



PROPOSED SC LAWS 2023

THIS IS COMPILATION OF BILLS PROPOSED BY THE SCBAA AND DIFFERENT LEGISLATORS. LAWS AND BILLS ARE CHANGED OFTEN AND THE ONES COMPILED IN THIS PACKAGE IS AN INTRODUCTION OF ONES RELEVANT TO THE BAIL BONDING INDUSTRY IN SC. IT MAY NOT BE COMPLETE. YOU MAY GO TO www.scstatehouse.gov AND SEARCH FOR DIFFERENT BILLS INTRODUCTIONS. THE PROPOSED INTRODUCTIONS MAY NOT BE SUPPORTED BY THE SCBAA.

SC Bail Agents Association Proposed Changes

SECTION 38-53-50. Surety relieved on bond; surrender of defendant; filing of new undertaking.

(A) A surety desiring to be relieved on a bond for good cause shall file with the clerk of court a motion to be relieved on the bond. A copy of the motion must be served upon the defendant, his attorney, and the solicitor's office. The court then shall schedule a hearing to determine if the surety should be relieved on the bond and notify all parties of the hearing date. At the time of the filing of the motion, a fee of twenty dollars must be paid to the clerk of court to be retained by the clerk for use in the operation of the clerk's office. The fee will cover the cost of copies of the motion required by the surety.

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

(C) If the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant, the surety shall file an affidavit with the court stating that the defendant is incarcerated in the appropriate detention facility as a result of the bench warrant as well as the violation of the specific term or terms of the bail bond stated in the bench warrant. Once the affidavit pursuant to the provisions of this subsection has been filed and served on the defendant, the surety is relieved of all liability on the bail bond by the court unless otherwise ordered by the circuit court within fourteen calendar days of the filing of the affidavit, or, if there is no term of court within the fourteen day period, at the ensuing term of court.

(D) After the surety has been relieved by order of the court, a new undertaking must be filed with the appropriate court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond unless the conditions have been changed by the court.

(E) If the defendant is deported from the United States the surety is relieved of liability.

SECTION 38-53-60. Arrest of defendant.

For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking or, by his written authority endorsed on a certified copy of the undertaking, may request any judicial officer to order the arrest of the defendant by the surety. **A bondsman**

may request the assistance of another licensed bondsman or licensed runner for the purpose of arresting and surrendering the defendant.

SECTION 38-53-70. Issuance of bench warrant; remission of judgment.

If a defendant fails to appear at a court proceeding to which he has been summoned, the court shall issue a bench warrant for the defendant. ~~The court shall make available for pickup by the surety or the representative of the surety who executed the bond on their behalf, a true copy of the bench warrant within seven days of its issuance at the clerk of court's office.~~ **The court must notify the surety within seven (7) days by email or mailing a copy of the bench warrant to the surety. The bench warrant may be stamped in red "Bondsman Copy".** If the surety fails to surrender the defendant or place a hold on the defendant's release from incarceration, commitment, or institutionalization within ninety days of the issuance of the bench warrant, the bond is forfeited. The forfeiture shall be cancelled if the defendant is located in any jail of the United States and the court does not extradite the defendant. At any time before execution is issued on a judgment of forfeiture against a defendant or his surety, the court may direct that the judgment be remitted in whole or in part, upon conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment. In making a determination as to remission of the judgment, the court shall consider the costs to the State or a county or municipality resulting from the necessity to continue or terminate the defendant's trial and the efforts of law enforcement officers or agencies to locate the defendant. The court, in its discretion, may permit the surety to pay the estreatment in installments for a period of up to six months; however, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond. If at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety complies with the recommitment procedures, the surety is relieved of further liability.

SECTION 38-53-80. License required of bail bondsman and runners.

No person may act in the capacity of a professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for professional or surety bondsmen or runners under the provisions of this chapter unless that person is qualified, except for an accommodation bondsman, licensed in accordance with the provisions of this chapter. An unlicensed individual who is employed by a licensee under this chapter may perform clerical or other administrative duties only.

No license may be issued to a professional bondsman, surety bondsman, or runner except as provided in this chapter. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both.

The applicant shall apply for a license or renewal of a license on forms prepared and supplied by the director or his designee. The director or his designee may ask the applicant any questions, written or otherwise, relating to his qualifications, residence, prospective place of business, and any other inquiries which, in the opinion of the director or his designee, are necessary in order to protect the public and ascertain the qualifications of the applicant. The director or his designee shall request that the State Law Enforcement Division conduct any reasonable investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

Applicants must provide an affidavit stating no premiums or unsatisfied judgments are due to any insurance company which previously appointed the applicant. If an applicant has been previously licensed, the insurance company to which an applicant was previously appointed must file an affidavit stating no premiums or unsatisfied judgments are due. No license shall be granted if any premiums or unsatisfied judgments are due.

The director or his designee shall request that the State Law Enforcement Division conduct any reasonable investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

The failure of the applicant to secure approval of the director or his designee does not preclude him from applying as many times as he desires, but no application may be considered by the director or his designee within one year subsequent to the date upon which the director or his designee denied the applicant's last application.

SECTION 38-53-140. Expiration of license; renewal license.

All licenses issued pursuant to the provisions of this chapter expire **bi-annually** on June thirtieth **of even numbered years** unless revoked or suspended prior to that time by the director or his designee or upon notice served upon the director or his designee that the employer of any runner has canceled the licensee's authority to act for the employer.

A renewal license must be issued by the director or his designee to a licensee who has met the continuing education requirements in Section 38-53-85(A) upon the payment of a renewal fee of **four** ~~two~~ hundred dollars for runners and **eight** ~~four~~ hundred dollars for professional bondsmen, but the licensees are required in all other respects to comply with the provisions of this chapter. After the receipt of the licensee's application for renewal, the current license continues in effect until the renewal license is issued or denied for cause.

SECTION 38-53-180. Receipt for collateral required.

When a professional or surety bondsman accepts collateral, he shall give a written receipt for the collateral. This receipt shall give in detail a full description of the collateral received. The collateral must be returned within 30 days after the disposition of the case unless a forfeiture has been issued by the court. The collateral may be used to pay the forfeiture. If the collateral is in excess of the forfeiture, the balance must be returned to the depositor.

ADD SECTION 38-53- ___ Death, incapacitation, or incompetence of a bail bondsman.

In the case of death, incapacitation, or incompetence of a bondsman, the spouse or surviving spouse, next of kin, person or persons holding a power of attorney, guardian, executor, or administrator of the bondsman may contract with another licensed bondsman to perform those duties to have the licensee's outstanding bail bond obligations resolved to the satisfaction of the courts. The contract must be filed with the Director and every clerk of court where it can be determined the licensee has pending outstanding bail bond obligations. The licensed bondsman who has agreed to perform these duties shall not, at the time of the execution of the contract, have any administrative or criminal actions pending against him or her.

ADD SECTION 38-53- _ . Build-up funds.

(1) All build-up funds pledged to indemnify an insurer which are posted by a bail bond agent or agency with the insurer must be held in an individual build-up trust account for the agent or agency in an FDIC-approved or FSLIC-approved bank or savings and loan association in this state, jointly in the name of the agent or agency and the insurer or in trust for the agent or agency by the insurer. Such account must remain open to inspection and examination by the department at all times. An accounting of all such funds shall be maintained which designates the amounts collected on each bond written.

(2) Build-up funds may not exceed 40 percent of the premium as established by the agent's contract agreement with the insurer or managing general agent., Build-up funds received shall be immediately deposited to the build-up trust account. Interest on such accounts shall accrue to the bail bond agent.

(3) Build-up funds are maintained as a trust fund created on behalf of a bail bond agent or agency, held by the insurer in a fiduciary capacity to be used to indemnify the insurer for losses and any other agreed upon cost related to a bail bond executed by the agent. The build-up funds are the sole property of the agent or agency. Upon termination of the bail bond agency or agent's contract and discharge of open bond liabilities on the bonds written, build-up funds are due and payable to the bail bond agent or agency not later than 6 months after final discharge of the open bond liabilities.

(4) Each insurer authorized to write bail bonds in this state and each managing general agent must furnish to the department a certified copy of a statement listing each build-up trust account and the balance therein by March 1 of each year.

(5) Insurers must provide copies of monthly build-up fund account bank statements to their agents and agencies.

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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~~Indicates Matter Stricken~~

Indicates New Matter

S. 367

STATUS INFORMATION

General Bill

Sponsors: Senators Adams, M. Johnson, Kimbrell, Garrett, Rice, Harpootlian and Cash

Document Path: SJ-0009BM23.docx

Introduced in the Senate on January 10, 2023

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

Summary: Bonds and Electronic Monitoring

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/10/2023	Senate	Introduced and read first time (Senate Journal-page 209)
1/10/2023	Senate	Referred to Committee on Judiciary (Senate Journal-page 209)

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VERSIONS OF THIS BILL

1/10/2023

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 17-15-20, RELATING TO CONDITIONS OF APPEARANCE RECOGNIZANCE OR APPEARANCE BOND; DISCHARGE, VALIDITY, RELIEF OF SURETY, SO AS TO PROVIDE THAT AN APPEARANCE BOND SHALL AUTOMATICALLY CONVERT TO A PERSONAL RECOGNIZANCE BOND AFTER THREE YEARS FOR A CIRCUIT COURT OFFENSE AND AFTER EIGHTEEN MONTHS FOR A MAGISTRATE'S OR MUNICIPAL COURT OFFENSE; BY AMENDING SECTION 17-15-30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, TO PROVIDE THAT THE COURT MUST CONSIDER A DEFENDANT'S PRIOR CHARGES AND EXISTING BONDS WHEN DETERMINING BOND; BY AMENDING SECTION 38-53-10 TO ESTABLISH A DEFINITION FOR ELECTRONIC MONITORING; BY AMENDING SECTION 38-53-50, RELATING TO SURETY RELIEVED ON BOND, TO PROVIDE THAT FAILURE TO PAY PREMIUM FEES ALONE IS NOT SUFFICIENT REASON TO WARRANT IMMEDIATE INCARCERATION OF THE DEFENDANT; BY AMENDING SECTION 38-53-70, RELATING TO ISSUANCE OF BENCH WARRANT, TO PROVIDE THAT THE COURT MUST NOTIFY THE BONDSMAN WITHIN THIRTY DAYS OF THE ISSUANCE OF A BENCH WARRANT; BY ADDING SECTION 38-53-83 TO PROVIDE THAT ONLY A QUALIFIED AND

LICENSED BONDSMAN OR RUNNER MAY ENGAGE IN ELECTRONIC MONITORING OF A DEFENDANT; BY ADDING SECTION 38-53-84 TO PROVIDE THAT A PERSON ENGAGED IN THE ELECTRONIC MONITORING OF A DEFENDANT MUST NOTIFY THE SOLICITOR WITHIN FORTY-EIGHT HOURS OF ANY VIOLATION OF A CONDITION OF THE BOND BY THE DEFENDANT AND TO PROVIDE THAT FAILURE TO PAY THE MONITORING FEES IS A REVOKABLE CONDITION OF THE BOND; BY AMENDING SECTION 38-53-170, RELATING TO UNLAWFUL ACTS BY A BONDSMAN, TO PROVIDE CONDITIONS FOR THE PAYMENT AND COLLECTION OF PREMIUMS, FEES, AND COLLATERAL; AND BY AMENDING SECTION 38-53-310, RELATING TO WRITTEN REPORT TO BE FILED WITH CLERK OF COURT, TO PROVIDE THAT A BONDSMAN MUST PROVIDE A WRITTEN REPORT TO THEIR INSURANCE PROVIDER WITHIN THIRTY DAYS OF EACH BOND, AND TO PROVIDE THAT THE REQUIREMENT FOR MONTHLY REPORTS TO THE CLERK OF COURT MAY BE SATISFIED WITH GIVING THE CLERK ACCESS TO AN ELECTRONIC DATABASE THAT CONTAINS THE REQUIRED INFORMATION.

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

SECTION 1. Section 17-15-20 of the S.C. Code is amended to read:

Section 17-15-20. (A) An appearance recognizance or appearance bond must be conditioned on the person charged personally appearing before the court specified to answer the charge or indictment and to do and receive what is enjoined by the court, and not to leave the State, and be of good behavior toward all the citizens of the State, or especially toward a person or persons specified by the court.

(B) Unless a bench warrant is issued, an appearance recognizance or an appearance bond is discharged upon adjudication, a finding of guilt, a deferred disposition, or as otherwise provided by law. An appearance bond is valid for a period of three years from the date the bond is executed for a charge triable in circuit court and eighteen months from the date the bond is executed for a charge triable in magistrates or municipal court, to be referred to as the statutory bail bond discharge period. ~~In order for the surety to be relieved of liability on the appearance bond when the time period has run, the surety must provide sixty days written notice to the solicitor, when appropriate, and the respective clerk of court, chief magistrate, or municipal court judge with jurisdiction over the offense of the surety's intent to assert that the person is no longer subject to a valid appearance bond. If the appropriate court determines the person has substantially complied with his court obligations and the solicitor does not object within the required sixty days by demanding a hearing, the court shall order~~ At the expiration of the statutory bail bond discharge period, the appearance bond converted shall automatically convert to a personal recognizance bond and the surety relieved of liability.

SECTION 2. Section 17-15-30(B) of the S.C. Code is amended to read:

(B) A court ~~shall~~ must consider:

(1) a person's criminal record;

(2) any prior charges, and existing bonds on prior charges, pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

SECTION 3. Section 38-53-10 of the S.C. Code is amended by adding

(15) "Electronic monitoring" means monitoring a person by the use of a device which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's activities.

SECTION 4. Section 38-53-50(B) of the S.C. Code is amended to read:

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of premium fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

SECTION 5. Section 38-53-70 of the S.C. Code is amended to read:

Section 38-53-70. If a defendant ~~fails to appear at a court proceeding to which he has been summoned~~ violates the conditions of release on bond, the court shall issue a bench warrant for the defendant. The court shall ~~make available for pickup by the surety or the representative of the surety who executed the bond on their behalf, a true copy~~ provide written or electronic notice of the issuance of the bench warrant within seven thirty days of its issuance ~~at the clerk of court's office to every party bound in the recognizance~~. If the surety fails to surrender the defendant or place a hold on the defendant's release from incarceration, commitment, or institutionalization within ninety days of the issuance of the bench warrant, the bond is forfeited. At any time before execution is issued on a judgment of forfeiture against a defendant or his surety, the court may direct that the judgment be remitted in whole or in part, upon conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment. In making a determination as to remission of the judgment, the court shall consider the costs to the State or a county or municipality resulting from the necessity to continue or terminate the defendant's trial and the efforts of law enforcement officers or agencies to locate the defendant. The court, in its discretion, may permit the surety to pay the estreatment in installments for a period of up to six months; however, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond. If at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety complies with the recommitment procedures, the surety is relieved of further liability.

SECTION 6. Chapter 53, Title 38 of the S.C. Code is amended by adding:

Section 38-53-83. No person may engage in electronic monitoring of a defendant released by a court of competent jurisdiction pursuant to a bail bond unless that person is qualified and licensed as a professional bondsman, surety bondsman, or runner pursuant to the provisions of this chapter. This section does not apply to any agent or agency of the State, any agent or agency of any county or municipal government in South Carolina, or any agent or agency, department, or division of the federal government.

SECTION 7. Chapter 53, Title 38 of the S.C. Code is amended by adding:

Section 38-53-84. (A) A person engaged in electronic monitoring of a defendant must, within forty-eight hours, notify the solicitor having jurisdiction over the defendant when he becomes aware or should have become aware that the defendant has violated any provision of the court's order for electronic monitoring. Failure of a defendant to timely pay the bondsman the full monthly electronic monitoring fee associated with the cost of the electronic monitoring device and the associated cost of the monitoring service, shall, in and of itself, constitute good cause for the bondsman to file a motion to be relieved on the bond and to surrender the defendant to the custody of the appropriate detention facility pursuant to Section 38-53-50.

(B) Failure of the bondsman to maintain compliance with the reporting requirement of subsection (A) shall be reported to the South Carolina Department of Insurance by the solicitor for administrative action whereby the bondsman's license may be fined, suspended, or revoked.

SECTION 8. Section 38-53-170 of the S.C. Code is amended to read:

Section 38-53-170. No bondsman or runner may:

(a) pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or the forfeiture of the bail bond, including the payment to the law enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused a forfeiture;

(b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(c) pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(d) participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of or name for employment any particular attorney to represent the principal;

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of ~~twenty-five~~ one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars or five percent, whichever is greater, of the face amount of the bond. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned upon within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceed the final judgment or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

(f) solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall

report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere pursuant to Section 38-53-340 must be reported to the director or his designee by the court within thirty days; or

(g) advise or assist the principal for the purpose of forfeiting bond.

SECTION 9. Section 38-53-310 of the S.C. Code is amended to read:

Section 38-53-310. (A) Each professional bondsman shall by the fifteenth of each month file with the clerk of court of the county of his principal place of business and any other county where he is doing business a written report in a form prescribed by the director or his designee regarding all bail bonds on which he is liable as of the first day of each month ~~showing~~.

(B) Each surety bondsman shall, within thirty days of executing a bail bond, file with their respective insurance provider a written or electronic report in a form approved by the director or his designee detailing all bail bonds on which he has caused to be executed.

(C) The reports referenced in subsections (A) and (B) shall include the following:

— ~~(a)~~(1) each individual bonded;

— ~~(b)~~(2) the date the bond was given;

— ~~(c)~~(3) the principal sum of the bond;

— ~~(d)~~(4) the state or local official with whom the bond was filed;

— ~~(e)~~(5) the fee charged for the bonding service in each instance; ~~and~~

— ~~(f)~~(6) all pending bonds; and

(7) any current data on monies to be collected and retained as an express condition of the bond, whether for electronic monitoring or otherwise.

(D) In lieu of the monthly submission of a written report to the clerk of court, the bondsman may utilize a data management software system, which contains the above required current information, and is capable of providing the appropriate clerk of court or his designee with real-time access to the data management system through a portal, website, or other data access system through which the clerk of court can confirm he has access to the required information.

SECTION 10. This act takes effect upon approval by the Governor.

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NOTES

South Carolina General Assembly
125th Session, 2023-2024

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~~Indicates Matter Stricken~~

Indicates New Matter

S. 368

STATUS INFORMATION

General Bill

Sponsors: Senators Adams, M. Johnson, Kimbrell, Garrett, Rice, Cash and Harpootlian

Document Path: SJ-0010BM23.docx

Introduced in the Senate on January 10, 2023

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

Summary: Bond Reform - Subsequent Violent Offense

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/10/2023	Senate	Introduced and read first time (Senate Journal-page 210)
1/10/2023	Senate	Referred to Committee on Judiciary (Senate Journal-page 210)

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VERSIONS OF THIS BILL

1/10/2023

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 17-15-55, RELATING TO RECONSIDERATION BY THE CIRCUIT COURT OF BOND SET BY THE SUMMARY COURT, SO AS TO PROVIDE THAT IF A PERSON RECEIVES A SUBSEQUENT BOND AFTER BEING RELEASED ON BOND FOR A PREVIOUS VIOLENT OFFENSE OR FELONY OFFENSE INVOLVING A FIREARM, THE BONDSMAN MUST CERTIFY THAT ALL FEES ASSOCIATED WITH THE BOND WERE PAID IN FULL AT THE TIME OF THE BONDING, AND TO PROVIDE THAT IF A PERSON RECEIVES A BOND AFTER TWO PRIOR BONDS SET FOR SEPARATE VIOLENT OR FELONY OFFENSES INVOLVING A FIREARM, THAT BOND MAY NOT BE POSTED BY A BOND SURETY; BY AMENDING SECTION 17-15-30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER WHETHER A PERSON IS CURRENTLY OUT ON BOND FOR A PRIOR OFFENSE WHEN SETTING BOND; AND BY AMENDING SECTION 22-5-510, RELATING TO BAIL AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE MAGISTRATE, SO AS TO PROVIDE THAT A MAGISTRATE MUST CONSIDER WHETHER A PERSON IS OUT ON BOND FOR ANOTHER PRIOR OFFENSE WHEN SETTING A BOND.

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

SECTION 1. Section 17-15-55 of the S.C. Code is amended to read:

Section 17-15-55. (A)(1) The circuit courts, at their discretion, may review and reconsider bond for general sessions offenses set by summary court judges. Also, the circuit courts may consider motions regarding reconsideration of bond for general sessions offenses set by summary court judges upon motions filed with the clerks of court. Hearings on these motions must be scheduled. The rules of evidence do not apply to bond hearings.

(2) After a circuit court judge has heard and ruled upon a defendant's motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court only upon the defendant's prima facie showing of a material change in circumstances which relate to the factors provided in Section 17-15-30, and which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances. Information regarding the defendant's guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor's consent.

(B)(1) Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. The motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any.

(2) After a circuit court judge has heard and ruled upon the state's motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state's prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances.

(3) If the state's motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within forty-eight hours of receiving service of the state's motion or as soon as practical. The chief judge shall order the solicitor to notify the defense counsel of record and bond surety of the time and date of the hearing, and the solicitor shall provide proof reasonable efforts were made to affect the notice. Upon notice by the State, the defense counsel of record and bond surety shall make reasonable efforts to notify the defendant of the emergency hearing. The court may proceed with the hearing despite the absence of the defendant or bond surety. The court may not proceed with the hearing if the defense counsel of record is not present. If an emergency bond hearing is held without the presence of the defendant and bond is revoked, the judge having heard the matter may conduct the hearing on the defendant's motion to reconsider the revocation. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.

(C) If a person commits a violent ~~crime~~ offense, as defined in Section 16-1-60, or any felony offense involving a firearm, which was committed when the person was already out on bond for a previous violent ~~crime~~ offense or any felony offense involving a firearm and the subsequent violent ~~crime~~ offense did not arise out of the same series of events as the previous violent ~~crime~~ offense, then:

____(1) the bond hearing for the subsequent violent ~~crime~~ offense or any felony offense involving a firearm must be held in the circuit court within thirty days;

____(2) If if the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond

accordingly. Notwithstanding the provisions of Sections 17-15-15, any bond set for a violent offense or felony offense involving a firearm committed when the person was already out on bond for a previous violent offense or felony offense involving a firearm must be deposited to the court in cash or its equivalent in full, regardless of if the bond was posted by the defendant, his representative, or by a bond surety. If the secondary bond is posted by a bond surety, the surety must certify to the court that all costs and fees required by the contract or agreement with the defendant were paid in full at the time of the bonding and that no future payments, fees, or interest are due from the defendant. A failure by the defendant to make payments or to pay fees or interest to a bond surety after the release from custody for any contract or agreement made in violation of this subsection shall not be enforceable in any court;

____(3) If if the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, the court shall not set a bond for the instant offense and must revoke all previously set bonds;

____ ~~(D)~~(4) If if a person commits a violent-crime offense, as defined in Section 16-1-60, or a felony offense involving a firearm which was committed when the person was already out on bond for a previous violent-crime offense or felony offense involving a firearm, and the subsequent violent-crime offense did not arise out of the same series of events as the previous violent crime, then the arresting law enforcement agency must transmit notice of the second arrest, implicating this subsection-~~(C)~~, to the solicitor of the circuit in which the-crime offense was committed and the administrative chief judge of the circuit in which the-crime offense was committed. The prosecuting agency must notify any victims of the initial or subsequent-crimes offenses pursuant to Chapter 3, Title 16 of any bond hearings.

____(D) If a person commits a violent offense, as defined in Section 16-1-60, or a felony offense involving a firearm which was committed when the person was already out on bond for two or more previous, separate violent offenses or felony offenses involving a firearm for which separate bonds were set, and the subsequent offense did not arise out of the same series of events as the two or more previous, separate offenses, and the court determines that under the totality of the circumstances the previous bonds should not be revoked and another bond should be set, any bond set by the court must be deposited in full and may not be posted by any bond surety company, unless this person is not tried within ninety days, the charge must revert back to a surety bond.

(E) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ~~ten~~ thirty days from the date bond is first set on a charge by the summary court or the date of the grand jury indictment, whichever occurs first, to determine if bond should be revoked.

SECTION 2. Section 17-15-30(B) of the S.C. Code is amended to read:

(B) A court ~~shall~~ must consider:

(1) a person's criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status;~~and~~

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division;and

____(6) whether the charged person is currently out on bond for another offense.

SECTION 3. Sections 22-5-510(D) and (E) of the S.C. Code are amended to read:

(D) A court ~~shall~~ must consider:

(1) a person's criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; ~~and~~

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division; and

(6) whether the charged person is currently out on bond for another offense.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency ~~shall~~ must provide the court with the following information:

(1) the person's criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

SECTION 4. This act takes effect upon approval by the Governor.

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This web page was last updated on January 11, 2023 at 4:02 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3032

STATUS INFORMATION

General Bill

Sponsors: Reps. Pope, Wooten, Gilliam and McCravy

Document Path: LC-0014AHB23.docx

Prefiled in the House on December 8, 2022

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

Summary: Bond Reform

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/8/2022	House	Prefiled
12/8/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/8/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION [17-15-270](#) SO AS TO PROVIDE SENTENCING ENHANCEMENTS FOR PERSONS WHO COMMIT CERTAIN ADDITIONAL CRIMES WHILE ON PRETRIAL RELEASE ON BOND; AND BY ADDING SECTION [17-15-280](#) SO AS TO PROHIBIT PRETRIAL RELEASE ON BOND FOR PERSONS CHARGED WITH COMMITTING CERTAIN ADDITIONAL CRIMES AND TO PROVIDE APPROPRIATE PROCEDURES FOR DETERMINING IF ADDITIONAL CHARGES ARE PENDING.

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

SECTION 1. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-270](#). (A) A person must be punished by imprisonment for five years in addition to the punishment provided for the principal offense if he is on pretrial release on a personal recognizance or financial surety bond and he is convicted of committing or attempting to commit:

- (1) a violent crime as defined in Section [16-1-60](#);
- (2) criminal sexual conduct in the third degree pursuant to Section [16-3-654](#);
- (3) domestic violence in the first or second degree pursuant to Section [16-25-20](#);

(4) common law strong arm robbery;

(5) an offense involving weapons pursuant to Chapter 23, Title 16; or

(6) an offense involving:

(a) child pornography or disseminating obscene material to a person under the age of eighteen pursuant to Article 3, Chapter 15, Title 16;

(b) failure to register as a sex offender on the Sex Offender Registry pursuant to the provisions of Article 7, Chapter 3, Title 23; or

(c) failure to register as a child abuser on the Central Registry of Child Abuse and Neglect pursuant to the provisions of Subarticle 13, Article 3, Chapter 7, Title 63.

(B) Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law. The court shall impose the mandatory five-year sentence to run consecutively. However, the five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed.

(C) A person sentenced pursuant to this section is not eligible during the five-year period of imprisonment for parole, work release, or extended work release. The five years must not be suspended, and the person may not complete the term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during the five-year period.

(D) The additional punishment may not be imposed unless in addition to the indictment for the principal general sessions offense outlined in subsection (A), a separate indictment alleges, pursuant to this section, that the person was on pretrial release subject to the terms of bond when the principal general sessions offense was committed and conviction was had upon this additional indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time convicted of the underlying, substantive general sessions offense as described in subsection (A).

SECTION 2. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-280](#). (A) The court shall not set bond for a person who is on pretrial release on a personal recognizance, financial surety bond, or other form of pretrial release for:

(1) an offense listed in Section [17-15-270](#)(A) or for a person who has a prior conviction for one of these offenses and a period of not more than five years has elapsed since the date of conviction or the release of the person from imprisonment, whichever is later, and he is charged with committing another general sessions offense; or

(2) a general sessions offense and he is charged with committing another offense listed in Section [17-15-270](#)(A).

(B) It is the responsibility of the judge presiding at the initial bond hearing to ensure that law enforcement provides a current criminal record detailing pending charges before bond is set or the charges are referred to the general sessions court for consideration of detention. The judge shall notify the solicitor and clerk of court as well as any attorney appointed or retained by the defendant. The chief administrative judge or his designee shall conduct an evidentiary hearing to address the matter of bond within thirty days.

(1) If a preliminary hearing in the matter has not been held, the detention hearing also will serve as the defendant's preliminary hearing and alleviates the need for an additional hearing pursuant to Rule 2 of the South Carolina Rules of Criminal Procedure.

(2) The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the detention hearing.

(C) Subject to rebuttal by the defendant, it is presumed that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other defendant and the community if the judge finds there is probable cause to believe that the defendant committed the instant crime. The presumption in favor of detention or revocation and against setting bond will not be rebutted unless the judge makes a finding that the defendant has shown by clear and convincing evidence that release on bail will not expose the public to danger and the defendant is not a flight risk.

(1) In determining whether there are conditions of release that will reasonably assure the appearance of the defendant as required and the safety of any other defendant in the community, the court shall take into account the available information concerning:

- (a) the factors provided in Section [17-15-30](#); and
- (b) the weight of the evidence against the defendant.

(2) The defendant must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise.

(D) Defense motions for reconsideration of orders issued pursuant to this section may be heard only upon a prima facie showing of a material change in circumstances which relate to the factors provided in Section [17-15-30](#), and which have arisen since the detention hearing. The length of time the defendant has been detained pretrial does not qualify as a material change in circumstances qualifying for a reconsideration of bond or detention ordered pursuant to this section unless the defendant has been detained for more than eighteen months and the defendant is seeking a speedy trial. Information regarding the defendant's guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor's consent.

SECTION 3. This act takes effect upon approval by the Governor.

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This web page was last updated on January 5, 2023 at 3:39 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3532

STATUS INFORMATION

General Bill

Sponsors: Reps. G.M. Smith, Pope, McCravy, B. Newton, West, Chapman, Burns, Wooten and Haddon

Document Path: LC-0099AHB23.docx

Prefiled in the House on December 15, 2022

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

Summary: Bond Reform

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/15/2022	House	Prefiled
12/15/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/15/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION [17-15-270](#) SO AS TO PROVIDE SENTENCING ENHANCEMENTS FOR PERSONS WHO COMMIT CERTAIN ADDITIONAL CRIMES WHILE ON PRETRIAL RELEASE ON BOND; BY ADDING SECTION [17-15-280](#) SO AS TO PROHIBIT PRETRIAL RELEASE ON BOND FOR PERSONS CHARGED WITH COMMITTING CERTAIN ADDITIONAL CRIMES AND TO PROVIDE APPROPRIATE PROCEDURES FOR DETERMINING IF ADDITIONAL CHARGES ARE PENDING; AND BY AMENDING SECTION [17-15-15](#), RELATING TO THE DEPOSIT OF A CASH PERCENTAGE IN LIEU OF BOND, SO AS TO REQUIRE A FULL CASH BOND FOR PERSONS CHARGED WITH CERTAIN CRIMES.

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

SECTION 1. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-270](#). (A) A person must be punished by imprisonment for five years in addition to the punishment provided for the principal offense if he is on pretrial release on a personal recognizance or financial surety bond and he is convicted of committing or attempting to commit:

- (1) a violent crime as defined in Section [16-1-60](#);
- (2) criminal sexual conduct in the third degree pursuant to Section [16-3-654](#);

(3) domestic violence in the first or second degree pursuant to Section [16-25-20](#);

(4) common law strong arm robbery;

(5) an offense involving weapons pursuant to Chapter 23, Title 16; or

(6) an offense involving:

(a) child pornography or disseminating obscene material to a person under the age of eighteen pursuant to Article 3, Chapter 15, Title 16;

(b) failure to register as a sex offender on the Sex Offender Registry pursuant to the provisions of Article 7, Chapter 3, Title 23; or

(c) failure to register as a child abuser on the Central Registry of Child Abuse and Neglect pursuant to the provisions of Subarticle 13, Article 3, Chapter 7, Title 63.

(B) Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law. The court shall impose the mandatory five-year sentence to run consecutively. However, the five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed.

(C) A person sentenced pursuant to this section is not eligible during the five-year period of imprisonment for parole, work release, or extended work release. The five years must not be suspended, and the person may not complete the term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during the five-year period.

(D) The additional punishment may not be imposed unless in addition to the indictment for the principal general sessions offense outlined in subsection (A), a separate indictment alleges, pursuant to this section, that the person was on pretrial release subject to the terms of bond when the principal general sessions offense was committed and conviction was had upon this additional indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time convicted of the underlying, substantive general sessions offense as described in subsection (A).

SECTION 2. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-280](#). (A) The court shall not set bond for a person who is on pretrial release on a personal recognizance, financial surety bond, or other form of pretrial release for:

(1) an offense listed in Section [17-15-270](#)(A) or for a person who has a prior conviction for one of these offenses and a period of not more than five years has elapsed since the date of conviction or the release of the person from imprisonment, whichever is later, and he is charged with committing another general sessions offense; or

(2) a general sessions offense and he is charged with committing another offense listed in Section [17-15-270](#)(A).

(B) It is the responsibility of the judge presiding at the initial bond hearing to ensure that law enforcement provides a current criminal record detailing pending charges before bond is set or the charges are referred to the general sessions court for consideration of detention. The judge shall notify the solicitor and clerk of court as well as any attorney appointed or retained by the defendant. The chief administrative judge or his designee shall conduct an evidentiary hearing to address the matter of bond within thirty days.

(1) If a preliminary hearing in the matter has not been held, the detention hearing also will serve as the defendant's preliminary hearing and alleviates the need for an additional hearing pursuant to Rule 2 of the South Carolina Rules of Criminal Procedure.

(2) The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the detention hearing.

(C) Subject to rebuttal by the defendant, it is presumed that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other defendant and the community if the judge finds there is probable cause to believe that the defendant committed the instant crime. The presumption in favor of detention or revocation and against setting bond will not be rebutted unless the judge makes a finding that the defendant

has shown by clear and convincing evidence that release on bail will not expose the public to danger and the defendant is not a flight risk.

(1) In determining whether there are conditions of release that will reasonably assure the appearance of the defendant as required and the safety of any other defendant in the community, the court shall take into account the available information concerning:

- (a) the factors provided in Section [17-15-30](#); and
- (b) the weight of the evidence against the defendant.

(2) The defendant must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise.

(D) Defense motions for reconsideration of orders issued pursuant to this section may be heard only upon a prima facie showing of a material change in circumstances which relate to the factors provided in Section [17-15-30](#), and which have arisen since the detention hearing. The length of time the defendant has been detained pretrial does not qualify as a material change in circumstances qualifying for a reconsideration of bond or detention ordered pursuant to this section unless the defendant has been detained for more than eighteen months and the defendant is seeking a speedy trial. Information regarding the defendant's guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor's consent.

SECTION 3. Section [17-15-15](#) of the S.C. Code is amended to read:

Section [17-15-15](#). (A) Except as provided in subsection (D), in lieu of requiring actual posting of bond as provided in subsection (A) of Section [17-15-10](#)(A), the court setting bond may permit the defendant to deposit in cash with the clerk of court an amount not to exceed ten percent of the amount of bond set, which amount, when the defendant fulfills the condition of the bond, shall must be returned to the defendant by the clerk except as provided in subsection (C).

(B) The cash deposit provided for in subsection (A) ~~shall must~~ be assignable at any time after it is posted with the clerk of court by written assignment executed by the defendant and delivered to the clerk. After assignment and after the defendant fulfills the condition of his bond, the clerk shall return the cash deposit to the assignee ~~thereof~~.

(C) In the event the cash deposit is not assigned but the defendant is required by the court to make restitution to the victim of his crime, ~~such the~~ deposit may be used for the purpose of ~~such~~ restitution.

(D) The provisions of this section do not apply if the defendant is charged with an offense listed in Section [17-15-270](#)(A). If the court, pursuant to the limitations of Section [17-15-30](#), finds that such defendant may be released pending trial, bond must be set at the full United States currency cash bond to the exclusion of all other forms of bond.

SECTION 4. This act takes effect upon approval by the Governor.

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This web page was last updated on January 5, 2023 at 4:23 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3002

STATUS INFORMATION

General Bill

Sponsors: Reps. Bailey, McCravy, Henegan and Pope

Document Path: LC-0031AHB23.docx

Prefiled in the House on December 8, 2022

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

Summary: Bond release

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/8/2022	House	Prefiled
12/8/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/8/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION [16-25-120](#), RELATING TO RELEASE ON BOND AND FACTORS TO CONSIDER WHEN GRANTING BOND FOR VIOLENT OFFENDERS AND DOMESTIC VIOLENCE OFFENDERS, SO AS TO ALLOW THE COURT, IN LIEU OF SETTING BOND OR AS AN ADDITIONAL CONDITION OF RELEASE ON BOND, TO PLACE A PERSON CHARGED WITH A DOMESTIC VIOLENCE OFFENSE ON SURVEILLANCE VIA AN ACTIVE ELECTRONIC MONITORING DEVICE CAPABLE OF KEEPING THE VICTIM OF THE OFFENSE NOTIFIED AT ALL TIMES OF THE PERSON'S IMMEDIATE LOCATION, TO PROVIDE PROCEDURES FOR THE MONITORING, AND TO PROVIDE PENALTIES FOR TAMPERING WITH AN ACTIVE ELECTRONIC MONITORING DEVICE.

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

SECTION 1. Section [16-25-120](#) of the S.C. Code is amended by adding a subsection to read:

(E)(1) The court, in its discretion, may place a person charged with a violation of this article on surveillance via an active electronic monitoring device in lieu of setting or requiring the posting of bond or as an additional condition of release on bond. The device must be capable of recording the person's immediate location at all times and the victim must be provided access to determine the immediate location of the person at all times. The appropriate law enforcement agency with jurisdiction over the offense shall place the person on an active electronic monitoring device and shall ensure the provisions of this section are followed.

The person monitored:

(a) shall follow instructions provided by appropriate law enforcement agency with jurisdiction over the offense to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the appropriate law enforcement agency with jurisdiction over the offense within two hours. A person who fails to comply with the reporting requirement of this subsection must be punished in the discretion of the court;

(b) shall abide by other terms and conditions set forth by the appropriate law enforcement agency with jurisdiction over the offense with regard to the active electronic monitoring device and electronic monitoring program;

(c) must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The appropriate law enforcement agency with jurisdiction over the offense may exempt a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if it is determined that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the appropriate law enforcement agency with jurisdiction over the offense, carried forward, and applied to support the active electronic monitoring of domestic violence offenders;

(d) who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device must be punished in the discretion of the court. This subsection does not apply to a person or agent authorized by the appropriate law enforcement agency to perform maintenance and repairs to the active electronic monitoring devices.

(2) As used in this subsection, "active electronic monitoring device" means an all-body worn device that is not removed from the person's body utilized by the appropriate law enforcement agency with jurisdiction over the offense in conjunction with a web-based computer system that actively monitors and records a person's location at least once every minute twenty-four hours a day and that timely records and reports the person's presence near or within a prohibited area or the person's departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. In areas of the State where cellular coverage requires the use of an alternate device, the appropriate law enforcement agency may use an alternate device.

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

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This web page was last updated on January 5, 2023 at 3:37 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3044

STATUS INFORMATION

General Bill

Sponsors: Rep. Rutherford

Document Path: LC-0048AHB23.docx

Prefiled in the House on December 8, 2022

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

Summary: Bench warrants for failure to appear

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/8/2022	House	Prefiled
12/8/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/8/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION [17-15-175](#) SO AS TO PROVIDE THAT A JUDGE MAY NOT ISSUE A BENCH WARRANT FOR FAILURE TO APPEAR UNLESS THE SOLICITOR OR CLERK OF COURT HAS PROVIDED NOTICE TO THE ATTORNEY OF RECORD BEFORE ISSUING THE BENCH WARRANT.

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

SECTION 1. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-175](#). After an initial appearance, a circuit court judge may not issue a general sessions court bench warrant for failure to appear in court upon motion by a solicitor, unless the solicitor has conspicuously posted a list of potential bench warrants at the appropriate courthouse and on the solicitor's Internet website at least forty-eight hours before the bench warrant is requested. This section does not apply if the presiding judge sua sponte issues the bench warrant for failure to appear or the person has been personally served with an appearance date.

SECTION 2. 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 3. This act takes effect upon approval by the Governor.

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NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

S. 165

STATUS INFORMATION

General Bill

Sponsors: Senator Climer

Document Path: SR-0094KM23.docx

Prefiled in the Senate on November 30, 2022

Currently residing in the Senate Committee on **Labor, Commerce and Industry**

Summary: Board regulation of professions and occupations

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
11/30/2022	Senate	Prefiled
11/30/2022	Senate	Referred to Committee on Labor, Commerce and Industry

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VERSIONS OF THIS BILL

[11/30/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING TITLE 1, CHAPTER 40, RELATING TO BOARD REGULATION OF PROFESSIONS AND OCCUPATIONS, BY ADDING SECTION [40-1-75](#), SO AS TO PROVIDE THAT PROFESSIONAL BOARDS AND COMMISSIONS MAY NOT SOLELY DENY A LICENSE APPLICATION BASED UPON AN APPLICANT'S PRIOR CRIMINAL CONVICTION UNLESS THE CONVICTION IS FOR A CRIME THAT DIRECTLY RELATES TO THE DUTIES AND RESPONSIBILITIES FOR THE SPECIFIC OCCUPATION OR PROFESSIONAL LICENSE BEING SOUGHT; BY ADDING SECTION [40-1-77](#) SO AS TO PROVIDE FOR LICENSURE BY BOARDS AND COMMISSIONS FOR APPLICANTS WHO COMPLETE CERTAIN APPRENTICESHIP PROGRAMS; AND TO REPEAL SECTION [40-1-140](#), RELATING TO THE EFFECT OF PRIOR CONVICTIONS ON LICENSE APPLICATIONS FOR PROFESSIONS AND OCCUPATIONS.

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

SECTION 1. Article 1, Chapter 1, Title 40 of the S.C. Code is amended by adding:

Section [40-1-75](#). (A)(1) A regulatory board or commission may not solely or in part deny a license to an applicant because of a prior criminal conviction, unless the criminal conviction directly relates to the duties and responsibilities of the occupation or profession for which the applicant is seeking a license. Regulatory boards and commissions are prohibited from using vague or generic terms including, but not limited to, "moral turpitude" or "good character", and from considering charges that have been dismissed, nol prossed, or adjudicated with a finding of not guilty as a justification for denying an applicant a license.

(2) An applicant who has completed relevant pre-licensing requirements may not be denied a license unless the appropriate regulatory board or commission has given the applicant an opportunity to appear at a hearing to determine the applicant's fitness for the occupation or profession. The hearing must include specific references to which crimes, if any, the board or commission is considering in relation to the applicant's fitness. The hearing must be scheduled within ninety days of the appropriate board or commission receiving notice that all relevant pre-licensing requirements have been completed.

(B)(1) In determining whether an applicant with a directly related criminal conviction shall be denied a license, the relevant regulatory board or commission shall apply a preponderance of the evidence standard that the applicant would pose a threat to public safety. The board or commission shall make its determination based upon the following factors:

(a) the nature and severity of the crime for which the applicant was convicted;

(b) the length of time since his conviction;

(c) the direct relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

(d) evidence of rehabilitation or treatment undertaken by the applicant that may mitigate the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation or profession; and

(e) any combination of the relevant factors identified in this subsection that the regulatory board or commission determines is necessary considering the totality of the circumstances.

(2) If a regulatory board or commission denies a license application solely or in part because of the applicant's prior conviction of a crime, then the regulatory board or commission must notify the applicant in writing of its decision. The notice shall provide:

(a) the grounds for the denial;

(b) notice that the individual has the right to a hearing to challenge the denial;

(c) the earliest date that the applicant may again apply for licensure; and

(d) a statement that evidence of rehabilitation may be considered upon reapplication.

SECTION 2. Chapter 1, Title 40 of the S.C. Code is amended by adding:

Section [40-1-77](#). (A) This section may be cited and referred to as the "Earn and Learn Act of 2022".

(B) The purpose of this section is to expand economic opportunities and build a skilled workforce according to industry standards by allowing a worker to earn a paycheck while he fulfills applicable licensing requirements.

(C) For the purposes of this section:

(1) "Apprenticeship" means a United States Department of Labor approved registered apprenticeship or industry recognized apprenticeship that encompasses an occupation or profession licensed by a South Carolina regulatory board or commission.

(2) "Board" means a government board, agency, department, or other governmental entity that regulates a profession or occupation and issues a license to an individual. This definition of "board" does not include boards and commissions established and operating pursuant to Chapter 15, Title 54.

(3) "License" means a license, certificate, registration, permit, or other evidence that an individual is qualified to engage in an occupation or profession before that person may engage in or represent himself as a member of an occupation or profession.

(4) "Scope of practice" means the procedures, actions, processes, and work that a person may perform pursuant to a license issued by an occupation's or profession's regulatory board.

(D) A board shall issue a license to an applicant, if the applicant:

- (1) completes an apprenticeship in an occupation or profession that has a similar scope of practice, as determined by the board, to an occupation or profession regulated by this State through license requirements;
- (2) successfully passes requisite examinations; and
- (3) pays all applicable fees.

(E) A license issued pursuant to this section is subject to the same provisions of law governing a license for the occupation or profession.

(F) A board shall not require an applicant pursuant to this section to complete an apprenticeship for a greater duration of time than that is required pursuant to federal law.

(G) A board may require an applicant pursuant to this section to successfully pass an examination only if the board imposes the same examination requirement on other license applicants. A board shall not require an applicant pursuant to this section to receive a higher score on an examination than the score required of other license applicants.

(H) A board may require an applicant pursuant to this section to pay a licensing fee only if the board imposes a licensing fee on other license applicants. A board shall not impose on an applicant pursuant to this section a licensing fee greater than the licensing fee imposed on other applicants.

(I) A board shall promulgate regulations necessary for the implementation of this act.

SECTION 3. Section [40-1-140](#) of the S.C. Code, relating to the effect of prior convictions on license applications for professions and occupations, is repealed.

SECTION 4. This act takes effect January 1, 2024.

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This web page was last updated on January 5, 2023 at 3:27 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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S. 115

STATUS INFORMATION

General Bill

Sponsors: Senator Hembree

Document Path: SEDU-0022DB23.docx

Prefiled in the Senate on November 30, 2022

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

Summary: Property exempt from attachment, levy and sale

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
11/30/2022	Senate	Prefiled
11/30/2022	Senate	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/1/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION [15-41-30](#), RELATING TO PROPERTY EXEMPT FROM ATTACHMENT, LEVY AND SALE, SO AS TO INCREASE THE DOMICILE EXEMPTION FROM FIFTY THOUSAND TO ONE HUNDRED THOUSAND AND TO INCREASE THE AGGREGATE EXEMPTION FROM ONE HUNDRED THOUSAND TO ONE HUNDRED AND FIFTY THOUSAND DOLLARS.

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

SECTION 1. Section [15-41-30](#)(A)(1) of the S.C. Code is amended to read:

Section [15-41-30](#). (A) The following real and personal property of a debtor domiciled in this State is exempt from attachment, levy, and sale under any mesne or final process issued by a court or bankruptcy proceeding:

(1)(a) The debtor's aggregate interest, not to exceed ~~fifty~~ one hundred thousand dollars in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, except that the aggregate value of multiple homestead exemptions allowable with respect to a single living unit may not exceed one hundred and fifty thousand dollars. If there are multiple owners of such a living unit exempt as a homestead, the value of the exemption of each individual owner may not exceed his fractional portion of one hundred and fifty thousand dollars.

(b) In addition to the aggregate interest as provided in subsection (A)(1)(a), a surviving spouse may also exempt the aggregate interest to which the surviving spouse succeeded by inheritance, testamentary transfer, or nonprobate transfer on the death of the decedent spouse, not to exceed ~~forty~~ one hundred thousand dollars. For purposes of this subsection, a surviving spouse means a spouse married to the decedent at the time of death, who is entitled to the homestead property tax exemption as provided in Section [12-37-250](#), who has not remarried, and who is living in the residence or cooperative that is used as a residence.

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

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This web page was last updated on January 5, 2023 at 3:23 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3531

STATUS INFORMATION

General Bill

Sponsors: Reps. J. Moore and Henegan

Document Path: LC-0094AHB23.docx

Prefiled in the House on December 15, 2022

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

Summary: Jamal Sutherland Justice Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/15/2022	House	Prefiled
12/15/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/15/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "JAMAL SUTHERLAND JUSTICE ACT" BY ADDING SECTION [17-15-270](#) SO AS TO PROVIDE FOR A MENTAL HEALTH EVALUATION BEFORE A BOND HEARING AFTER THE ARREST OF A PERSON FROM A MENTAL HEALTH FACILITY OR INSTITUTION; TO PROVIDE FOR NOTIFICATION OF A GUARDIAN OR THE PERSON'S POWER OF ATTORNEY, IF ANY; TO PROVIDE FOR THE POSTPONEMENT OF THE BOND HEARING UNTIL THE PERSON HAS THE CAPACITY TO PARTICIPATE; AND TO PROHIBIT THE USE OF PHYSICAL FORCE AGAINST A PERSON MENTALLY INCAPACITATED TO ATTEND A BOND HEARING.

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

SECTION 1. This act may be cited at the "Jamal Sutherland Justice Act".

SECTION 2. Chapter 15, Title 17 of the S.C. Code is amended by adding:

Section [17-15-270](#). (A) Notwithstanding another provision of law, prior to a bond hearing, a person who is receiving mental health services or treatment at, or is a resident of, a mental health institution or facility who is arrested at such institution or facility must undergo a mental health evaluation performed by the local mental health department to determine if the person has the mental capacity to proceed with the hearing. This mental health evaluation must be scheduled within ten days of arrest. Once scheduled, the mental health professional who performed the evaluation must issue, within forty-eight hours, a report to the arresting law enforcement agency and the bond court with jurisdiction over

the offense charged. In addition, the arresting law enforcement agency must make reasonable efforts to determine if the person has a guardian or person with power of attorney who must be notified of the arrest and the mental health evaluation before the bond hearing may be held. For purposes of this subsection, "reasonable efforts" means consulting with the appropriate mental health institution or facility and asking the person arrested, if he has the mental capacity to respond.

(B) The provisions of this section may not be construed to limit the person's right to a bond hearing; however, if the person lacks the mental capacity to participate in the bond hearing, the hearing may be postponed by the court until such time as the person is determined to have the mental capacity to participate. The person, his attorney, guardian, or power of attorney, if any, may request subsequent mental health evaluations and one must be conducted within ten days of each request and proceed according to the provisions of this section.

(C) In no event may a person suffering from mental incapacitation, based on the mental health evaluation required by the provisions of this section, be subjected to physical force in order to appear in person at a bond hearing.

SECTION 3. This act takes effect upon approval by the Governor.

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This web page was last updated on January 5, 2023 at 4:23 PM

NOTES

South Carolina General Assembly
125th Session, 2023-2024

Bill 140

~~Indicates Matter Stricken~~

Indicates New Matter

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION [16-1-140](#) SO AS TO ENHANCE THE POSSIBLE SENTENCE FOR A PERSON CONVICTED OF A SERIOUS OR MOST SERIOUS OFFENSE, A VIOLENT CRIME, OR A LESSER-INCLUDED OFFENSE THAT WAS COMMITTED WHILE THE PERSON WAS RELEASED ON BOND FOR A SEPARATE, PREVIOUS SERIOUS OR MOST SERIOUS OFFENSE OR A VIOLENT CRIME OR A LESSER- INCLUDED OFFENSE FOR WHICH THE PERSON ALSO WAS CONVICTED.

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

SECTION 1.Chapter 1, Title 16 of the S.C. Code is amended by adding:

Section [16-1-140](#).If a person is convicted of a serious offense or most serious offense as defined by Section [17-25-45](#), a violent crime as defined by Section [16-1-60](#), or a lesser-included offense, any of which the person committed while released on bond for a separate, previous serious offense or most serious offense as defined by Section [17-25-45](#), a violent crime as defined by Section [16-1-60](#), or a lesser-included offense for which the person also was convicted, then the person may have added to his sentence an amount of imprisonment up to forty percent of the maximum sentence for the offense the person committed while released on bond.

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

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This web page was last updated on December 09, 2022 at 02:55 PM

South Carolina General Assembly
125th Session, 2023-2024

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Indicates New Matter

H. 3055

STATUS INFORMATION

General Bill

Sponsors: Reps. Stavrinakis and Henegan

Document Path: LC-0083AHB23.docx

Prefiled in the House on December 8, 2022

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

Summary: Reporting of Information to SLED, Firearms Background Checks

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/8/2022	House	Prefiled
12/8/2022	House	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/8/2022](#)

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION [14-17-325](#), RELATING TO THE REQUIREMENT THAT CLERKS OF COURT REPORT DISPOSITIONS OF CASES IN GENERAL SESSIONS COURT, SO AS TO REQUIRE THAT EVERY CLERK OF COURT SHALL REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CASE IN GENERAL SESSIONS, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION [22-1-200](#) SO AS TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION [14-25-250](#) SO AS TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY-EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS

RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION [23-1-250](#) SO AS TO REQUIRE EACH LAW ENFORCEMENT AGENCY TO REPORT TO SLED WITHIN TWENTY-FOUR HOURS, THE FILING OF EACH INCIDENT REPORT, ORDER OF PROTECTION, RESTRAINING ORDER, ANY ORDER OR REPORT RELATING TO AN INCIDENT OF DOMESTIC VIOLENCE, OR ANY INCIDENT IN WHICH A PERSON MAY BE PROHIBITED FROM OBTAINING OR POSSESSING A FIREARM BY STATE OR FEDERAL LAW; BY ADDING ARTICLE 9 TO CHAPTER 23, TITLE 16 SO AS TO DEFINE NECESSARY TERMS, TO REQUIRE THAT NO GUN TRANSFER PRECEDED BY A CRIMINAL BACKGROUND CHECK MAY PROCEED, UNLESS THE CRIMINAL BACKGROUND CHECK HAS CONCLUDED THAT THE SALE MAY PROCEED, OR UNTIL AT LEAST FIVE DAYS HAVE PASSED FROM THE INITIATION OF THE BACKGROUND CHECK AND THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM HAS NOT REPORTED THAT THE SALE WOULD VIOLATE STATE OR FEDERAL LAW, AND TO PROVIDE FOR CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ARTICLE; AND TO PROVIDE FOR THE SUN SETTING OF THE FIVE-DAY BACKGROUND CHECK PROVISIONS UPON THE FULL IMPLEMENTATION OF THE REPORTING REQUIREMENTS OF THIS ACT BUT NOT LATER THAN TWO YEARS FROM THE EFFECTIVE DATE OF THE ACT.

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

SECTION 1. Section [14-17-325](#) of the S.C. Code is amended to read:

Section [14-17-325](#). (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the ~~State~~ South Carolina Law Enforcement Division (SLED) within ~~thirty~~ ten days of disposition, weekends and holidays excluded.

(B) The clerk of court shall report to SLED, within forty-eight hours, the issuance of any:

- (1) restraining orders;
- (2) orders of protection;
- (3) orders preventing a person from possessing a firearm;
- (4) convictions related to or orders issued to prevent acts of domestic violence against another person;
- (5) orders issued related to the stalking, intimidation, or harassment of another person; or
- (6) orders for bond with any limitations listed in this section.

(C) ~~The disposition report reports required by this section must be in a format approved by representatives of the State Law Enforcement Division SLED and the office of court administration South Carolina Court Administration. With the approval of the State Law Enforcement Division SLED and the office of court administration Court Administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration Court Administration.~~

SECTION 2. Chapter 1, Title 22 of the S.C. Code is amended by adding:

Section [22-1-200](#). (A) Magistrates shall report the disposition of each criminal case to the South Carolina Law Enforcement Division (SLED) within ten days, weekends and holidays excluded.

(B) Magistrates shall report to SLED within forty-eight hours, the issuance of any:

- (1) restraining orders;
- (2) orders of protection;
- (3) orders preventing a person from possessing a firearm;
- (4) convictions related to or orders issued to prevent acts of domestic violence against another person;
- (5) orders issued or convictions related to, or to prevent, the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of SLED and Court Administration. With the approval of SLED and South Carolina Court Administration, this reporting requirement may be satisfied by use of docket information transmitted to Court Administration.

SECTION 3. Article 1, Chapter 25, Title 14 of the S.C. Code is amended by adding:

Section [14-25-250](#). (A) Each municipal judge shall report the disposition of each criminal case to the South Carolina Law Enforcement Division (SLED) within ten days, weekends and holidays excluded.

(B) A municipal judge shall report to SLED within forty-eight hours, the issuance of any:

- (1) restraining orders;
- (2) orders of protection;
- (3) orders preventing a person from possessing a firearm;
- (4) convictions related to or orders issued to prevent acts of domestic violence against another person;
- (5) convictions related to or orders issued to prevent, the stalking, intimidation, or harassment of another person; or
- (6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of SLED and Court Administration. With the approval of SLED and South Carolina Court Administration, this reporting requirement may be satisfied by use of docket information transmitted to Court Administration.

SECTION 4. Chapter 1, Title 23 of the S.C. Code is amended by adding:

Section [23-1-250](#). (A) Each law enforcement agency must report to the South Carolina Law Enforcement Division (SLED) within twenty-four hours:

- (1) the filing of an incident report for each criminal case;
- (2) the filing of an order of protection, restraining order, or any order or report relating to an incident of domestic violence;
- (3) any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law;

(B) The report must be made in a format approved by representatives of SLED.

SECTION 5. Chapter 23, Title 16 of the S.C. Code is amended by adding:

Article 9

Background Checks for Firearm Sales and Transfers

Section [16-23-910](#). As used in this article:

(1) "Firearm" means a weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

(2) "Licensed dealer" means the holder of any federal firearms license under 18 U.S.C. Section 923(a).

(3) "Transfer" means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

(4) "Transferee" means a person who receives or intends to receive a firearm in a sale or transfer.

Section [16-23-920](#). For any sale or transfer of a firearm for which a licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check, a licensed gun dealer may not deliver a firearm to any transferee unless the NICS provides the licensed dealer with a unique identification number or five days have elapsed from the date the licensed dealer contacted the NICS and the NICS has not notified the licensed dealer that a sale or transfer to such person would violate state or federal law.

Section [16-23-930](#). A person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than one thousand dollars, or both.

SECTION 6. 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 7. This act takes effect upon approval by the Governor.

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