as provided for in Section 16‑1‑10(D);

(5) the unclassified crime of assault and battery of a high and aggravated nature in which the original indictment was for an offense that would require registration as a sex offender, as provided for in Section 23‑3‑430; or

(6) a crime which requires a registration as a sex offender, as provided for in Section 23‑3‑430. ‘Eligible offender’ does not include a person who does not provide an approved in‑state residence as determined ~~jointly~~ by the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services.

Section 24‑21‑1310. (A) Notwithstanding another provision of law, the ~~Department~~ Division of Probation, Parole and Pardon Services may develop and operate day reporting centers for eligible inmates and eligible offenders, if the General Assembly appropriates funds to operate these centers. The ~~Department~~ Division of Probation, Parole and Pardon Services shall develop policies, procedures, and guidelines for the operation of day reporting centers. The period of time an eligible inmate or offender is required to participate in a day reporting program and the individual terms and conditions of an eligible inmate’s or offender’s placement and participation are at the ~~joint~~ discretion of the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services.

(B) An inmate or offender has no right to be placed in a day reporting center. The Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Serviceshave absolute discretion to place an eligible inmate or offender in a day reporting center and nothing in this article may be construed to entitle an inmate or offender to participate in a day reporting center program.

Section 24‑21‑1320. (A) An eligible inmate or offender placed in a day reporting center must agree to abide by the conditions established by the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services, which may include, but are not limited to:

(1) seek and maintain employment;

(2) participate in any educational, vocational training, counseling, or mentoring program recommended by the department;

(3 refrain from using alcohol or nonprescription medication; and

(4) pay a reasonable supervision fee, which may be waived by the department, that must be retained by the department to assist in funding this program.

(B) An eligible inmate or offender who fails to abide by the conditions established by the Department of Corrections and the ~~Department~~ Division of Probation, Parole and Pardon Services may be removed from the community and brought before an administrative hearing officer of the ~~Department of~~ Division of Probation, Parole and Pardon Services. The ~~Department~~ Division of Probation, Parole and Pardon Services is the sole authority for determining whether any condition has been violated and for determining the actions to be taken in response to the violation. A participant revoked from participation in a day reporting center may be subject to further criminal proceedings or the institution of internal disciplinary sanctions for violations of any conditions associated with his placement in the day reporting center program. An inmate who fails to report as instructed, or whose whereabouts are unknown, may be considered to be an escapee by the department and may be apprehended and returned to custody as any other inmate who is deemed an escapee by the department.

(C) If a sentence to a day reporting center is revoked, the inmate must serve the remainder of his sentence within the Department of Corrections.

Section 24‑21‑1330. The pilot project day reporting center program terminates twelve months from its opening, unless extended by the General Assembly.”

SECTION 111. Section 23‑3‑10 of the 1976 Code is amended to read:

“Section 23‑3‑10. There is created within the Department of Law Enforcement and Public Safety the ~~South Carolina~~ State Law Enforcement Division (SLED). The division must be headed by a chief appointed by the ~~Governor with the advice and consent of the Senate and shall hold office until his successor is appointed and qualified. The term of the chief is six years. On the effective date of the provisions of this section providing for a six‑year term for the chief, a successor to the chief serving on this date must be appointed as provided herein. Nothing herein prevents the chief serving on this date from being reappointed to additional six‑year terms. The chief may only be removed pursuant to the provisions of Section 1‑3‑240 of the 1976 Code~~ Director of the Department of Law Enforcement and Public Safety. The agents and officers of the division must be commissioned by the Governor upon the recommendation of the ~~chief~~ director. The agents and officers shall have that rank or title as may be provided under the State Employees Classification System. The chief may appoint other personnel considered necessary and as provided for in the annual appropriations act. All agents and officers commissioned by the Governor are subject to discharge for cause which must be subject to review as is now provided by law for other state employees.”

SECTION 112. Section 23‑3‑680 of the 1976 Code is amended to read:

“Section 23‑3‑680. ~~SLED~~ The Department of Law Enforcement and Public Safety shall promulgate regulations to carry out the provisions of this article.”

SECTION 113. Section 23‑3‑690 of the 1976 Code is amended to read:

“Section 23‑3‑690. ~~SLED~~ The Department of Law Enforcement and Public Safety shall promulgate regulations for sample testing and analysis and for sample collection, identification, handling, transporting, and shipment which must be complied with by the agency having jurisdiction over the offender.”

SECTION 114. Chapter 6, Title 23 of the 1976 Code is amended by adding:

“Article 7

Natural Resources Enforcement Division

Section 23‑6‑310. (A) There is created a Natural Resources Enforcement Division within the Department of Law Enforcement and Public Safety that shall enforce all of the laws of the State relating to natural resources as provided in Title 50.

(B) The functions, powers, duties, responsibilities, and authority statutorily exercised by the Natural Resources Enforcement Division of the South Carolina Department of Natural Resources are transferred to and devolved on the Natural Resources Enforcement Division of the Department of Law Enforcement and Public Safety and the assets, liabilities, records, property, personnel, unexpended appropriations, and other funds are transferred to the division.

(C) The division may have such enforcement officers, agents, and employees that the department considers necessary and proper for the enforcement of the laws of the State relating to natural resources as provided in Title 50. An enforcement officer of the division must be commissioned by the Governor upon the recommendation of the director of the Department of Law Enforcement and Public Safety, and the Secretary of State shall transmit to the director the commissions of all officers. The director may terminate a commission at his pleasure.

(D) The department shall provide distinctive uniforms, badges, and suitable arms and equipment that its officers must use when performing their official duties. An officer shall wear a complete uniform and a conspicuously displayed badge when performing his duties.

(E) The department shall prescribe a distinctive color or colors and appropriate emblems for all motor vehicles used by the division except those designated by the director.

(F) The director shall file with the Legislative Council for publication in the State Register a description and illustration of the official highway patrol uniform with insignia and the emblems of the official highway patrol and motor vehicles including a description of the color of such uniforms and vehicles and a description and illustration of the uniform, insignia, emblems, and motor vehicles of the division.

(G) Another law enforcement agency, private security agency, or other person may not:

(1) wear a uniform, badge, or insignia that can be readily confused with a uniform, badge, or insignia of the division; or

(2) cause a vehicle not used by the department to be readily confused with a vehicle used by the department.

(H) In order to carry out the provisions of this section in an orderly and economical manner, all serviceable uniforms and motor vehicles used by the division must continue to be used until the director considers their replacement necessary.

Section 23‑6‑320. (A) An enforcement officer commissioned pursuant to this chapter shall file a bond, or be covered by a surety bond, with the department in an amount of not less than two thousand dollars, subscribed by a duly licensed surety company, that must be conditioned on the faithful performance of his duties. These duties include, but are not limited to, the prompt and proper accounting of all funds coming into his hands, the payment of a judgment recovered against him in a court of competent jurisdiction upon a cause of action arising out of breach or abuse of official duty or power, or the payment of damages sustained by a member of the public from an unlawful act of the officer or trooper. Coverage under the bond may not include personal injury or property damage arising from the negligent operation of a motor vehicle. The bond may be individual, schedule, or blanket. The bond must be on a form approved by the Attorney General. The department shall pay the premiums for a bond.

(B) An enforcement officer commissioned pursuant to this chapter shall take and subscribe before a notary public or other authorized officer an oath to perform faithfully the duties of his office. The oath must be transmitted to the board, which shall maintain a record of the oath.

Section23‑6‑330. (A) The director may appoint deputy enforcement officers who serve at the pleasure of the director without pay. A deputy enforcement officer has statewide police power, but the director may restrict their territorial jurisdiction.

(B) Except for specially designated department employees, a deputy enforcement officer is a volunteer covered by Chapter 25, Title 8 and not an employee entitled to coverage or benefits in Title 42.

(C) Except for specially designated department employees, a deputy enforcement officer shall furnish his own equipment but may not equip a privately owned vehicle with blue lights, sirens, or indicia of the department or division.

(D) The department shall administer the deputy enforcement officers through its Natural Resources Enforcement Division.

(E) The number of deputy enforcement officers appointed is in the discretion of the director.

(F) A deputy enforcement officer:

(1) must be of good character;

(2) may not hold another public office;

(3) must be certified by the South Carolina Criminal Justice Academy or successfully shall complete the ‘Basic State Constables Course’ at his own expense at one of the state technical schools;

(4) successfully shall complete required refresher training;

(5) shall comply promptly with a directive by the deputy director of the Natural Resources Enforcement Division and the supervisor of enforcement officers within whose area the officer is acting; and

(6) shall take and subscribe before a notary public or other authorized officer an oath to faithfully perform the duties of his office. The oath must be transmitted to the board, which shall maintain a record of the oath.

(G) The department by regulation shall establish a training program for deputy enforcement officers commissioned after the effective date of this article.

Section 23‑6‑340. An enforcement officer shall obtain information concerning a violation of a bird, nonmigratory fish, or game law; and check all bag limits, size, and species of bagged birds, nonmigratory fish, or game.

Section23‑6‑350.An enforcement officer who makes an affidavit before a court of proper jurisdiction stating that reasonable grounds exist to believe that a person or common carrier illegally possesses game, a bird, or a fish may:

(1) procure a search warrant and open, enter, and examine a vehicle, building, or receptacle of the suspected person or common carrier; and

(2) seize game, a bird, or a fish possessed in violation of a law of this State.

Section 23‑6‑360. An enforcement officer may issue a warning ticket to a violator for a misdemeanor under Title 50. The department by regulation shall provide the form, administration, and use of a warning ticket authorized by this section.

Section23‑6‑370. (A) An enforcement officer, deputy enforcement officer, or officer deputized by the department pursuant to Section 27‑16‑70(C)(2):

(1) shall enforce the laws of the State related to natural resources as provided in Title 50 and prosecute a person who violates these laws;

(2) has statewide jurisdiction;

(3) has the same power and authority held and exercised by:

(a) a constable at common law and under the laws of this State; and

(b) an inspector as provided by Chapter 5, Title 50; and

(4) may use an official summons for violations of a law or regulation of the Department of Natural Resources, the Department of Parks, Recreation and Tourism, the State Forestry Commission, or the Department of Health and Environmental Control pertaining to shellfish, trespass, and:

(a) interfering with a police officer, Section 16‑5‑50;

(b) disorderly conduct, Section 16‑17‑530;

(c) malicious injury to animals or personal property, Section 16‑11‑510;

(d) littering, Section 16‑11‑700;

(e) possession of beer or wine by a person underage, Section 63‑19‑2440;

(f) possession of alcoholic liquor by a person under twenty‑one years of age, Section 63‑19‑2450;

(g) possession of marijuana (1 oz. or less), Section 44‑53‑370(c);

(h) violation of the South Carolina Underwater Antiquities Act, Sections 54‑7‑610 through 54‑7‑810;

(i) interfering with navigation, Sections 54‑11‑10 through 54‑11‑50;

(j) failure to stop for a blue light, Section 56‑5‑750;

(k) fishing from a posted bridge or roadway, Section 56‑5‑3110;

(l) unlawful possession and consumption of alcoholic liquor, Sections 61‑6‑1800, 61‑6‑2220, and 61‑6‑4710;

(m) open container, Section 61‑4‑110;

(n) transporting uncovered loads on highways, Section 56‑5‑4100;

(o) destruction of sea oats or venus flytraps, Section 16‑11‑590;

(p) destruction of marsh, Section 48‑39‑130; or

(q) inhumane treatment to animals, Section 47‑1‑40.

(B) A person served with a summons under subsection (A) of this section may offer to post bail in lieu of incarceration or a personal appearance required by the summons. The apprehending officer may accept as bail cash in an amount not less than the minimum or more than the maximum fine, plus court costs. The official summons serves as receipt for the sum deposited and confers to the appropriate court jurisdiction to adjudicate the matter.

Section23‑6‑380. (A) An enforcement officer, deputy enforcement officer, officer deputized by the department pursuant to Section 27‑16‑70(C)(2), or officer of the Lake Wylie Marine Commission may not be subject to criminal prosecution when acting in his official capacity within his territorial jurisdiction for:

(1) failing to comply with a statute or regulation governing the operation of a motor vehicle, watercraft, or aircraft;

(2) entering private property, regardless of whether the property posts a prohibition against trespassing; or

(3) failing to comply with a wildlife conservation or boating law when necessary to investigate or enforce a wildlife conservation or boating law.

(B) This section does not relieve an officer from:

(1) the duty to exercise due regard for the safety of the public or protect them from the consequences of reckless, wilful, or wanton disregard for the safety of others; or

(2) liability for other criminal prosecution.”

SECTION 115. Section 23‑6‑30(9) of the 1976 Code is amended to read:

“( 9) enforce the laws of the State regarding birds, nonmigratory fish, gamefish, shellfish, shrimp, oysters, oyster leases, and fisheries; and

(10) do all other functions and responsibilities as required or provided for by law.”

SECTION 116. Sections 50‑3‑110, 50‑3‑120, 50‑3‑130, 50‑3‑140, 50‑3‑150, 50‑3‑160, 50‑3‑310, 50‑3‑315, 50‑3‑316, 50‑3‑320, 50‑3‑330, 50‑3‑340, 50‑3‑350, 50‑3‑370, 50‑3‑380, 50‑3‑390, 50‑3‑395, 50‑3‑396, 50‑3‑400, 50‑3‑410, and 50‑3‑420 of the 1976 Code are repealed.

SECTION 117. The repeal or amendment by this act of 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 118. If any section, subsection, paragraph, 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 this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, 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 119. This act takes effect upon approval by the Governor.

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